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Talton v. Mayes :: 163 U.S. 376 (1898)

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Angelina Jolie to produce Jim Thorpe movie with Native American lead

OP Ed on Cultural Appropriation



FIGHT LIKE CRAZY HORSE
LEAD LIKE CHIEF JOSEPH
RESIST LIKE RUSSELL MEANS
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<https://m.dailykos.com/stories/2018/9/20/1797201/-Court-erases-victory-for-Indian-parents-separated-from-their-children?detail=emaildkre>

Court erases victory for Native American parents separated from their children

In March 2013, the Oglala Sioux Tribe, the Rosebud Sioux Tribe, and three Indian parents filed [a first-of-its-kind suit](#) in federal court under the Indian Child Welfare Act and the Fourteenth Amendment. Judges and state attorneys were blowing through the initial hearings that are required after removing an Indian child from a parent. Parents didn't know they had a right to an attorney; they were being denied the chance to contest claims of neglect or abuse. The result? Children were separated from their families for months before a meaningful opportunity to fight for their return arose.

Social workers have been taking children away from parents based on nothing more than a report about the parent or a parent's arrest. In one South Dakota county, more than 1,000 Indian children have been removed from their homes since 2010. Fifty-two percent of children in foster care in the state are Indian. Of course, there's [a long and terrible history](#) of state actors removing Indian children from their homes.

District Court Judge Jeffrey Viken granted the tribes standing to sue under the ICWA and certified Indian parents as a class for the first time. He went on to rule [for the plaintiffs](#), cataloging state failures and mandating reforms. Then it went to the Eighth Circuit.

It's not that the Eighth Circuit said that South Dakota's practices are fine; it just said that federal courts shouldn't intervene. The three judges are relying on a principle of abstention established in 1979 in *Younger v. Harris*, that federal courts should generally let state courts decide state issues.

Their reasoning draws heavily, but not well, from ignoble Supreme Court precedent. There's a 1979—yes, 1979—case called *Moore v. Sims* in which a five-justice majority decided that *Younger* abstention doctrine should apply to a federal district court challenge to Texas child custody procedures because Texas hadn't specifically banned parents from litigating the issues in-state.

[T]he only pertinent inquiry is whether the state proceedings afford an adequate opportunity to raise the constitutional claims, and **Texas law appears to raise no procedural barriers.**

The Eighth Circuit's even more problematic version of the same language in 2018:

Although the plaintiffs complain that state court proceedings do not afford parents an adequate opportunity to raise broad constitutional challenges under the Due Process Clause, **they have not established that South Dakota courts are unwilling or unable to adjudicate their federal claims.**

The plaintiffs came to federal court because they lacked access to a meaningful state forum. The custody hearings the Eighth Circuit claims it cannot interfere with or hardly give the parents a chance to vindicate their rights. The judges went out of their way to sink this case.

The tribes and parents still could have prevailed had the Eighth Circuit recognized the case falls under one or both exceptions to *Younger* abstention. The exceptions? Instances of overt unconstitutionality and tremendous harm. The judges' rejection of those arguments makes for chilly reading.

Th[e] exception for “patently unconstitutional” actions is “extremely narrow,” and it does not apply here. The plaintiffs do not challenge the constitutionality of a statute at all, and they have not established that the alleged procedural deficiencies at the 48-hour hearings threaten “irreparable loss [that] is both great and immediate.”

The procedural deficiencies to which the court refers routinely result in family separation lasting months, a practice now nationally decried.

The *Moore* dissent by Justice John Paul Stevens, who was joined by Justices William Brennan, Potter Stewart, and Thurgood Marshall, could have been written yesterday.

Younger abstention in these circumstances does not merely deprive the plaintiffs of their right to initiate new claims in the forum of their choice. Far more seriously, it deprives them of any relief at all. For this state forum could not and did not afford plaintiffs the sufficient opportunity to vindicate their constitutional rights that is not only a predicate to a *Younger* dismissal, but also their entitlement under the Constitution.

There are a great many dissents in Supreme Court history that later, following progress, became the law of the land—especially when it comes to civil rights. If this case were to be appealed to a Supreme Court that included Merrick Garland, there'd be a solid chance of this dissent joining those ranks. Instead, this case will almost certainly end here. Its demise reflects the stakes of the battle over judicial nominations.

It would have been easy for the Eighth Circuit to find for the plaintiffs under any of the three above analyses—under *Moore*'s principles, as patently unconstitutional, or in light of the tremendous harms. Indeed, a more liberal panel probably would have. The same laws are wielded differently by different judges; it's not enough to elect good lawmakers, we must fight for the judiciary.



Canadian Mint releases a new fancy dancer coin celebrating Indigenous people.

The Royal Canadian Mint joined McGill University's First Peoples' House on Sept. 21 at a powwow on the grounds of the university and unveiled a stunning silver coin that celebrates the pageantry and cultural significance of the Fancy Dance. Ottawa-based artist Garrison Garrow, who is originally from Akwesasne, designed the two-ounce, coloured coin, which captures beautifully a Fancy Dancer moving to the rhythmic beat of the drum dressed in colourful regalia with full feathered headdress, moccasins, intricate beadwork and colourful ribbons. Only 3500 minted.

A Few More History Resources

[The last of the Mus-qua-kies and the Indian congress, 1898](https://books.google.com/books?id=Bu4NAAAIAAJH)

<https://books.google.com/books?id=Bu4NAAAIAAJH>Horace M. Rebok - 1900 - Congress of American Indians

THE FIRST *INDIAN CONGRESS*. "Uitche Manito, the mighty, He, the Master of Life, descending," « » 0 "Stood erect, and called the nations. Called the tribes of ...

[The last of the Mus-qua-kies and the Indian Congress 1898 on eHRAF ...](http://ehrafworldcultures.yale.edu/document?id=np05-067)

ehrafworldcultures.yale.edu/document?id=np05-067

Rebok, the *Indian* agent for the Fox at Tama, Iowa, consulted memoirs, letters, ... The end of the report is an account of the first *Indian Congress* of 1898, which ...

[The Trans-Mississippi and International Expositions of 1898–1899: ...](https://books.google.com/books?isbn=0803278802)

<https://books.google.com/books?isbn=0803278802> Wendy Jean Katz - 2018 - History

"*Indian Congress* Scheme. Looks as Though the Red Men Would Assemble at Omaha. Bill as Amended Passes the Senate," Omaha Bee, February 12, 1898, 1.

[The Indian Man: A Biography of James Mooney](https://books.google.com/books?isbn=0803282796)

<https://books.google.com/books?isbn=0803282796> 2002 - Biography & Autobiography

Ibid., xxvi; Mooney to Boas, June 10, 1898, Boas Papers, reel 3, APS. 64. Mooney ... James Mooney, *The Indian Congress at Omaha*, AA, n.s., 1 (1899): 128. 68.

[Indian Congress 1898 Lower Brule Lakota Sleeping Bear FA ... - eBay](http://www.ebay.ie/sch/sis.html?itemId...nkw=Indian+Congress+1898...) [www.ebay.ie/sch/sis.html? itemId...nkw=Indian+Congress+1898...](http://www.ebay.ie/sch/sis.html?itemId...nkw=Indian+Congress+1898...)

[Vintage 1898 F A Rinehart Print](http://www.ebay.ie/sch/sis.html?itemId...nkw=Indian+Congress+1898...)

[NATIVE AMERICAN INDIAN WHITE MAN ... NEW The Last Of The Mus-Qua-Kies And The *Indian Congress*, 1898 \(1900\).](http://www.ebay.ie/sch/sis.html?itemId...nkw=Indian+Congress+1898...)

[the indian congress at omaha - Wiley Online Library](https://onlinelibrary.wiley.com/doi/pdf/10.1525/aa.1899.1.1.02a00090) <https://onlinelibrary.wiley.com/doi/pdf/10.1525/aa.1899.1.1.02a00090> by J MOONEY - 1899 - Cited by 16 - Related articles

[ZNDZAN CONGRESS AT OMAHA](https://onlinelibrary.wiley.com/doi/pdf/10.1525/aa.1899.1.1.02a00090). 127. The Trans-Mississippi and International Exposition held at. Omaha from June to October, inclusive, in 1898, was the.

[Sioux 1898 Indian Congress Stock Photos and Images - Alamy](https://www.alamy.com/stock-photo/sioux-1898-indian-congress.html) <https://www.alamy.com/stock-photo/sioux-1898-indian-congress.html>

Find the perfect sioux 1898 indian congress stock photo. Huge collection, amazing choice, 100+ million high quality, affordable RF and RM images. No need to ...

[Talton v. Mayes :: 163 U.S. 376 \(1898\) :: Justia US Supreme Court ...](https://supreme.justia.com/cases/federal/us/163/376/)

<https://supreme.justia.com/cases/federal/us/163/376/>

Decided May 18, 1898. 163 U.S. 376. Syllabus. The crime of murder committed by one Cherokee *Indian* upon the person of another within the jurisdiction of the ...

The Democratic Hand Book, 1898 · Civil War Era NC

<https://cwnc.omeka.chass.ncsu.edu/items/show/382> State Democratic Executive Committee, The Democratic Handbook, 1898,

"The reconstruction acts of Congress, with the civil and political rights they confer" "The Cherokee Indian, a ten-year man, was going about the woods wherever ...



**USGBC: Peppermill Geothermal Tour
Reno, NV | October 25, 2018 | 4 - 6 pm**

(See me waving from my house?)

Please join the USGBC Northern Nevada Education Committee for a tour of the Peppermill Resort Spa Casino's Geothermal Plant!

There have been many environmental ventures throughout the Peppermill Resort Spa Casino's history. However, nothing boasts the resort's commitment to being eco-conscious more than the investment and use of geothermal. Peppermill Central Plant Manager John Kassai said the casino is the only major facility in the city of Reno, and to his knowledge, still the only U.S. casino to harvest the earth's energy to heat 100 percent of the resort's domestic water and mechanical heat 24/7.

After the tour we will have a casual networking happy hour at the Terrace Lounge in the Peppermill.

REGISTER FOR THE TOUR

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USGBC: Online Live LEED GA Exam Prep Course  
October 2 - 18, 2018 | 4 - 6 pm MDT



Interested in becoming a LEED Green Associate? Register for the Fall 2018 - LEED Green Associate Exam Prep Course facilitated by Annette K Stelmack - LEED AP BD+C, USGBC Faculty, WELL AP, WELL Faculty. Annette delivers an online, live exam preparation course designed for individuals seeking the LEED Green Associate credential.

If you are interested in green building techniques; sustainable practices and strategies; energy, resource and water conservation; and healthy interiors it's time to get your professional green credentials. Your first step is to pursue your LEED Green Associate accreditation and this blended, live webinar will set you up for success!

**Course Schedule - 6 Total Sessions:**

Tuesday, Oct 2nd  
Thursday, Oct 4th  
Tuesday, Oct 9th  
Thursday, Oct 11th  
Tuesday, Oct 16th  
Thursday, Oct 18th

**Learning Objectives:**

Define the LEED Rating System and identify terms, phrases and acronyms  
Complete LEED Exam registration  
Summarize LEED Credential Maintenance Program  
Describe LEED Credit Categories, Prerequisites & Credit Requirements  
Research and share with classmates LEED v4 case studies (assignment)  
Recognize strategies for passing the exam

Questions? Please contact Annette at 303-905-5836 or [annette@inspirit-llc.com](mailto:annette@inspirit-llc.com).



## Child Passenger Safety Technician Certification

**When: October 9th through the 13th, 2018**

**Time: 9:00 AM—5:00 PM (Times tentative)**

**Where: The Wadsworth Community Building in Wadsworth, NV**

**Cost: \$85 Payable to Safe Kids Worldwide**

**Contact: Carrie Brown 775-432-4438 or [cbrown@nijc.org](mailto:cbrown@nijc.org)**

Have you heard about events where folks get one-on-one personalized instruction on how to properly use their child's car seat? Join the team of over 41,000 nationally certified Child Passenger Safety Technicians (CPST) and be that community advocate or resource in your community! As a CPS technician, you will put your knowledge to work through a variety of activities, including community presentations and/or child safety seat checks where parents and caregivers receive education and hands-on assistance with the proper use of child re-

National CPS Certification Training is a program of Safe Kids Worldwide, which is the certifying body and responsible for managing all aspects of the program. We work closely with the National Highway Traffic Safety Administration (responsible for the curriculum), the National Child Passenger Safety Board (provides recommendations and guidance), and State Farm (our sponsor).



To register, visit <http://cert.safekids.org/>, click on **Become a Tech**, and then select **Make an Online Profile** from the menu on the left side of the screen. Once you have made a profile, find a course and register! Or follow link <https://ssl06.cyzap.net/dzapps/dbzap.bin/apps/assess/webmembers/tool?>



**A week's end review of the top stories in Indian Country Today** as picked by our readers by Vincent Shelling

Here are this past week's top 10 stories ending September 22, 2018.

[\*Non-Native man guilty of strangling, sexualizing Native woman will serve no time\*](#)

[\*Interior denies Mashpee trust land: 'You do not meet definition of an Indian'\*](#)

[\*Missing 10-year-old Ashley Johnson-Barr found deceased, 41-year-old man arrested\*](#)

[\*Indian Country E-Weekly Newsletter - September 19, 2018\*](#)

[\*The 2020 Census is in 'deep trouble' and tribes will lose big\*](#)

[\*VAWA: Department of Justice to double funding for violence against Native women\*](#)

[\*Top 10 Stories: What Indian Country read this past week as of Sep 15, 2018\*](#)



[\*#NativeNerd: Never underestimate a Native Nerd - or anyone for that matter\*](#)

[\*The Indian Country Today weekly Video News Report: by Vincent Schilling: 9-14-18\*](#)

[\*Leroy Bryant, Navajo, receives national award for support of disabled Natives\*](#)

[\*\*Top 5 Archive Articles\*\*](#)

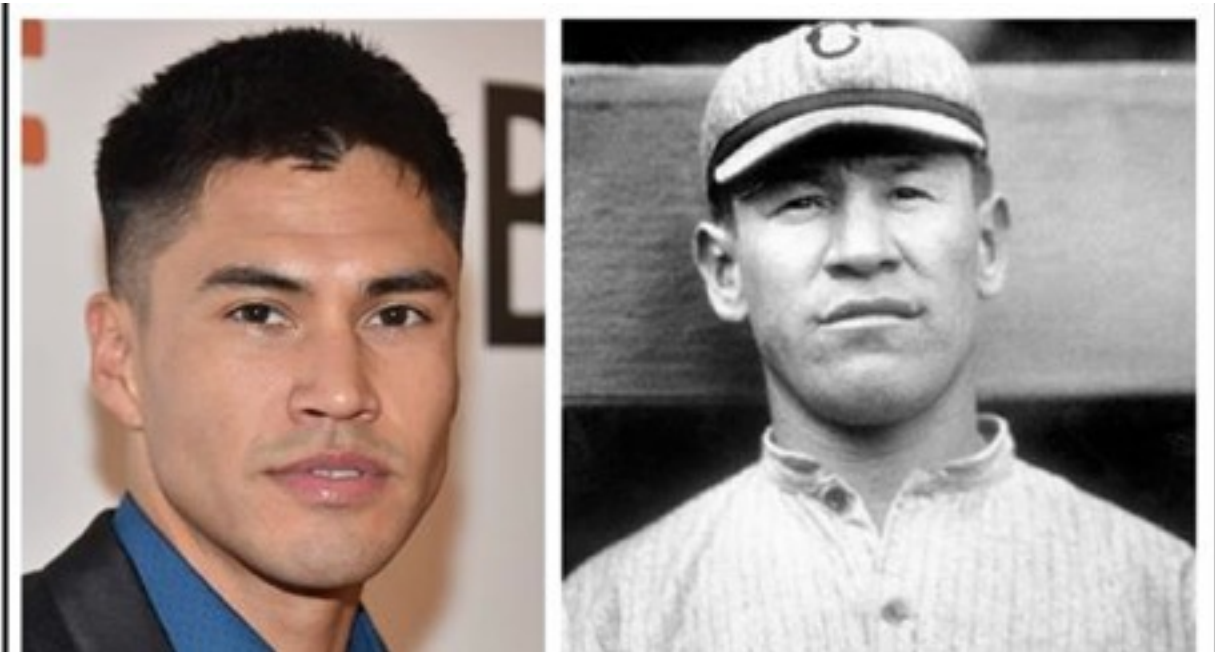
[\*Native American Student Proves Traditional Chokeycherry Pudding Is Medicine\*](#)

[\*The True Story of Pocahontas: Historical Myths Versus Sad Reality\*](#)

[\*Prepare for Hard Times, Rebuild Yourself, Be Stewards: Turtle Lodges\*](#)

[\*Two Spirits, One Heart, Five Genders\*](#)

[\*10 Native Inventions and Innovations That Changed the World\*](#)



[windspeaker.com](http://windspeaker.com)

[\*\*Angelina Jolie to produce Jim Thorpe movie with Native American lead\*\*](#)

[Heidi Barlese](#) shared a [post](#).

The necklace my brother sold for \$100, and the lady turned around and was selling it for \$500!  
See how people do...



[Heidi Barlese](#) is with [Robert Lowery](#) and [Dean Barlese](#). · [Nixon, NV](#)

My Nephews Beadwork on the left (dang Rob), and my Brothers on the right. I need to make me 1 (and Art, if he's nice). Lol!

## Op-ed on Cultural Appropriation by Gregg Deal

Posted By [Corinne Oestreich](#) September 12th, 2018 Blog

Artist and activist Gregg Deal recently shared a post on Facebook where he pointed out a Czech Cycling company's blatant cultural appropriation and misinformation on Native Americans. The post was so shocking that it rippled out into a viral share, prompting the company to remove it's social media sites after thousands of people called them out on their appropriation. Read the original Facebook post [here](#).

The next week, Deal wrote and published an Op-ed on cultural appropriation and cycling..