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Fifth Circuit Court of Appeals to Rehear *Brackeen v. Bernhardt*

(PORTLAND, Ore. November 7, 2019) — Today, the U.S. Circuit Court of Appeals for the Fifth Circuit granted rehearing en banc in the case *Brackeen v. Bernhardt*. The Protect ICWA Campaign, consisting of the National Indian Child Welfare Association, the National Congress of American Indians, the Association on American Indian Affairs, and the Native American Rights Fund, issued the following statement in response:

“This summer, a three-judge panel of the Fifth Circuit upheld the constitutionality of the Indian Child Welfare Act (ICWA), and we remain confident that upon rehearing en banc the full court will do the same.

For centuries, the United States Congress, Executive Branch, and Supreme Court have affirmed the unique political status of tribal nations and Native people. ICWA was enacted with that unique political status in mind and applies only to tribal nations that share a government-to-government relationship with the United States and to Indian children and families who share in that relationship. We are confident the Fifth Circuit will affirm ICWA’s strong constitutional grounding.

In addition, for more than 150 years, the U.S. Supreme Court has recognized that this federal authority to legislate with regard to tribal nations and native people is not limited by reservation borders but extends to wherever Indians may live. When Congress enacted ICWA, it carefully balanced the respective powers of tribes, states, and the federal government to create process that protects Indian children nationwide.

ICWA has long been recognized as best practice in child welfare and it includes broad support in this case from, among others, 21 states, 325 tribal nations, 57 Native organizations, 31 leading child welfare organizations, Indian and constitutional law scholars, and members of Congress.

ICWA is vital for protecting the well-being of Indian children across the United States today and tomorrow. The Protect ICWA Campaign will continue to work with tribal nations, tribal leaders, and allies to ensure a strong Indian Child Welfare Act for future generations of Indian families.”

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Protect ICWA Campaign

The Protect ICWA Campaign (the Campaign) was established by four national Native organizations: the [National Indian Child Welfare Association](#), the [National Congress of American Indians](#), the [Association on American Indian Affairs](#), and the [Native American Rights Fund](#). Together, the Campaign works to serve and support Native children, youth, and families through upholding the Indian Child Welfare Act. The Campaign works to inform policy, legal, and communications strategies with the mission to uphold and protect ICWA.