

SISSETON-WAHPETON OYATE

1/11/16

SUPREME COURT

Date

by: *[Signature]*

SISSETON WAHPETON OYATE Plaintiff/Appellee, v. SICA LOHNES, Defendant/Appellant.	NO. CR-15-316-056 MEMORANDUM OPINION AND ORDER
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Per Curiam (Thor Hoyte, Chief Justice and Associate Justices Russel Zephier and Pat Donovan)

Sica Lohnes appeals his conviction for Domestic Violence that occurred on fee land within the exterior boundaries of the former Lake Traverse Indian Reservation. Lohnes alleges that the Sisseton-Wahpeton Oyate does not have criminal jurisdiction over him as a tribal member for crimes committed on fee land. After a jury trial, Lohnes was convicted of the charge as well as several others occurring on tribal land. Lohnes did not move to dismiss the charge on jurisdictional grounds at trial.

DISCUSSION

Long held precedence has given the Sisseton-Wahpeton Oyate jurisdiction to prosecute crimes committed by tribal members on fee land within the exterior boundaries of the former Lake Traverse Indian Reservation.¹ Lohnes asks us to overturn *Cloud*. We decline to do so.

The facts in *Cloud* are similar to the facts of this case. Both Lohnes and *Cloud* are tribal members convicted of crimes occurring on fee land on the Lake Traverse Indian Reservation.

The *Cloud* court found that although the Lake Traverse Indian Reservation had been disestablished², the Sisseton-Wahpeton Oyate retained the inherent authority and jurisdiction to prosecute crimes committed by tribal members on fee land within the exterior boundaries of the

¹ Sisseton-Wahpeton Sioux Tribe v. Vernon Cloud, CR01-01—03.

² Decouveau v. District County Court for the Tenth District, 420 U.S. 425 (1975) disestablished the Lake Traverse Reservation and ruled the State of South Dakota had criminal jurisdiction on non-tribal fee land.

former Lake Traverse Indian Reservation. The Court found that *Decouveau* ruling merely held that the State of South Dakota had jurisdiction in the disestablished Reservation and the decision was silent as to the Oyate's jurisdiction.

The Court then analyzed the Oyate's jurisdiction by applying the Treaty of 1867 and the Oyate's Constitution. Article X of the treaty gives authority to the chiefs and headmen to adopt such rules and regulations, or laws for the security of life and property. Article I of the Oyate's Constitution gives the Oyate jurisdiction over lands lying in the territory within the original confines of the Lake Traverse Reservation as described in Article III of the treaty of 1867. The Court found *Decouveau* did not abrogate any treaty rights found in the Treaty of 1867 including Article X and the Oyate's Article X jurisdiction still exists and the Oyate retains the inherent right to control the conduct of its members on this land.

This Court agrees with that analysis and upholds the ruling in *Cloud the Sisseton-Wahpeton* Oyate jurisdiction to prosecute crimes committed by tribal members on fee land within the exterior boundaries of the former Lake Traverse Indian Reservation as described in Article III of the treaty of 1867.

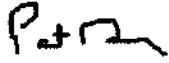
CONCLUSION

For the above stated reasons this Court therefore affirms the *Sisseton-Wahpeton* Oyate jurisdiction to prosecute crimes committed by tribal members on fee land within the exterior boundaries of the former Lake Traverse Indian Reservation as described in Article III of the treaty of 1867.

IT IS SO ORDERED.

Dated this 11th of January, 2016.

FOR THE COURT:



Pat Donovan Associate Justice