No. _____

In the Supreme Court of the United States

STATE OF MICHIGAN, PETITIONER

v.

BAY MILLS INDIAN COMMUNITY

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq*. (IGRA), authorizes an Indian tribe to conduct class III gaming under limited circumstances and only on "Indian lands." 25 U.S.C. § 2710(d)(1). This dispute involves a federal court's authority to enjoin an Indian tribe from operating an illegal casino located *off* of "Indian lands." The petition presents two recurring questions of jurisprudential significance that have divided the circuits:

1. Whether a federal court has jurisdiction to enjoin activity that violates IGRA but takes place outside of Indian lands.

2. Whether tribal sovereign immunity bars a state from suing in federal court to enjoin a tribe from violating IGRA outside of Indian lands.

PARTIES TO THE PROCEEDING

There are no parties to the proceeding other than those listed in the caption. Petitioner is the State of Michigan. Respondent is the Bay Mills Indian Community, a federally recognized Indian tribe. Appellee below but not appearing here is the Little Traverse Bay Band of Odawa Indians, a federally recognized Indian tribe.

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The opinion of the Sixth Circuit court of appeals, App. 1a–18a, is reported at __ F.3d __, 2012 WL 3326596. The opinion of the district court, App. 19a–39a, is not reported.

JURISDICTION

The judgment of the Sixth Circuit was entered on August 15, 2012. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

28 U.S.C. § 1331:

> The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

25 U.S.C. § 2710(d)(7)(A)(ii):

> (7)(A) The United States district courts shall have jurisdiction over—
>
> > (ii) any cause of action initiated by a State or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any Tribal-State compact entered into under paragraph (3) that is in effect . . . .

INTRODUCTION

This case involves a pair of recurring and widening circuit splits concerning a federal court's authority to hear, and a tribe's sovereign immunity from, disputes under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq*. (IGRA). The Sixth Circuit ruled that an Indian tribe has immunity and a federal court lacks jurisdiction to enjoin the tribe's operation of an illegal, off-reservation casino, i.e., located outside "Indian lands" as IGRA defines that term. The Sixth Circuit reached the anti-intuitive conclusion that while Congress intended in IGRA to allow a state to obtain a federal-court injunction when a tribe operates an illegal casino *on* Indian lands, a state may not sue a tribe in federal court for violating an IGRA-governed compact by operating the same illegal casino *off* Indian lands.

The first question is whether the federal courts have jurisdiction over such a dispute. The Sixth Circuit said no, relying on 25 U.S.C. § 2710(d)(7)(A)(ii), which admittedly states that a federal court has jurisdiction to enjoin a class III gaming activity "located *on* Indian lands." App. 9a (emphasis added). What the Sixth Circuit ignored is 28 U.S.C. § 1331, which grants federal-court jurisdiction over *all* civil actions arising under the laws of the United States, presumably including those actions arising under IGRA (such as whether a tribe has violated IGRA by breaching its compact with a state). The Sixth Circuit's decision conflicts with decisions of the Ninth and Tenth Circuits, which take a much broader view of federal-court jurisdiction to resolve disputes under IGRA than does the Sixth Circuit.

The second question is whether Indian tribes have sovereign immunity from suits alleging IGRA violations. The Sixth Circuit said yes, rejecting Michigan's argument that Congress abrogated tribal immunity under § 2710(d)(7)(A)(ii). In so holding, the Sixth Circuit acknowledged a conflict with the Tenth Circuit, then aligned itself with the Eleventh Circuit in rejecting the Tenth Circuit's "muddled" reasoning. App. 13a. But under the Eleventh Circuit's view of tribal immunity, Michigan's lawsuit would likely have been allowed to proceed. And the same is true under the Seventh Circuit's precedent describing the scope of tribal immunity, a view which differs from all three of the aforementioned circuits.

These two circuit splits present jurisprudential issues of great significance to Michigan as well as other states and tribes across the country. Ignoring the circuit splits allows entirely different allocations of authority and sovereignty between states and tribes, dependent solely on the federal circuit where the parties happen to be located. In addition, allowing the Sixth Circuit decision to stand invites the proliferation of off-reservation tribal casinos that violate federal law, i.e., IGRA. The petition for a writ of certiorari should be granted.

STATEMENT OF THE CASE

A. The Bay Mills casino

Bay Mills is a federally recognized Indian tribe with a reservation in Michigan's Upper Peninsula in Chippewa County, near the town of Brimley. App. 3a. The Tribe's offices are located on the reservation.

In 1993, Bay Mills entered into a Tribal-State Compact with Michigan—a compact governed by IGRA—and thereafter opened and has continuously operated at least one casino on its reservation. As IGRA requires, Bay Mills also adopted a Gaming Ordinance that was approved by the National Indian Gaming Commission. App. 4a. The Gaming Ordinance created a Tribal Gaming Commission charged with regulating all casinos the Tribe owned, including issuing licenses to those casinos. App. 15a. Both the Compact and the Gaming Ordinance prohibited the Tribe from operating a casino outside of Indian lands. App. 5a, 15a.

On October 29, 2010, the Tribal Gaming Commission issued a license to the Tribe to open a new, off-reservation casino on property the Tribe owned near Vanderbilt, Michigan, approximately 100 miles from its reservation. The Tribe opened the casino on November 3, 2010, even though it had not obtained confirmation from either the United States Department of the Interior or the National Indian Gaming Commission that the Vanderbilt property was eligible for casino gaming.

B. Proceedings in the district court

On December 16, 2010, the Michigan Attorney General sent a letter to Bay Mills ordering it to immediately close the casino because it violated state gaming laws. Bay Mills refused, so the State filed this lawsuit on December 21, 2010, seeking to enjoin any further operation of the casino. The State alleged in its Complaint that the court had jurisdiction under 28 U.S.C. § 1331, federal common law, IGRA 25 U.S.C.

§ 2701 *et seq.*, 25 U.S.C. § 2710(d)(7)(A)(ii), 28 U.S.C. § 1367, and 28 U.S.C. § 2201. A short time later, the Little Traverse Bay Bands of Odawa Indians, another federally recognized Indian tribe, filed its own lawsuit against Bay Mills, seeking an injunction against further operation of the Vanderbilt casino. The district court consolidated the two lawsuits. Within hours of these filings, both the Department of the Interior and the National Indian Gaming Commission issued letters formally determining that the Vanderbilt casino was *not* located on Indian lands as defined by IGRA. Letter from Hillary C. Tompkins, Solicitor, Department of Interior, to Michael Gross, Associate General Counsel, National Indian Gaming Commission (Dec. 21, 2010); Memorandum from Michael Gross (Dec. 21, 2010).

The Little Traverse Bay Bands also filed a motion for a preliminary injunction that asked the trial court to enjoin further operation of the Vanderbilt casino. The State supported the motion, and the district court granted it on March 29, 2011.

The district court began its opinion by addressing its jurisdiction. Although § 2710(d)(7)(A)(ii) authorizes a district court to enjoin class III gaming activity "located on Indian land" (and in violation of a compact), the district court recognized its broad subject-matter jurisdiction under 28 U.S.C. § 1331 to resolve *any* civil action arising under federal law. App. 25a. Though not dispositive, the district court also noted that Bay Mills had, in 1999, successfully made the exact same § 2710 request for injunctive relief against another tribe. App. 26a. Concluding the relevant property was not "Indian land" as a matter of federal law, the court enjoined Bay Mills' operation of its Vanderbilt casino. App. 27a.

C. Sixth Circuit ruling

Bay Mills appealed, and the Sixth Circuit vacated the injunction, ruling that the federal courts lacked jurisdiction to enjoin Bay Mills from illegal gaming outside Indian lands, and that Bay Mills was immune from the State's common-law and other statutory claims.

With respect to jurisdiction over Michigan's IGRA claims, the Sixth Circuit declined to apply § 1331. Rather, it looked simply to § 2710 and concluded that the provision did not apply because Michigan alleged that illegal gaming was taking place off reservation, not *on* Indian lands. App. 9a.

Consistent with the narrow scope it had just ascribed to § 2710, the Sixth Circuit also concluded that Bay Mills had sovereign immunity. App. 13a. In so holding, the Sixth Circuit purportedly aligned itself with the Eleventh Circuit and against the Tenth Circuit's view of immunity, a view that would have allowed Michigan's lawsuit here to proceed. App. 13a.

The net result of the Sixth Circuit's approach is that states may not sue in federal court to enjoin a tribe's illegal operation of an off-reservation casino.

REASONS FOR GRANTING THE PETITION

This case involves important and recurring issues of federal law involving federal-court jurisdiction and tribal sovereign immunity in the context of illegal tribal gaming that violates IGRA. As the court of appeals noted below, there is a disagreement among the federal circuits over whether § 1331 vests federal courts with jurisdiction over IGRA claims regardless of 25 U.S.C. § 2710(d)(7)(A)(ii). There is also considerable disagreement among the circuits concerning the scope of tribal sovereign immunity from suits seeking to enjoin unlawful gaming. This Court's clarification of these issues is sorely needed.

I. The petition should be granted to resolve a circuit conflict regarding federal-court jurisdiction when a tribe violates its IGRA gaming compact.

Section 2710(d)(7)(A)(ii) says that the United States district courts shall have jurisdiction over "any cause of action initiated by a State or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any Tribal-State compact entered into under paragraph (3) that is in effect." The Sixth Circuit interpreted § 2710 as exclusionary, *withdrawing* federal-court jurisdiction over any tribal gaming dispute that does not satisfy what the Sixth Circuit characterized as § 2710(d)(7)(A)(ii)'s "five prerequisites":

> (1) the plaintiff is a State or an Indian tribe; (2) the cause of action seeks to enjoin a class III gaming activity; (3) the gaming activity is located on Indian lands; (4) the gaming activity is conducted in violation of a Tribal-State compact; and (5) the Tribal-State compact is in effect.

App. 7a. Because Michigan's claim involved an illegal gaming operation *off* Indian lands, the Sixth Circuit reasoned, prerequisite "3" was missing, and the federal courts lacked jurisdiction. App. 7–8a.

But § 2710 is only one of the jurisdictional bases that Michigan and Little Traverse Bay Bands identified in their complaints. Both actions turned on two distinct federal questions: (1) whether Bay Mills had violated IGRA by allegedly breaching its compact with the State of Michigan, and (2) whether lands purchased with earnings from the Michigan Indian Land Claims Settlement Act, Pub. L. 105–143, 111 Stat. 2652, constitute "Indian lands" for purposes of IGRA. Such federal questions are easily encompassed by Congress's general grant of federal-court jurisdiction. 28 U.S.C. § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the . . . laws . . . of the United States.").[1] And nothing in § 2710 purports to strip away federal-question jurisdiction.

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[1] The district court also had jurisdiction over a civil action "brought by an Indian tribe or band with a governing body duly recognized by the Secretary of the Interior, wherein the controversy arises" under federal law. 28 U.S.C. § 1362. As the district court noted, "Little Traverse Bay is such a tribe." App. 25a.

This Court has protected § 1331's integrity in analogous situations. For example, in *Free Enterprise Fund* v. *Public Company Accounting Oversight Board*, 130 S. Ct. 3138 (2010), plaintiffs challenged in federal district court the Sarbanes-Oxley Act's creation of the Public Company Accounting Oversight Board. But the Act, in § 78y, provided plaintiffs the opportunity to bring such an action in a court of appeals. The federal government interpreted § 78y as the exclusive route to review. But this Court rejected that position because § 78y's text "does not expressly limit the jurisdiction that other statutes confer on district courts. See, e.g., 28 U.S.C. §§ 1331, 2201." *Id.* at 3150. "Provisions for agency review do not restrict judicial review unless the 'statutory scheme' displays a 'fairly discernible' intent to limit jurisdiction, and the claims at issue 'are of the type Congress intended to be reviewed within th[e] statutory structure." *Id.* (quotation omitted). See also *Verizon Md., Inc.* v. *Public Serv. Comm'n of Md.*, 535 U.S. 635, 643 (2002) ("[N]othing in 47 U.S.C. § 252(e)(6) purports to strip this [§ 1331] jurisdiction."); cf. *Mims* v. *Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 749–50 (2012) (rejecting the argument that a federal statute created exclusive state-court jurisdiction where nothing in the statute's language "purports to oust federal courts of their 28 U.S.C. § 1331 jurisdiction").

Here, there is nothing in § 2710's plain language that suggests Congress intended to oust federal courts of their § 1331 jurisdiction over illegal tribal casinos simply because the casinos are located off reservation. Congress simply intended to make clear that federal courts have the power to enjoin illegal casinos, even when operated by sovereign Indian tribes.

The Sixth Circuit's contrary conclusion runs counter to *Free Enterprise Fund* and conflicts directly with the Ninth Circuit's conclusion in *Cabazon Band of Mission Indians* v. *Wilson*, 124 F.3d 1050 (9th Cir. 1997). There, several tribes sued California to force the state to remit amounts it had collected as license fees from horse racing associations that had received payments pursuant to an off-track betting regime established in a compact between the state and the tribes. That compact also included a provision obligating the state to turn the money over to the tribes if a federal court determined that the payments were illegal. A court made that determination, but the state refused to remit the money to the tribes, who then sued.

Mirroring the Sixth Circuit's logic here, California argued that the federal courts did not have jurisdiction because § 2710(d)(7)(A)(i–iii) conferred jurisdiction in only limited circumstances, and the tribes' lawsuit did not satisfy the prerequisites. The Ninth Circuit rejected California's position. 124 F.3d at 1056. Noting "the importance of the federal issue in federal-question jurisdiction" under § 1331, *id.* (quoting *Merrell Dow Pharm. Inc.* v. *Thompson*, 478 U.S. 804, 814 n.12 (1986)), the Ninth Circuit agreed with the tribes that "IGRA necessarily confers jurisdiction onto federal courts to enforce Tribal-State compacts and the agreements contained therein." *Id.*

In sum, the Ninth Circuit recognized that gaming compacts are central to IGRA's structure, and that such compacts will be meaningless if the parties cannot be held in court to honor their promises. Here, Bay Mills breached the parties' compact (and thus violated

IGRA) by opening an off-reservation casino that the compact does not allow. If the Ninth Circuit were evaluating Michigan's claim, there can be little doubt that the court would allow the action to proceed in a federal forum.

The Sixth Circuit's decision here also conflicts with the Tenth Circuit's opinion in *Mescalero Apache Tribe* v. *New Mexico*, 131 F.3d 1379 (10th Cir. 1997). There, New Mexico brought a § 2710(d)(7)(a)(ii) counterclaim alleging that the Tribal-State compact at issue was invalid because New Mexico's governor did not have authority to sign it. Again mirroring the Sixth Circuit's logic here, the Mescalero Apache Tribe argued that the federal court lacked jurisdiction.

Relying on its previous decision in *Pueblo of Santa Ana* v. *Kelly*, 104 F.3d 1546 (10th Cir. 1997), the Tenth Circuit concluded that it had jurisdiction to answer the question of compact validity. *Mescalero*, 131 F.3d at 1386. And the Tenth Circuit's reasoning stands in stark contrast to the Sixth Circuit's analysis here: "IGRA is a federal statute, the interpretation of which presents a federal question suitable for determination by a federal court." *Pueblo of Santa Ana*, 104 F.3d at 1557.

If the Tenth Circuit were evaluating Michigan's claim, it would also likely allow this dispute to proceed. The action undeniably involves federal questions under IGRA and the Michigan Indian Land Claims Settlement Act. Accordingly, 28 U.S.C. § 1331 vests the federal courts with jurisdiction.

Conversely, if the Sixth Circuit were evaluating the claim in *Mescalero*, it would have denied a federal

forum. Because New Mexico alleged that the parties' compact was not in effect, it would fail Sixth Circuit prerequisite "5" for jurisdiction under § 2710. This Court should not allow such starkly different outcomes depending on nothing more than the *locus* of the case. There is an imminent need to resolve the disagreement among the circuits concerning the scope of federal-court jurisdiction to remedy IGRA violations.

Michigan notes that the Sixth Circuit should have recognized federal-court jurisdiction even under its view that § 2710 somehow takes away the general jurisdiction that § 1331 grants. Michigan alleged in its complaint several "class III gaming activities" that *did* occur on Indian lands, such as the Tribe's licensing of the off-reservation casino and the Tribe's on-going supervision of the casino's operations. App. 59a, ¶¶ 19, 21. The Tribe, through its Executive Council, derives its governmental authority from its reservation. See Constitution and Bylaws of the Bay Mills Indian Community, art. II, § 1. Since a tribe's reservation constitutes "Indian lands" under 25 U.S.C. § 2703(4), authorizing, licensing, and operating an off-reservation casino from the reservation satisfied even the Sixth Circuit's jurisdictional requirements.

Such a conclusion is consistent with congressional intent. Logically, Congress would not have limited federal-court authority to enjoining just gaming itself; conduct that is inextricably linked to class III gaming, such as decisions that make the gaming possible, falls naturally within the broader ambit of gaming "activity" and should be subject to a federal court's jurisdiction and equitable power.

II. The petition should be granted to resolve a circuit conflict regarding tribal immunity from a suit claiming an IGRA violation.

The second question presented involves the scope of Congress's abrogation of tribal immunity through IGRA's enactment. And here, the circuit conflict is even deeper than that regarding federal-court jurisdiction.

The Sixth Circuit observed that § 2710(d)(7)(A)(ii) "supplies federal jurisdiction and abrogates tribal immunity." App. 13a. But again, because this dispute does not involve illegal gaming "on" Indian lands (perquisite "3", according to the panel), the Sixth Circuit said that § 2710 could not apply. App. 9a.

In so holding, the Sixth Circuit acknowledged that it was furthering a circuit split. "It is true, as the plaintiffs point out, that the Tenth Circuit has taken the opposite approach with respect to abrogation of tribal immunity under § 2710(d)(7)(A)(ii)." App. 13a (citing *Mescalero*, 131 F.3d at 1385–86). The Tenth Circuit (followed by the Ninth) has held that "IGRA waived tribal sovereign immunity in the narrow category of cases where compliance with IGRA's provisions is at issue and where only declaratory or injunctive relief is sought." *Mescalero*, 131 F.3d at 1385–86; accord *Lewis* v. *Norton*, 424 F.3d 959, 962–63 (9th Cir. 2005) ("The IGRA waives tribal sovereign immunity in the narrow category of cases where compliance with the IGRA is at issue.") (citing *Mescalero*). Michigan's claim here falls comfortably within the scope of these Ninth and Tenth Circuit rulings.

But the Sixth Circuit ultimately aligned itself with the Eleventh Circuit, which rejected *Mescalero* and maligned its reasoning as "muddled." App. 13a (citing *Florida* v. *Seminole Tribe of Florida*, 181 F.3d 1237, 1242 (11th Cir. 1999)). According to the Eleventh Circuit, "Congress abrogated tribal immunity only in the narrow circumstance in which a tribe conducts class III gaming in violation of an existing Tribal-State compact." *Seminole Tribe*, 181 F.3d at 1242.

The circuit conflict is actually deeper than even the Sixth Circuit appreciated. To begin, the Eleventh Circuit's ruling in *Seminole Tribe* creates a narrower tribal immunity than does the Sixth Circuit's opinion here. Given that Bay Mills' operation of its illegal off-reservation casino violates the express terms of its Michigan compact (which only authorizes gaming on "Indian lands"), even the Eleventh Circuit appears likely to have allowed Michigan's action to proceed.

In addition, the Seventh Circuit has extended the abrogation of tribal sovereign immunity to *any* claim alleging a violation of a gaming compact arising from the subjects of compact negotiation listed in § 2710(d)(3)(C). *Wisconsin* v. *Ho-Chunk Nation*, 512 F.3d 921, 933 (7th Cir. 2008). Although that ruling did not allow Wisconsin to enforce revenue-sharing agreements entered into in conjunction with a Tribal-State compact, contra *New Mexico* v. *Pueblo of Pojoaque*, 30 Fed. App'x 768 (10th Cir. 2002) (allowing such a suit to proceed), its scope would nevertheless allow Michigan's claim that Bay Mills is violating its compact here.

In sum, tribal immunity under IGRA depends entirely on the circuit making the decision. Certiorari is warranted.

Of course, as noted above, there were other class III gaming activities (such as licensing and ongoing supervision of casino operations) that Michigan alleged in its Complaint and that undeniably took place on Indian lands—the Bay Mills reservation itself. Thus, even were the Court to adopt the Sixth Circuit's approach, rather than that of the Seventh, the Ninth and Tenth, or the Eleventh, the Sixth Circuit should be reversed, and the district court's grant of an injunction against Bay Mills should be sustained.

III. The issues presented are of national importance, implicating allocations of authority and sovereignty between states and tribes.

Having concluded that the federal courts lacked jurisdiction and that Bay Mills had sovereign immunity, the Sixth Circuit did not reach the question of whether the Vanderbilt tract qualifies as "Indian lands" eligible under 25 U.S.C. § 2710(d)(1) for class III gaming. The district court analyzed this issue at length and held that the tract does not constitute "Indian lands," App. 29a–38a, consistent with the views of the Department of the Interior and the National Indian Gaming Commission. Letter from Hillary C. Tompkins, Solicitor, Department of Interior, to Michael Gross, Associate General Counsel, National Indian Gaming Commission (Dec. 21, 2010); Memorandum from Michael Gross (Dec. 21, 2010). There can be no reasonable dispute that Bay Mills has an illegal casino, both under the terms of its Compact and under IGRA.

Given that fact, the Sixth Circuit's holding is remarkable: Michigan has no federal-court remedy to stop illegal tribal gaming that takes place on

Michigan's own sovereign territory, i.e., not on Indian lands. To put it another way, a state can seek to enjoin an illegal casino whenever it is located *on* reservation, but not when located *off* reservation.

That result is troubling in two respects. First, it invites tribes across the country to open off-reservation casinos, then claim immunity and lack of jurisdiction in response to any state request that a federal court enjoin the illegal conduct.

Second, the Sixth Circuit's decision encourages jurisdictional and political conflict between states and tribes. The Sixth Circuit's closing comments leave the door open to state lawsuits or criminal charges against individual Indians who participate in off-reservation gaming activities, as well as suits or charges against tribal officers. App. 17–18a. But, right or wrong, some federal courts in other jurisdictions have dismissed *Ex parte Young*-type claims alleging that a tribal official is violating IGRA. E.g., *Tamiami Partners*, *Ltd. Ex rel. Tamiami Development Corp.* v. *Miccosukee Tribe of Florida*, 177 F.3d 1212, 1225–26 (11th Cir. 1999) (rejecting IGRA claims against a tribal official because it "is well established that *Ex parte Young* does not permit individual officers of a sovereign to be sued when the relief requested would, in effect, require the sovereign's specific performance of a contract."); *Crosby Lodge*, *Inc.* v. *National Indian Gaming Association*, 2007 WL 2318581, at *4 (D. Nev. Aug. 10, 2007) ("Crosby may not bring a private cause of action [asserting *Ex parte Young* relief] against Tribal Defendants for alleged non-compliance with IGRA"); *Davids* v. *Coyhis*, 869 F. Supp. 1401 (E.D. Wis. 1994) ("Congress certainly has the power to authorize civil

actions by private parties against tribal officers under the IGRA, but it has chosen not to do so. I will not take it upon myself, without a clearer direction from Congress, to permit the intrusion on tribal sovereignty that adjudication of this [*Ex parte Young*] action would present.").

And even if Michigan is successful in bringing an *Ex parte Young* action, such litigation is preordained to create friction between a state and a tribe. An *Ex parte Young* suit brought by one sovereign against another sovereign's officials has very different political ramifications than a citizen bringing such a suit against her government. (No one flinches when a Michigan citizen brings an *Ex parte Young* action against a Michigan official, but imagine the international uproar if Michigan tried to circumvent the United Kingdom's sovereign immunity by suing Prime Minister David Cameron.) Yet by closing the door to an injunction against the tribe itself, the Sixth Circuit leaves a state with no other choice when confronted with an illegal gaming operation conducted outside a reservation.

Finally, the questions of federal jurisdiction and tribal sovereign immunity under IGRA extend far beyond the case of illegal, off-reservation casinos, as exemplified by the varying contexts in which these issues have arisen in the circuits. Further delay before resolving the circuit splits at issue here will have significant implications for state and tribal sovereignty. The recurring issues this case presents warrant this Court's immediate intervention and resolution.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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