STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1232

Margaret Campbell,
Respondent,

vs.

Honor the Earth,
Appellant.

Filed April 20, 2020
Affirmed
Cochran, Judge

Becker County District Court
File No. 03-CV-19-266

Christy L. Hall, Gender Justice, St. Paul, Minnesota (for respondent)

Frank Bibeau, Deer River, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Cochran, Judge; and Segal, Judge.

U N P U B L I S H E D O P I N I O N

COCHRAN, Judge

Appellant-defendant Honor the Earth challenges the district court's order denying its motion to dismiss respondent-plaintiff Margaret Campbell's claims under the Minnesota Human Rights Act for lack of subject-matter jurisdiction. Because we conclude that the district court has subject-matter jurisdiction over the claims, we affirm.

FACTS

In January 2019, Minnesota resident Margaret Campbell sued her former employer, Honor the Earth (HTE), alleging claims under the Minnesota Human Rights Act. Generally, Campbell alleged that HTE took no action to respond to her complaints that an HTE coworker sexually harassed her. Campbell further alleged that HTE placed her on unpaid administrative leave to punish her for "violat[ing] confidentiality" by speaking with a community activist about her allegations against the colleague. Finally, Campbell alleged that after she resigned from HTE, Winona LaDuke, HTE's founder, told Campbell to "stay quiet" about what had happened and threatened Campbell with a lawsuit for defamation.

HTE denied almost all of the allegations in Campbell's complaint, but admitted that it was "a nonprofit corporation under Minn. Stat. § 317A registered with the State of Minnesota." Its answer asserted that the district court did not have jurisdiction over the matter. HTE also filed a separate motion to dismiss for lack of subject-matter jurisdiction. HTE argued that the district court lacks jurisdiction over Campbell's claims because the incidents alleged in the complaint occurred primarily within the White Earth Reservation and because LaDuke is a member of the White Earth Band of Ojibwe. HTE asserted that a federal law commonly known as Public Law 280 precludes the district court from exercising subject-matter jurisdiction over the case.[1]

The district court denied HTE's motion to dismiss. It concluded that it had subject-matter jurisdiction over Campbell's claims because (1) the case involves a

[1] Public Law 280 is codified as amended, in relevant part, at 18 U.S.C. § 1162 (2018) and 28 U.S.C. § 1360 (2018).

Minnesota resident suing a Minnesota corporation under Minnesota law and, therefore, neither tribal immunity nor Public Law 280 apply to this case, and (2) even if Public Law 280 did apply to this case, as argued by HTE, Minnesota courts retain jurisdiction over Campbell's lawsuit under the grant of state jurisdiction provided by Public Law 280.

HTE appeals.

D E C I S I O N

At issue in this appeal is whether the district court erred by exercising jurisdiction over Campbell's Minnesota Human Rights Act claims against HTE, a Minnesota nonprofit corporation organized under the laws of Minnesota and founded by an enrolled member of the White Earth Band of Ojibwe. Whether a court has subject-matter jurisdiction is a question of law that an appellate court reviews de novo. *Lemke ex rel. Teta v. Brooks*, 614 N.W.2d 242, 244 (Minn. App. 2000), *review denied* (Minn. Sept. 27, 2000).

HTE argues that Minnesota courts do not have jurisdiction over Campbell's claims because Public Law 280 precludes it. Campbell argues that because neither party is an Indian[2] and because some of the activity alleged in the complaint occurred off of the White Earth Reservation, the federal laws governing state court jurisdiction over Indians are not implicated. Campbell emphasizes that HTE is a Minnesota nonprofit corporation and that she is a resident of the State of Minnesota and not an enrolled member of any tribe.

[2] We use the term "Indian" as it is the term used in Public Law 280.

I. The district court correctly concluded that Public Law 280 is not implicated by Campbell's complaint against HTE.

State district courts generally have jurisdiction over civil actions within their respective districts. *See* Minn. Stat. § 484.01, subd. 1(1) (2018). But Indian tribes retain sovereignty over both their members and their territory. *See California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 207, 107 S. Ct. 1083, 1087 (1987). Thus, in matters involving Indians, state courts only have jurisdiction as permitted by federal law. *See State v. Stone*, 572 N.W.2d 725, 728 (Minn. 1997). "[A]bsent a grant of federal authority, state courts have no jurisdiction over Indians, Indian tribes, or other Indian entities." *Gavle v. Little Six, Inc.*, 555 N.W.2d 284, 289 (Minn. 1996).

In 1953, Congress passed what is commonly referred to as Public Law 280. Act of Aug. 15, 1953, Pub. L. No. 83-280, 67 Stat. 588; *State v. Manypenny*, 682 N.W.2d 143, 148 & n.4 (Minn. 2004). Public Law 280 granted state court jurisdiction to designated states, including Minnesota, over certain matters to which Indians are parties. Pub. L. No. 83-280, §§ 1162, 1360, 67 Stat. 588-89 (relevant parts codified as amended at 18 U.S.C. § 1162(a); 28 U.S.C. § 1360(a)). Our state supreme court has explained that the law provided Minnesota "broad criminal and limited civil jurisdiction over all Indian country within the state, with the exception of Red Lake Reservation." *Stone*, 572 N.W.2d at 728 (footnote omitted); *see also* 18 U.S.C. § 1162(a), 28 U.S.C. § 1360(a).

The primary problem that Public Law 280 was intended to address was "lawlessness on certain Indian reservations, and the absence of adequate tribal institutions for law enforcement." *Bryan v. Itasca County*, 426 U.S. 373, 379, 96 S. Ct. 2102, 2106 (1976).

Thus, the law granted the specified states jurisdiction "over offenses committed *by or against Indians in the areas of Indian country* listed opposite the name of the State or Territory" and further provided that "the criminal laws of such State or Territory shall have the same force and effect within such Indian country as they have elsewhere within the State or Territory." 18 U.S.C. § 1162(a) (emphasis added). For Minnesota, that criminal jurisdiction extends to "[a]ll Indian country within the State, except the Red Lake Reservation." *Id.*[3]

The law also granted these states "jurisdiction over private civil litigation involving reservation Indians and arising out of Indian country." *Stone*, 572 N.W.2d at 729. Specifically, the law provides Minnesota (and the other designated states) with "jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action." 28 U.S.C. 1360(a). For Minnesota, the civil jurisdiction granted by Public Law 280, like the criminal jurisdiction, extends to all Indian country within the state, except the Red Lake Reservation. *Id.* The United States Supreme Court determined that the grant of civil jurisdiction under Public Law 280 was "primarily intended to redress the lack of adequate Indian forums for resolving private legal disputes between reservation Indians, and between Indians and other private citizens, by permitting the courts of the States to decide

[3] We also recognize that in 1973, Minnesota retroceded criminal jurisdiction for the Bois Forte Indian Reservation at Nett Lake back to the federal government. *See Stone*, 572 N.W.2d at 728 n.3 (noting the same and citing 1973 Minn. Laws ch. 625, § 3, at 1501).

such disputes." *Bryan*, 426 U.S. at 383, 96 S. Ct. at 2108. But while the law grants jurisdiction over "private civil litigation involving reservation Indians and arising out of Indian country," the law "does not grant the state general civil regulatory authority" over Indians or Indian country. *Stone*, 572 N.W.2d at 729 (citing *Bryan*, 426 U.S. at 384-88, 96 S. Ct. at 2108-11).

Public Law 280 also permits the existence of concurrent jurisdiction between state courts and tribal courts:

> Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

28 U.S.C. § 1360(c).

But Public Law 280 in no way limits state court jurisdiction over matters where *neither party* to the proceeding is Indian. *See* Public Law 280 (codified as amended, in relevant part, at 18 U.S.C. § 1162, 28 U.S.C. § 1360). A civil action between two non-Indian parties is not within the scope of the law. *See id.* Because neither party to this litigation is Indian, we conclude that Public Law 280 is not implicated. As the district court correctly concluded, neither Public Law 280 nor tribal immunity apply because this case involves a Minnesota citizen suing a Minnesota nonprofit corporation.

HTE argues that we should look beyond the parties to the proceeding and hold that Public Law 280 applies because HTE was founded by an Indian. HTE asserts that it is "merely a tool owned by" LaDuke, and that LaDuke should be considered a party for

purposes of determining whether Public Law 280 applies to this litigation. HTE points to *Morgan v. 2000 Volkswagen*, 754 N.W.2d 587 (Minn. App. 2008) to support its argument. In *2000 Volkswagen*, the state sought forfeiture of a vehicle owned by an enrolled member of the Minnesota Chippewa Tribe that had been used in the commission of a DWI offense on the White Earth Reservation. 754 N.W.2d at 589-90 & n.1. Because the state was seeking forfeiture of a vehicle owned by an Indian for conduct occurring on an Indian reservation, this court analyzed whether the district had jurisdiction under Public Law 280. *Id.* at 590. In making this determination, we explained that

> when a State seeks to enforce a law within an Indian reservation under the authority of Pub. L. 280, it must be determined whether the law is criminal in nature, and thus fully applicable to the reservation or civil in nature, and applicable only as it may be relevant to private civil litigation in state court.

Id. at 590-91 (quotation and footnote omitted). We determined that the vehicle forfeiture statute that the state intended to enforce was civil/regulatory. *Id.* at 594. Consequently, because Public Law 280 does not grant states civil regulatory authority, we concluded that Public Law 280 did not grant state jurisdiction over the matter. *Id.* at 594.

The *2000 Volkswagen* case relied upon by HTE is distinguishable from this case, and fails to support HTE's jurisdictional argument, for several reasons. First, in *2000 Volkswagen*, the owner of the vehicle was an enrolled member of an Indian tribe. Here, neither party is an enrolled member of an Indian tribe. Second, HTE is not a "tool" of LaDuke but rather is a distinct legal entity. It is well settled that a nonprofit corporation, like any other corporation, is a separate legal entity, not a "tool" of its founder. *See, e.g.*,

Di Re v. Cent. Livestock Order Buying Co., 74 N.W.2d 518, 523 (Minn. 1956). Third, even assuming Public Law 280 did apply because HTE was founded by an Indian, the law would *expressly* grant state court jurisdiction over this case because the case is a civil action between private parties, not an enforcement action by the state like in the *2000 Volkswagen* case. *See* 28 U.S.C. 1360(a) ("Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State . . . .").[4] HTE's reliance on the *2000 Volkswagen* case is misplaced.

Finally, HTE argues that Public Law 280 precludes Minnesota courts from exercising subject-matter jurisdiction over this case because the White Earth Band has adopted its own tribal code after the passage of Public Law 280. HTE relies on the following language of Public Law 280 to support its argument:

> Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

[4] And because this is a civil litigation between two private parties, it was not necessary for the district court to apply the *Stone* analysis that we have adopted for determining when the state, as a party to the litigation, has jurisdiction under Public Law 280 to enforce a state law in Indian country. *See 2000 Volkswagen*, 754 N.W.2d at 590 (describing *Stone* analytical framework as a test to "determin[e] whether *Minnesota* has jurisdiction under Public Law 280 to *enforce* a state law in Indian country" (emphasis added)). Here, the state is not seeking to enforce a state law. Therefore, we do not address HTE's arguments that the district court erred in determining that the Minnesota Human Rights Act is criminal/prohibitory under the *Stone* analysis. We express no opinion as to whether the district court erred in its application of *Stone*.

28 U.S.C. § 1360(c). The White Earth Band of Chippewa Judicial Code provides, in relevant part, that "[n]othing in this Code shall be deemed to constitute acceptance of or deference to the jurisdiction of the State of Minnesota over any civil or civil regulatory matter or crime associated thereto, *where such jurisdiction does not otherwise exist*." White Earth Band of Chippewa Judicial Code, tit. 1, ch. 2, § 2 (1997) (emphasis added). Based on these provisions, HTE argues that the White Earth Band of Chippewa has divested Minnesota of jurisdiction over civil actions involving members of the tribe.

As discussed above, we conclude that Public Law 280 is not implicated in this case because this civil action does not involve an Indian. But assuming Public Law 280 was applicable, the language of the White Earth Band of Chippewa Judicial Code that HTE relies upon fails to support HTE's argument. The code provision indicates that the code shall not be deemed to constitute "acceptance of or deference to" the jurisdiction of the State of Minnesota over any civil matter "where such jurisdiction *does not otherwise exist*." *Id.* (emphasis added). When the White Earth Band of Chippewa Judicial Code was adopted in 1997, the Public Law 280 grant of civil jurisdiction to state courts over private lawsuits existed. Therefore, even if this case involved an Indian party, the code would not preclude the state court from exercising jurisdiction.

We therefore conclude that the district court did not err in denying HTE's motion to dismiss for lack of subject-matter jurisdiction.

II. The district court did not err in exercising jurisdiction where the White Earth Tribal Court shares concurrent jurisdiction over the claims.

Because some of the allegations in the complaint occurred on White Earth Reservation, the parties agree that White Earth's Tribal court also has jurisdiction over Campbell's claims against HTE.[5] "[I]n cases involving concurrent jurisdiction, instances of jurisdictional disputes between tribal and state courts also raise the question of whether that jurisdiction should be exercised." *Gavle*, 555 N.W.2d at 291. "[T]he governing federal principle in determining whether a court should exercise concurrent jurisdiction . . . is one of deference." *Id.* To determine whether exercise of jurisdiction over a case would infringe on Indian sovereignty, a court must consider the state and tribal interests at stake. *Id.* "[T]he general rule is that the exercise of state court jurisdiction must not 'undermine the authority of the tribal courts over Reservation affairs' nor 'infringe on the right of Indians to govern themselves.'" *Id.* (quoting *Williams v. Lee*, 358 U.S. 217, 223, 79 S. Ct. 269, 272 (1959)).

HTE argues that exercising jurisdiction here "infring[es] on every single tribal member who has a right to bring this to tribal court under our treaties." But, as discussed above, neither party is a tribal member. Campbell's claims are brought under Minnesota law against a Minnesota corporation and do not undermine the authority of the tribal courts

[5] While the parties agree that White Earth Reservation *has* jurisdiction, they disagree as to whether it is exclusive. As discussed in the preceding section, we reject HTE's exclusive jurisdiction argument, and conclude that the district court does have subject-matter jurisdiction.

over Reservation affairs. Consequently, we conclude that the district court did not err in exercising jurisdiction over this matter and denying HTE's motion to dismiss.

Affirmed.