

DocumentID : 100

CABINET #: AA

DRAWER #: 1

FOLDER #: TRIBAL

MONTH: SEPTEMBER

YEAR: 2008

RESOLUTION #: 542

ORDINANCE #:

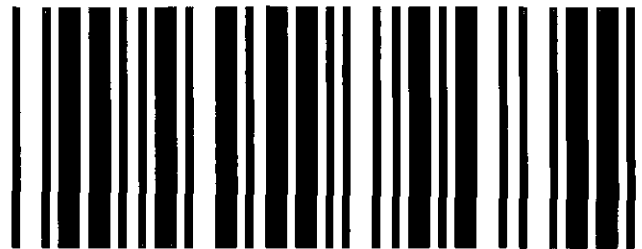
STATUS: PASSED

COMMENTS: INOEL SANCHEZ VIZCALLA

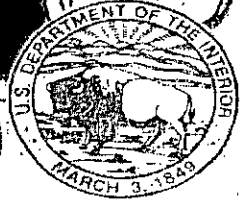
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LIBRARY: RESOLUTIONS



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Cherokee Agency
Cherokee, North Carolina 28719

IN REPLY REFER TO.

Michell Hicks, Principal Chief
Eastern Band of Cherokee Indians
P.O. Box 455
88 Council House Loop Cherokee, NC 28719

Dear Chief Hicks:

Attached is signed Tribal Council Resolution No. 542 Sept. 4, 2008 Should you have any questions regarding this matter please contact me at (828) 497-9131 extension 227.

Sincerely,

Superintendent

AMENDED
PASSED

Cherokee Council House
Cherokee, Qualla Boundary (NC)

Date: SEP 04 2008

RESOLUTION NO. 542 (2008)

WHEREAS, the Eastern Band of Cherokee Indians has the sovereign authority to lawfully exclude persons from lands of the Eastern Band in order to protect the integrity, law and order on Tribal lands and territory or the welfare of the members of the Tribe; and

WHEREAS, the Tribal Council has codified its authority to exclude persons from the lands of the Eastern Band at Chapter Two of the Cherokee Code; and

WHEREAS, Inoel Sanchez Vizcalla is not a member of the Eastern Band of Cherokee Indians and has been currently entering or residing on tribal lands with no legally established right to do so; and

WHEREAS, Tribal Council has good reason to believe that Inoel Sanchez Vizcalla is a threat to the law and order on Tribal lands and a threat to the welfare of enrolled members by engaging in certain conducts on tribal lands; and

WHEREAS, Inoel Sanchez Vizcalla has been charged by the Cherokee Police for the following criminal acts:

- a. Cherokee Cod 14-40.31 False Imprisonment (DV)
- b. Cherokee Code 14-40.56 Assault on a Female (DV)
- c. Cherokee Code 14-40.57 Assault on a Child
- d. Cherokee Code 14.5.2 Communicating Threats (DV)

WHEREAS, The charged incidents represent a percentage of the incidents between Inoel Sanchez Vizcalla and the Cherokee Police, causing the Cherokee police to use an excessive amount of time and attention addressing his disputes; and

WHEREAS, Inoel Sanchez Vizcalla's behavior has resulted in the reasonable belief among members of the Eastern Band of Cherokee Indians and others residing on lands of the Tribe that he poses a substantial threat of further injury to property and persons if he is allowed to remain; and

WHEREAS, Inoel Sanchez Vizcalla's continued presence and behavior constitutes a threat to the integrity and order of the territory of the Eastern Band and to the welfare of its members.

WHEREAS, The Tribal Council finds that the facts presented are sufficient to waive the ten (10) day notice period and set this matter for hearing immediately.

NOW THEREFORE, BE IT RESOLVED by the Tribal Council, in Council assembled, with a quorum present and with the number of votes required by Tribal law, that INOEL SANCHEZ VIZCALLA, who is not an enrolled member of the Eastern Band of Cherokee Indians, is permanently excluded from all lands owned by or held in trust for the Eastern Band of Cherokee Indians.

BE IT FURTHER RESOLVED that INOEL SANCHEZ VIZCALLA is given immediate notice to vacate and remove himself and his personal property from Cherokee trust lands within 24 hours following ratification of this resolution by the Principal Chief and that any of his personal property remaining on Cherokee trust lands after twenty-four (24) hours shall become the property of the Eastern Band of Cherokee Indians.

BE IT FURTHER RESOLVED that if Inoel Sanchez Vizcalla is found on Cherokee trust lands at any time after twenty-four (24) following ratification of this resolution by the Principal Chief, he shall be treated as a trespasser and law enforcement personnel shall arrest him or take other appropriate legal action against him.

BE IT FURTHER RESOLVED that this exclusion prohibits Inoel Sanchez Vizcalla from entering on or being present on Tribal lands for any purpose EXCEPT AS REQUIRED BY A SUBPOENA issued by the Cherokee Tribal Court or an officer of the Tribe with authority to issue subpoenas.

BE IT FINALLY RESOLVED that this resolution shall be effective upon ratification by the Principal Chief.

Submitted by: the Office of the Attorney General pursuant to Cherokee Code §2-1(b) at the request of Alan B. Ensley, Yellowhill Community Council Member.

Amendment:

- Strike "permanently excluded" and insert "temporarily excluded" throughout resolution.
- Add the name David Wolfe as submitting the resolution.

**EASTERN BAND OF
THE CHEROKEE COURT**

Do not give copies
of backup info to
Dillon



Name and Address of the Defendant		Case Number:	Date of Birth:
Vizcalla Incel Sanchez		5071	1/4/1984
1442 Peavine Cherokee NC 28719		Sex:	Prior Service (if any):
<input type="checkbox"/> In Custody		Date Filed:	Date of the Offense:
		9/3/2008	6/14/2008
Complainant:	BOND INFORMATION		
Birchfield	Amount of Bond:		
Location of Residence: Cherokee	Complainant Phone No.:		
Witnesses:	<input type="checkbox"/> No Contact with <input checked="" type="checkbox"/> Not to be released until the expiration of 72 hours (DV) <input type="checkbox"/> Pre-trial Supervision		
Jolynn Welch Justice Welch	<input checked="" type="checkbox"/> Not to Possess or Use Firearm or Weapon <input type="checkbox"/> Not to Possess or Consume Alcohol		

To any officer with authority and jurisdiction to execute a warrant for arrest for the offenses(s) charged below:

I, the undersigned, find that there is probable cause to believe that on or about the date of the offense shown and within the jurisdiction of the Eastern Band of Cherokee Indians the defendant named above unlawfully and willfully did commit the following offenses:

Case Number	Cherokee Code	Charges
CR 08-1182	14-40.31*	False Imprisonment (DV)
CR 08-1183	14-40.56*	Assault on a Female (DV)
CR 08-1184	14-40.57	Assault on a Child
CR 08-1185	14-5.2*	Communicating Threats (DV)

This act(s) was in violation of the law(s) and/or ordinances referred to in this warrant. This Warrant is issued upon information furnished under oath by the complainant listed. You are DIRECTED to arrest the Defendant and bring the Defendant before a judicial official without unnecessary delay to answer the charge(s) above.

Signature:	RETURN OF SERVICE		
Name of Judicial Official: Jackson	<input checked="" type="checkbox"/> Magistrate <input type="checkbox"/> Judge	Date Issued: 9/3/2008	I certify that this Warrant was received and served as follows:
Location of Court: Cherokee Courthouse, Cherokee, Qualla Boundary (NC)			Date Sent to PD: _____ Date Served: _____ Date Received from PD: _____
Service Number: 08-080	<input type="checkbox"/> By arresting the Defendant and bringing the Defendant before:		
			Name of Judicial Official: _____
			<input type="checkbox"/> The Warrant WAS NOT Served for the following reason: _____
			Signature of Officer making return: _____

EASTERN BAND OF CHEROKEE INDIANS

File No. **CR 08 1182-85**

The Cherokee Court

SEP 3 AM 10:23



EASTERN BAND OF CHEROKEE INDIANS VERSUS		RELEASE ORDER	
Name of Defendant JNOEL Sanchez Vizcalle		Charge(s) Dr (Comm. Targets) Assault on a child False Imprisonment DVI Assault on a female	
Amount of the Bond \$ 2000.00	Location of Court Cherokee Courthouse	Date 10-14-08	Time 9:30 AM

To The Defendant Named Above, you are ORDERED to appear before the Court as provided above and at all subsequent continued dates. If you fail to appear, you will be arrested and you may be charged with the crime of bail jumping, which is punishable by up to one year in jail and a \$5,000.00 fine. The defendant has been advised of charge(s) against him/her and his/her right to communicate with counsel, family and friends.

Your release is authorized upon execution of your:

<input type="checkbox"/> WRITTEN PROMISE to appear	<input type="checkbox"/> UNSECURED BOND in the amount shown above
<input type="checkbox"/> CUSTODY RELEASE	<input checked="" type="checkbox"/> SECURED BOND in the amount shown above
<input type="checkbox"/> CASH BOND ONLY in the amount shown above	<input type="checkbox"/> BOND SECURED WITH GARNISHMENT in the amount shown

You will be arrested if you violate the following restrictions:

- Defendant is to stay away from the home, school, business or place of employment of the alleged victim and/or other members of the victim's household or family, as well as any healthcare facility, while the victim is a resident/patient at that facility. Defendant is to refrain from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, or family members of the victim, either directly or indirectly.
- Defendant is prohibited from using or possessing a firearm or any other weapon.
- Defendant is prohibited from possessing or consuming alcohol.
- Defendant is to remain within the jurisdiction of the Cherokee Court at all times.
- Defendant is not to violate the laws of this or any other jurisdiction.
- Other (Describe)

Your release is not authorized.

The defendant was exonerated after failing to appear as required under a prior release order. This was the defendant's second or subsequent fail to appear in this case.

Date **9-3-08** Signature of Judicial Official Magistrate Judge

ORDER OF COMMITMENT

To The Custodian Of The Detention Facility Named Below, you are ORDERED to receive in your custody the defendant named above who may be released if authorized above. If the defendant is not sooner released by court order, you are ORDERED to:

- Public Assistance (Release order may be signed by Officer)
- (Domestic Violence charges covered by C.C. §14-40.1) Hold for 72 hours from time of arrest
- Hold for additional charges and/or service of additional papers until released by Magistrate. Time Expires: AM PM
- Hold until conditions as shown above are met by the Defendant.

Name of Detention Facility **SWAIN COUNTY** Date **9-3-08** Time **10:22 AM** Signature of Judicial Official

APPEARANCE BOND/ RELEASE

UNSECURED BOND - I, the undersigned, acknowledge that I and my personal representative are bound to the Eastern Band of Cherokee Indians in the amount listed below.

CASH BOND - I, the undersigned defendant, acknowledge that I am bound to the Eastern Band of Cherokee Indians in the amount listed below and have deposited that amount as security with the understanding that the deposit will be returned upon the Court's determination that the conditions of the release have been performed.

BOND SECURED WITH GARNISHMENT - I, the undersigned, acknowledge that I am bound to the Eastern Band of Cherokee Indians in the amount listed below, and I agree to perform the conditions of release. I consent to the entry of an order of garnishment in the amount shown below in favor of the Cherokee Court against any person designated from the EBCI until the amount has been paid in full.

WRITTEN PROMISE TO APPEAR/CUSTODY RELEASE - I, the undersigned, promise to appear at all hearings, trials or otherwise as the Court may require and to abide by any restrictions set out above. I understand and agree that this promise is effective until the entry of judgment in Tribal Court. If I am released to the custody of another person, I agree to be placed in that person's custody, and that person agrees by his/her signature to supervise me under the conditions of this bond or promise and that the undersigned defendant shall appear as required and at all times render himself/herself amenable to the control and processes of the Court. It is agreed and understood that this bond is effective and binding upon the obligors throughout all stages of the proceedings in Cherokee Court until the entry of judgment. If the defendant appears as ordered and otherwise obeys and performs the conditions of this bond, then this bond shall be void, but if the defendant fails to obey any of these conditions, the Court will enter an Order declaring the bond forfeited.

EASTERN BAND OF CHEROKEE INDIANS

CHEROKEE TRIBAL COURT

File No. (If any)

CR 08-1182-85

The Cherokee Court

For Victim For Accused

IN RE

2010 SEP -3

AFFIDAVIT OF JURISDICTION

Name and Address of Affiant

NOEL Sanchez Vizcalle

Name and Address of Accused

ED

Date of the Offense

Victim

Potential Offense

AFFIDAVIT OF JURISDICTION

1. Are you an enrolled member of any Federally Recognized Tribe? Yes No

Which Tribe

INSTRUCTIONS: If the answer to Question No. 1 is Yes then the Affiant is an Indian for the purposes of jurisdiction. If the answer is No, proceed to Question No. 2.

2. Are you a first linear descendant under the laws of the Eastern Band of Cherokee Indians? Yes No

INSTRUCTIONS: If the answer to Question No. 2 is Yes then the Affiant is under the jurisdiction of the Cherokee Court. If the answer is No, proceed to Question No. 3.

3. (for Accused Only) Are you a citizen of any country other than the United States of America? Yes No

INSTRUCTIONS: If the answer to Question No. 3 is Yes then the Affiant is under the jurisdiction of the Cherokee Court. If the answer is No, proceed to Question No. 5.

4. (If the accused answers No to the preceding questions) If it is determined that you are a non-Indian and therefore not subject to prosecution by the Cherokee Court, you may freely and knowingly waive any objection to jurisdiction of the Cherokee Court. Would you like to do that? Yes No

INSTRUCTIONS: If the answer to Question No. 4 is Yes then the Affiant is under the jurisdiction of the Cherokee Court. If the answer is No, proceed to Question No. 5.

5. Do you or your ancestors have any Indian Blood? Yes No

INSTRUCTIONS: If the answer to Question No. 5 is No then the Affiant is a Non-Indian for the purposes of jurisdiction. If the answer is Yes, proceed to Question No. 6-9.

6. Have you been provided formally or informally with any assistance that is reserved only for Indians? Yes No

Describe:

7. Do you enjoy the benefits of Tribal Affiliation (i.e., First Linear Descendant, or other special status bestowed by a tribe)? Yes No

Describe:

8. Do you live on an Indian Reservation? Yes No

Describe:

9. Do you participate in Indian Social Life (i.e., Attend Indian Dinners, Community Meetings, Traditional Ceremonies, or Dance at Pow-Wows)? Yes No

Describe:

INSTRUCTIONS: The Magistrate must consider all answers and information provided in response to questions No. 5-9, applying Cherokee Law and Traditions, Treaties, and Acts of the United States Congress and decision of the Courts of the United States to determine whether the Affiant is an Indian for the purposes of jurisdiction.

DETERMINATION OF JURISDICTION

SWORN AND SUBSCRIBED BEFORE ME

Date

9-3-08

Signature

[Signature]

Signature of Affiant

NOEL Sanchez Vizcalle S

Name of Affiant (Type or Print)

Deputy CSC Assistant CSC Clerk of Superior Court Notary Public Magistrate Judge

INITIAL DETERMINATION

EASTERN BAND OF CHEROKEE INDIANS

FBI No. CR08 1182-85

The Cherokee Court

EASTERN BAND OF CHEROKEE INDIANS VERSUS 2008 SEP -3 AM 10-27

WAIVER/ TRANSCRIPT OF ARRAIGNMENT

Name and Address of Defendant

Inoel Sanchez Vizcalla

Offense(s): DV/ False Imprisonment, DV/ Assault on a female, Assault on a child, Comm. threats (DV)

- 1. Have you been advised of the charges against you and understand the nature and cause of these accusations? 25 USC 1302(a)
2. Do you understand that you have a right to remain silent and that you cannot be compelled to testify in this matter? 25 USC 1302(4)
3. Do you understand that you have a right to a speedy and public trial? 25 USC 1302(5)
4. Do you understand that you have a right to be confronted by the witnesses against you? 25 USC 1302(6)
5. Do you understand that you have the right to call witnesses in your own behalf and that these witnesses may be compelled to attend by subpoena served by the Cherokee Indian Police Department? 25 USC 1302(6)
6. Do you understand that you have a right for a hearing on release if you are presently being held in custody? 25 USC 1302(7)
7. Do you understand that you have right to be represented by counsel at this and all subsequent proceedings before this court? 25 USC 1302(6)
8. Do you understand that the tribe will appoint counsel for you if you are unable to afford counsel?
9. Do you understand that you have a right upon request to a trial by jury? 25 USC 1302(10)
10. Do you understand that if you are found guilty, you have a right to appeal the judgment to the Cherokee Supreme Court?

Upon the record of this court the defendant was asked each of the questions shown above. Each of these answers were in open court. Upon consideration of the record proper, answers of the defendant, and statements of the lawyer for the defendant and the tribal prosecutor, the undersigned finds that defendant understands the nature and cause of the acc against him and understands all of the rights outlined herein.

The Defendant is therefore set for trial on the date listed below.

Signature of Judge Date 9-3-08 Court Date 10-14-08 Time 9:30

WAIVER OF ARRAIGNMENT

I hereby waive my right to a formal arraignment in open court. I have been advised of the nature and cause of the acc against me. I have read all of these questions above and understand them. The answers shown are true and accurate. I enter a plea of not guilty to the charges herein and request a trial date no earlier than 20.

SWORN AND SUBSCRIBED BEFORE ME

Signature of Defendant, Deputy CSC, Assistant CSC, Clerk of Superior Court, Notary Public, Magistrate, Judge



EASTERN BAND OF CHEROKEE INDIANS
CHEROKEE TRIBAL COURT
CHEROKEE, N.C.

THE CHEROKEE COURT

DATE: 9/13/08 TIME: 1:50 PM

I accuse the above named defendant with willfully and intentionally violating the laws and ordinances made and provided for the peace and dignity of the Eastern Band of Cherokee Indians at 1442 Periwine Rd. (location of violation) on or about 6/11/08 (date of violation) at 4:00 PM (time of violation).

The following acts committed by the defendant constitute all of the necessary elements of the crime of Domestic Violence False Imprisonment (name of the offense) in violation of Section 14-4031X (Section Number) of the Cherokee Code:
 by restraining Tolyan Welch with a bed sheet at her residence at 1442 Periwine Rd.

File no. CR 08 1182

CRIMINAL COMPLAINT

Offense: Domestic Violence False Imprisonment
 EASTERN BAND OF CHEROKEE INDIANS VS

Name and Address of the Defendant:
 Invel Sanchez Viescoba
 1442 Periwine Rd.
 Cherokee N.C. 28719

Sex: M Date of Birth: 1-4-84 Age:

I, the undersigned complainant, do hereby request that the Cherokee Tribal Court accept this complaint for me against the defendant shown above for the offense shown. Once this complaint is completed and process is issued on the defendant, consent of the Tribal Prosecutor is required to dismiss these charges. I understand that if I fail to appear to prosecute these charges, I may be held responsible for paying court costs and a sanction fee, for a total amount of \$150.00. I understand that if I appear in Court and am allowed to drop these charges that I may be held responsible for paying all Court costs and a sanction fee, for a total amount of \$125.00.

I am aware and hereby accept notice that this complaint will be heard at the Cherokee Court during the next regularly scheduled session of court after the defendant is served. If I have not provided an actual physical address and phone number or fail to update this information, I understand I am responsible for contacting the court to obtain my court date and must appear on the scheduled court date without additional notice or face sanctions.

I have read this complaint and understand that I may be charged with the crime of Perjury in the First Degree if I have knowingly given false statements in my complaint. The crime of Perjury in the first degree is punishable by a fine not to exceed \$5,000.00, by a term of imprisonment not to exceed one year, by exclusion for not less than five years nor more than ten years, or any combination of them. For a second or subsequent conviction, exclusion may be imposed for not less than ten years nor more than life.

Complainant Initial: *ISV*

CPD Case Number

It is further believed that the following people were witnesses to said violation and should be subpoenaed:

Name of Witness (required)	Physical Address (required)	Phone Number (required)
Tolyan Welch	1442 Periwine Rd.	788-0903
Justice Welch	1442 Periwine Rd.	788-0903

I certify that I have read the above statement and verify that the facts set forth in this complaint are true and correct to the best of my knowledge. (continued on reverse if checked)

Magistrate's Certification
 Sworn and Subscribed before me this day.

Complainant Signature: *D.V. Favi*
 Mailing Address (required): *468 Sequoia Trail Cherokee Police Dept.*

Signature of Judicial Officer (Seal): *[Signature]*
 Magistrate Judge: *[Signature]*

Phone Number (required): *497-4131* Date: *9-2-08*

File no
 02081183

CRIMINAL COMPLAINT

Offense
Domestic Violence Assault/Injury
EASTERN BAND OF CHEROKEE INDIANS VS

Name and Address of the Defendant
Inez Sanchez Dieckhoff
1442 Periwie Rd.
Cherokee N.C. 28719

Sex *M* Date of Birth *1-4-84* Age

I, the undersigned complainant, do hereby request that the Cherokee Tribal Court accept this complaint for me against the defendant shown above for the offense shown. Once this complaint is completed and process is issued on the defendant, consent of the Tribal Prosecutor is required to dismiss these charges. I understand that if I fail to appear to prosecute these charges, I may be held responsible for paying court costs and a sanction fee, for a total amount of \$150.00. I understand that if I appear in Court and am allowed to drop these charges that I may be held responsible for paying all Court costs and a sanction fee, for a total amount of \$125.00.

I am aware and hereby accept notice that this complaint will be heard at the Cherokee Court during the next regularly scheduled session of court after the defendant is served. If I have not provided an actual physical address and phone number or fail to update this information, I understand I am responsible for contacting the court to obtain my court date and must appear on the scheduled court date without additional notice or face sanctions.

I have read this complaint and understand that I may be charged with the crime of Perjury in my complaint. The crime of Perjury in the first degree is punishable by a fine not to exceed \$5,000.00, by a term of imprisonment not to exceed one year, by exclusion for not less than five years nor more than ten years, or any combination of them. For a second or subsequent conviction, exclusion may be imposed for not less than ten years nor more than life.

Complainant Initial *SS*

EASTERN BAND OF CHEROKEE INDIANS
CHEROKEE TRIBAL COURT
 CHEROKEE, N.C.

DATE: *9-3-08* TIME: *7:30 AM*

I accuse the above named defendant with willfully and knowingly violating the laws and ordinances made and provided for the peace and dignity of the Eastern Band of Cherokee Indians at *1442 Periwie Rd.* (location of violation) on or about *5-22-08* (date of violation) at *AM/ PM* (time of violation).

The following acts committed by the defendant constitute all of the necessary elements of the crime of *Domestic Violence Assault/Injury* (name of the offense) in violation of Section *14-405.2(a)* (Section Number) of the Cherokee Code: *by stealing Tolgus debris with a closed hand.*

(Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged).

CPD Case Number

If it is further believed that the following people were witnesses to said violation and should be subpoenaed:

Name of Witness (required)	Physical Address (required)	Phone Number (required)
<i>Tolgus Welder</i>	<i>1442 Periwie Rd.</i>	<i>788-0905</i>
<i>Justice Welder</i>	<i>1442 Periwie Rd.</i>	<i>288-0905</i>

I certify that I have read the above statement and verify that the facts set forth in this complaint are true and correct to the best of my knowledge. (continued on reverse if checked)

Complainant Signature *D.V. Fawcett*

Mailing Address (required) *5 S. P. Bunchkill*

Physical Address (required) *468 Sequoia Trail*

Physical Address (required) *Cherokee Police Dept.*

Phone Number (required) *497-4131*

Date *9-2-08*

Magistrate's Certification

Signature of Judicial Officer (Seal) *[Signature]*

Sworn and Subscribed before me this day *[Signature]*

Magistrate Judge *[Seal]*

Date *9-3-08*

File no 02-08-1184

CRIMINAL COMPLAINT

Offense
Assault on a Minor Child
EASTERN BAND OF CHEROKEE INDIANS VS

Name and Address of the Defendant
Inez Sautaez Diezalla
1442 Periwine Rd.
Cherokee, N.C. 28719

Sex M Date of Birth 1-4-84 Age _____

I, the undersigned complainant, do hereby request that the Cherokee Tribal Court accept this complaint for me against the defendant shown above for the offense shown. Once this complaint is completed and process is issued on the defendant, consent of the Tribal Prosecutor is required to dismiss these charges. I understand that if I fail to appear to prosecute these charges, I may be held responsible for paying court costs and a sanction fee, for a total amount of \$150.00. I understand that if I appear in Court and am allowed to drop these charges that I may be held responsible for paying all Court costs and a sanction fee, for a total amount of \$125.00.

I am aware and hereby accept notice that this complaint will be heard at the Cherokee Court during the next regularly scheduled session of court after the defendant is served. If I have not provided an actual physical address and phone number or fail to update this information, I understand I am responsible for contacting the court to obtain my court date and must appear on the scheduled court date without additional notice or face sanctions.

I have read this complaint and understand that I may be charged with the crime of Perjury in the First Degree if I have knowingly given false statements in my complaint. The crime of Perjury in the first degree is punishable by a fine not to exceed \$5,000.00, by a term of imprisonment not to exceed one year, by exclusion for not less than five years nor more than ten years, or any combination of them. For a second or subsequent conviction, exclusion may be imposed for not less than ten years nor more than life.

Complainant Initial [Signature]

EASTERN BAND OF CHEROKEE INDIANS
CHEROKEE TRIBAL COURT
CHEROKEE, N.C.

DATE: 9/3/08 TIME: 7:50

I accuse the above named defendant with willfully and unlawfully and in violation of the laws and ordinances made and provided for the peace and dignity of the Eastern Band of Cherokee Indians at 1442 Periwine Rd. (location of violation) on or about 9/2/08 (date of violation) AM/ PM (time of violation).

The following acts committed by the defendant constitute all of the necessary elements of the crime of Assault on a Minor Child (name of the offense) in violation of Section 14-40.5 (Section Number) of the Cherokee Code: By stopping Justice Welay, a minor child, in the face.

(Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged.)

CPD Case Number _____

It is further believed that the following people were witnesses to said violation and should be subpoenaed:

Name of Witness (required)	Physical Address (required)	Phone Number (required)
<u>Justice Welay</u>	<u>1442 Periwine Rd.</u>	<u>288-0905</u>
<u>Justice Welay</u>	<u>1442 Periwine Rd.</u>	<u>288-0905</u>

I certify that I have read the above statement and verify that the facts set forth in this complaint are true and correct to the best of my knowledge. (continued on reverse if checked)

Complainant Signature [Signature]
Mailing Address (required) 468 Sequoyia Trail
Physical Address (required) Cherokee Police Dept
Phone Number (required) 497-4131 Date 9-2-08

Magistrate's Certification
Sworn and Subscribed before me this day: _____
Signature of Judicial Official (SEAL) [Signature]
Magistrate
Date 9/3/08



File no 0208 1185

CRIMINAL COMPLAINT

Offense Domestic Violence Communicating Threats
EASTERN BAND OF CHEROKEE INDIANS VS

Name and Address of the Defendant
Inez Saunders Diacala
1442 Periwine Rd.
Cherokee N.C. 28719

Sex M Date of Birth 1-4-84 Age _____

I, the undersigned complainant, do hereby request that the Cherokee Tribal Court accept this complaint for me against the defendant shown above for the offense shown. Once this complaint is completed and process is issued on the defendant, consent of the Tribal Prosecutor is required to dismiss these charges. I understand that if I fail to appear to prosecute these charges, I may be held responsible for paying court costs and a sanction fee, for a total amount of \$150.00. I understand that if I appear in Court and am allowed to drop these charges that I may be held responsible for paying all Court costs and a sanction fee, for a total amount of \$125.00.

I am aware and hereby accept notice that this complaint will be heard at the Cherokee Court during the next regularly scheduled session of court after the defendant is served. If I have not provided an actual physical address and phone number or fail to update this information, I understand I am responsible for contacting the court to obtain my court date and must appear on the scheduled court date without additional notice or face sanctions.

I have read this complaint and understand that I may be charged with the crime of Perjury in the First Degree if I have knowingly given false statements in my complaint. The crime of Perjury in the first degree is punishable by a fine not to exceed \$5,000.00, by a term of imprisonment not to exceed one year, by exclusion for not less than five years nor more than ten years, or any combination of them. For a second or subsequent conviction, exclusion may be imposed for not less than ten years nor more than life.

Complainant Initial SS/TS

EASTERN BAND OF CHEROKEE INDIANS EC21
CHEROKEE TRIBAL COURT
THE CHEROKEE COURT CHEROKEE, N.C.



I accuse the above named defendant with willfully and unlawfully violating the laws and ordinances made and provided for the peace and dignity of the Eastern Band of Cherokee Indians at 1442 Periwine Rd. (location of violation) of For about 4/14/08 (date) at PM (time of violation).

The following acts committed by the defendant constitute all of the necessary elements of the crime of Domestic Violence Communicating Threats (name of the offense) in violation of Section 14-5.23 (Section Number of the Cherokee Code):
By telling my former abuser "I will kill you."

(Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged).
 CPD Case Number _____

If I further believed that the following people were witnesses to said violation and should be subpoenaed:

Name of Witness (required)	Physical Address (required)	Phone Number (required)
<u>Yolanda Weldon</u>	<u>1442 Periwine Rd</u>	<u>288-0905</u>
<u>Justice Weldon</u>	<u>1442 Periwine Rd</u>	<u>288-0905</u>

I certify that I have read the above statement and verify that the facts set forth in this complaint are true and correct to the best of my knowledge. (continued on reverse if checked)

Complainant Signature <u>D.W. Taylor</u>	Magistrate's Certification
Signature of Judicial Official (SEAL) <u>S.P. Bushnell</u>	Sworn and Subscribed before me this day.
Mailing Address (required) <u>468 Sequoyia Trail</u>	
Physical Address (required) <u>Cherokee Police Dept</u>	
Phone Number (required) <u>497-4131</u>	Date <u>9-2-08</u>
<input checked="" type="checkbox"/> Magistrate	<input type="checkbox"/> Judge
Date <u>3.08</u>	

The attached Resolution/Ordinance No. 542 dated September 4, 2008 was:

PASSED (X)

KILLED ()

and ratified in open Council on September 4, 2008 by 82 voting for the act and 0 members voting against it as follows:

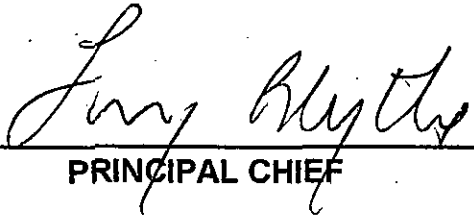
VOTE	FOR	AGAINST	ABSTAIN	ABSENT	TABLE
Stephen Watty	X				
Perry Shell	X				
Jim Owle	X				
Mike Parker	X				
David Wolfe	X				
Alan Ensley	X				
Butch Goings	X				
Angie Kephart	X				
Abe Wachacha	X				
Susan Toineeta				X	
Marie Junaluska				X	
Tommye Saunooke	X				
TOTAL	82	0	0	18	0



TRIBAL COUNCIL CHAIRMAN



CLERK



PRINCIPAL CHIEF

APPROVED 

VETOED ()

VETO UPHELD () VETO DENIED ()

DATE: 9/4/08

I hereby certify that the foregoing act of the Council was duly:

PASSED ()

KILLED ()

and ratified by Council Chairperson, Clerk, and Principal Chief of the Eastern Band of Cherokee Indians.

In testimony, whereof, I have hereunto set my hand and affixed the seal of the said Band of Indians. Superintendent, Cherokee Indian Agency.

INTERPRETED ()


OMITTED ()