

NON-REMOVABLE MILLE LACS BAND OF CHIPPEWA INDIANS
DISTRICT OF NAY-AH-SHING

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IN THE COURT OF APPEALS

MILLE LACS BAND COURT OF
CENTRAL JURISDICTION

In the Matter of:

Beverly Nayquonabe,

Appellant

Case #99APP05

v.

Mille Lacs County

Appellee.

**JUDGMENT ON
APPEAL**

This is an action challenging the District Court's grant of full faith and credit to a judgment arising from a criminal judicial proceeding in a foreign jurisdiction and, the subsequent attachment of the Appellant's Christmas Bonus. A hearing was held on March 21, 2000, in the above-entitled matter before the Court of Appeals at the Mille Lacs Government Center. Appellant was present and was represented by David Christensen. Appellee was represented by Ron Tvedt, the Mille Lacs County Court Administrator.

FACTS

On June 6, 1996, Appellant, Beverly Nayquonabe, pled guilty and was convicted of felony theft by wrongfully obtaining assistance in violation of Minnesota Statute. The Mille Lacs County Court imposed a fine in the amount of \$400.00, restitution in the amount of \$860.00, and five years probation. To date, Appellant has made no voluntary efforts to repay the County. However, the

County has been able to recover \$598.00 in restitution through recoupment of tax refunds owed to the Appellant.

Having difficulties collecting the remainder of the judgment because Appellant has not been continuously employed, on November 8, 1999, the Mille Lacs County Court Administrator filed a Registration of Foreign Judgment with the Court of Central Jurisdiction. Specifically, it was requested that the District Court enforce the judgment on Mille Lacs County's behalf by garnishing the Appellant's Band bonuses to recoup the \$662.00 still outstanding in the matter. Appellant filed a motion on November 16, 2000, objecting to registration and enforcement of the judgment by the District Court. Appellant contended that the matter was a criminal one, and thus was not entitled to full faith and credit by the Court of Central Jurisdiction under Band Statute 24 MLBSA § 2009.¹

The District Court denied the Appellant's motion on November 24, 1999, based on its reading of the Band's full faith and credit statute as well as Court Order #33, which concerns the attachment of Band bonuses. Consequently, the District Court ordered the Office of Management and Budget (OMB) to attach the Appellant's Christmas Bonus in the amount of \$662.00. Upon Appellant's timely appeal on November 30, 1999, the District Court entered a stay of the judgment pending the outcome of this review.

At hearing, Appellant stated to the Court that she would pay the fine in full upon receipt of the Bonus currently being held. Thus, Appellant's primary objection was to the propriety, under existing Band Statutory law, to attach her bonus to enforce the criminal judgment of a foreign jurisdiction.

¹ Appellant also argued at the District Court level that because the underlying case involved harmful conduct and, because there is a statute of limitations of three years for harmful conduct according to Band Statute 24 MLBSA § 2013, the imposed fine should not be honored in this jurisdiction. The District Court properly dismissed this argument because the statute of limitations relates to the underlying cause of action, not the resultant sentence. The issue was not appealed.

ANALYSIS

Full Faith and Credit

The Band's Full Faith and Credit Statute, 24 MLBSA § 2009, does not grant full faith and credit to criminal judgments from a foreign jurisdiction. Band Statute 24 MLBSA § 2009 states:

Full Faith and Credit shall be given to the **public acts, records, and civil judicial proceedings** of all other reservations and all Federal and State jurisdictions that have enacted a full faith and credit provision in their Constitutions or Statutes or on a case-by-case basis, have granted full faith and credit to judicial determinations of the Court of Central Jurisdiction. (Emphasis added).

When statutory language is unambiguous, it should be given its plain and usual meaning. *See, In the Matter of: the Interpretation of the Solicitor General*, 15-OSG-92, 92-CV-5359 (1993). Here, the statute is explicit, comprehensive, unambiguous, and nowhere does it mention *criminal* judicial proceedings. The plain language of the statute should not be disregarded.

The language of a statute also provides the most reliable evidence of the enacting body's intent. *See e.g., United States v. Turkette*, 452 U.S. 576, 593 (1981). The District Court reasoned that because the first sentence of the statute "contemplates" more than just civil judgments, it should be interpreted to apply to criminal adjudications as well. However, it seems more plausible that by specifically listing "public acts, records, and civil judicial proceedings," the drafters intended such words to be limiting. This interpretation is supported by the further limiting language that immediately follows. The second sentence of the statute indicates that *not even the enumerated provisions* should be given full faith and credit, unless, some manner of reciprocal full faith and credit exists with the foreign jurisdiction. Similarly, the use of the "public" to modify "acts," and "civil" to modify "judicial proceedings," reflects choices on the part of the drafters – namely, both terms would have still made sense if left unmodified, and in fact, would have better accomplished the goal of inclusiveness if that indeed had been the intent. The language of limitation throughout the statute counsels against reading its provisions broadly.

The District court also suggested that the present matter may be brought under the statute because it may be construed as a “public act.”² The County also made this contention in its brief³ and at hearing, citing the following definition provided by Blacks Law Dictionary:

[Public acts are] those which have a public authority, and which have been made before public officers, are authorized by a public seal, have been made public by the authority of a magistrate, or which have been extracted and been properly authenticated from public records.

While this general definition lends support to the District Court’s interpretation, it is contrary to the prevailing usage of the term “public act” in both State and Federal caselaw. *See, Burfenning v. Railway Co.*, 48 N. W. 444, 445 (1891); *State v. Welch*, 21 Minn. 22 (1874); *State of Minnesota v. Northern Securities Co.*, 24 S.Ct. 598. As used, “public acts” usually refers to acts that relate to the community generally, or establish a universal rule for the governance of the whole body politic. This is in distinction to “private acts” which, although they may be made upon public authority or under public seal, nonetheless, operate only upon specified individuals, their private concerns, or relate to particular places (i.e., local acts).

More importantly, because the drafters specifically addressed judicial proceedings in the statute and chose to add the qualifier “civil,” it would be contrary to basic statutory interpretation to read “criminal judicial proceedings” in to *another* term such as the public acts provision. The District Court’s interpretation of the language of 24 MLBSA § 2009 was overbroad. Under the statute, full faith and credit should not be granted to criminal adjudications from foreign jurisdictions. If the Band wishes to extend the law, it should do so affirmatively by a modification of the statutory law.

² The District Court stated that “Minnesota Statute 27A.02 subd. 5. (public act) defines criminal fines as a legal obligation.” However, § 270A.02 of the Revenue Recovery Act was Repealed by Laws 1987, c. 261, § 5. The definition that the Court refers to, which characterizes criminal fines as legal obligations, now falls under the definition section in § 270A.03. Subd. 5, which defines “debt,” and does not refer to public acts.

³ This refers to the self-described “letter brief” filed by the Appellee with the court of Central Jurisdiction on February 25, 2000.

Court Order #33

The Court of Central Jurisdiction is also not obligated to grant full faith and credit under Court Order #33. This Order, which specifically deals with the attachment of Band bonuses, was issued on May 28, 1997, and later submitted to the Band assembly. It states in pertinent part:

1. The Court of Central Jurisdiction shall have the power, either *sua sponte*, or upon motion of an aggrieved party, to attach in full the Christmas Bonus of any Mille Lacs Band Member who owes any of the following debts:
 - (a) Child Support arrearages in any amount;
 - (b) Court-imposed fines in any amount;
 - (c) **Debt on any judgment** of the Court of Central Jurisdiction, whether originating in, or **granted full faith and credit by**, the Court of Central Jurisdiction; or
 - (d) Any other valid debt or lawful claim **recognized by the court**. (Emphasis added.)

This Order is not the proper source of law to determine whether full faith and credit should be granted to the criminal judgment of a foreign jurisdiction because it does not set out the law on that topic (as does 24 MLBSA § 2009), nor modify that law. Instead, on its face, it appears to have been drafted in contemplation of a *prior determination* that full faith and credit apply. This is evident in the most relevant section, Section 1(c), which deals with court judgments, as well as the catch-all provision in Section 1(d), which deals with other valid debts. The use of the past tense in the term “granted,” suggests that Court Order #33 does not give the District Court the authority to “grant” full faith and credit, but merely to attach a Band Member’s bonus if such a judgment is one already enforceable under the existing full faith and credit law. Similarly, the use of the past tense in the term “recognized,” suggests that Court Order #33 does not allow the District Court to get around the full faith and credit statute by simply “recognizing” a criminal judgment as a valid debt. Instead, it is meant as a means for the Court to facilitate the repayment of debts which are not in the form of (nor arising in the same manner as) child support arrearages, fines, and judgments.

The District Court's interpretation that Court Order #33 allows for attachment of Appellant's bonus because the underlying criminal judgment consists of "fines" under Section 1(b), or "other valid debt's" under Section 1(d), reads the Court Order too broadly. Because Section 1(c) specifically concerns "debts on judgments," it should be read to be the determinative provision for *any costs, including fines*, which are associated with a judgment originating in, or granted full faith and credit by, the Court of Central Jurisdiction. Doing so does not render Section 1(b) redundant, but merely limits it to fines other than those associated with judgments of the Court. Similarly, Section 1(d) should not be read to make the other sections superfluous. Instead, as previously stated, it should be read to apply to debts *other than* child support arrearages, fines, and judgments. Section 1(c), although determinative, excludes criminal judgments as the proper reason for the attachment of Appellant's bonus because it applies only to judgments originating in, or previously granted full faith and credit by, the Court of Central Jurisdiction.

Immediate Repayment in Full

The Appellant is not a victim in this matter. Despite the Appellant's allegation that she did not intentionally break the law, the charge did arise due to her own actions, and she did plead guilty in the matter. Appellant also stated to this Court that she was aware at the time of sentencing that she had a duty to pay, in a timely manner, the entire amount of fines and restitution assessed by the Mille Lacs County Court. Nevertheless, it has been close to four years since sentencing, and not even half of the money has been paid.

It should be noted that declining to grant full faith and credit to the criminal judgment entered by the Mille Lacs County Court, in no way lessens the Appellant's duty to repay the County. Indeed, this Court fully expects the Appellant to honor her intent, expressed on record at the March 21, 2000 hearing, that she will immediately pay the County the entire amount outstanding against her, upon

receipt of the Bonus currently being held. According to the principles of the Mille Lacs Band as expressed in 24 MLBSA § 2004, it is the responsibility of each individual appearing before the Court, to act with respect, honor, and integrity. The Appellant's actions in living up to her promise to this Court, not only reflect her duty as a citizen, but also reflect her personal integrity and her responsibilities as a member of the Mille Lacs Band of Ojibwe.

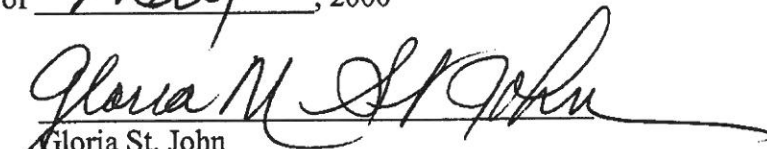
CONCLUSIONS OF LAW

The District Court erred in granting full faith and credit to a judgment arising from a criminal judicial proceeding in a foreign jurisdiction. The order is reversed.


Dated this 5 day of May, 2000


Dorothy Sam
Chief Justice

Dated this 1 day of May, 2000


Gloria St. John
Associate Justice

Dated this 2 day of May, 2000


Rosalie Noonday
Associate Justice