



***U.S. v. Bryant***

**Supreme Court Summary and Analysis**

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## ***U.S. v. Bryant*, \_\_ U.S. \_\_ (2016)**

With an 8-0 ruling, the U.S. Supreme Court held that tribal court convictions for domestic violence offenses that comply with the protections set forth in the Indian Civil Rights Act (ICRA, 1968) can be used to convict in federal court under a repeat offender statute enacted as part of the VAWA reauthorization in 2005.

### **The Facts**

Defendant Bryant, an enrolled tribal member and resident on tribal land, had numerous convictions in tribal court for committing domestic assault against his girlfriends. In one case, Bryant was convicted for hitting his girlfriend in the head with a beer bottle and strangling her; in another case, he pled guilty for kneeing another girlfriend in the face and breaking her nose. Later, he was convicted of assault for dragging a girlfriend by her hair and repeatedly punching and kicking her. Additionally, Bryant was convicted for strangling another girlfriend to the point of unconsciousness. In each of the tribal court cases, Bryant did not have an attorney as the procedures require appointment of counsel only if a defendant faces a sentence of imprisonment greater than one year. Bryant never served more than one year in prison for any of his domestic violence convictions. When Bryant committed another series of domestic violence offenses in 2011, he was indicted by a federal grand jury for committing domestic violence in Indian country as a repeat offender. The statute in question, §117(a) (VAWA 2005), had created a federal felony offense for an individual to commit domestic violence in Indian country if that person is a repeat offender with at least two prior domestic violence convictions in federal, state or tribal courts. On appeal, Bryant challenged the use of his prior, uncounseled tribal convictions in the §117(a) prosecution.

### **The Supreme Court Ruling**

In a unanimous decision, the Supreme Court rejected defendant Bryant's assertion that his prior tribal court convictions, without the provision of counsel, do not qualify under section 117(a). Citing the overwhelming incidences of violence committed against Native American women, the Supreme Court first acknowledged that Bryant presented the epitome of Congress' purpose when creating the federal repeat offender crime: too often, accountability for domestic violence against Native women was not achieved because of the jurisdictional quagmire between tribal, state and federal courts and §117(a) was created as a vehicle to address these challenges.

In federal and state courts, the 6<sup>th</sup> Amendment guarantees that a defendant who cannot afford an attorney has the right to appointed counsel if facing incarceration. Thus, any conviction obtained in those courts that violates a defendant's 6<sup>th</sup> Amendment rights cannot be used in a later proceeding to "support guilt or enhance punishment for another offense." *Burgett v. Texas*, 389 U.S. 109, 115 (1967). However, the Supreme Court reiterated that tribal nations are

separate sovereigns and the provisions of the Bill of Rights, including the 6<sup>th</sup> Amendment requirement for appointment of counsel for indigent defendants, do not apply to tribal courts.

The Supreme Court continued their analysis by looking at what kinds of protections or rights were available to the defendant in tribal court. Passed in 1968, the Indian Civil Rights Act (ICRA) established several requirements for tribal court proceedings in order to ensure defendants sufficient due process protections. While similar, these requirements are not identical to those contained in the Bill of Rights, such as the 6<sup>th</sup> Amendment right to counsel. Specifically, the ICRA requires appointment of counsel for defendants in tribal court cases only if they face a sentence of more than 1 year in prison. Because Bryant never faced a prison sentence greater than one year, he was not entitled to counsel under ICRA and, thus, the “uncounseled” convictions were valid.

The Supreme Court held, therefore, that because Bryant’s tribal court convictions complied with the requirements of ICRA and were valid when entered, they are sufficient to be used under the repeat offender statute. The subsequent use of those convictions in a Section 117(a) prosecution, therefore, does not violate the Constitution.

## **Conclusion**

The Supreme Court thus acknowledged the astounding rates of domestic and sexual violence committed against Native women by their partners and the dangerous consequences that occur when offenders cannot be held accountable due to jurisdictional limitations. In reinforcing the sovereign power of tribes and their courts to act in protection of Native women, the Supreme Court found that tribal court proceedings which comply with the ICRA requirements provide sufficient protections for defendants, such that any such tribal court convictions can be used as compounded offenses in later prosecutions under repeat offender statutes, like §117(a).