Received: 6/25/2020 2:18 AM
20A-MI-01161

Clinton Lamont Montgomery v. The State of Indiana

% the Brahman Spirit Tribe
5841 South Peoria
Chicago Illinois 60621
FRN: 0028808145.

1. **The court case the"UNITED STATES vs. THE HEIRS OF HENRY TURNER (TUNICA) case 32 UNITED STATES APPELLATE COURT" in 1850 was an appeal to an earlier case won by the Heirs of Henry Tunica called "THE HEIRS OF TURNER (TUNICA) vs. THE UNITED STATES case 191" in 1848. In otherwords, on June 6, 1848, a Supreme Court Decision read by Theo H. McCaleb (Judge), declared that the United States does NOT own the land of The Ancient, Mound Builders of North America (much more than 1,000,000 square miles of land). Muurs (Moors) are the Title holders. The Titles are El, Bey, Dey, Al, and Ali; translated as the 5 civilized so-called Indian tribes (Choctaw [Washitaw], Cherokee, Chickasaw, Creek [Muskogee], Seminole Yamassee]). Also, the Court declared the lawful landowners are the heirs of Henry Turner (Washitaw-Moors / Muurs) [Mississippi Band of Choctaw Nation].**

2. **Congress has codified International obligations of the United States, specifically in United States Code Title 11 Chapter 15 Sub-chapter I § 1503. Furthermore, Congress denounced acts of national origin**

discrimination through the adoption of the follow- ing resolutions: Title VII of the Civil Rights Act of 1964 To work with State governments that affirm and protect treaty rights in order to develop multilateral documents and initia- tives to combat violations of treaty rights throughout the United

States.

3. **(1)To be vigorous and flexible, reflecting both the unwavering com- mitment of the United States to Moorish Treaty Rights and the desire of the United States for the most effective and principled re- sponse, in light of the range of violations of Moorish treaty rights by a variety of persecuting regimes, and the status of the relations of the United States with the Moorish Empire. (2)To work with State governments that affirm and Protect Moor- ish treaty rights, in order to develop multilateral documents and initiatives to combat violations of Moorish treaty rights and pro- mote the treaty rights abroad. (3)Standing for liberty and standing with the persecuted, and dis- criminated to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural**

channels, to promote respect for Moorish treaty rights by all governments and

peoples.

4. **Vienna Convention on the Law of Treaties Done at Vienna on 23 May 1969. The States Parties to the present Convention, Considering the fundamental role of treaties in the history of inter- national relations, Recognizing the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful cooperation among nations, whatever their constitutional and social systems, Noting that the prin- ciples of free consent and of good faith and pacta sunt servanda with Indian Tribes, rules are universally recognized, Affirming that disputes concern- ing treaties, like other international disputes, should be settled by peaceful means and in conformity with the principles of justice and international law, Recalling the determination of the peoples of the United Nations to establish conditions under which justice and respect for the obligations arising from treaties can be main- tained, Having in mind the principles of international law embod- ied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of all peoples, of the sovereign equality and**

independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force and of universal respect for, and observance of, human rights and fundamental freedoms for all.

5. **In 1978, the Supreme Court of the United States held that all remnants of the Choctaw Nation are entitled to all rights of the Federally Recognized Nation. The American Indian Policy Review Commission Final Report Volume I, Chapter 11, Page 468 on May 19, 1977 federally acknowledged/recognized the existence of the Choctaw Communities of Mobile and Washington Counties which are along the Tombigbee and Mobile Rivers where Choctaw Treaties were negotiated in various Choctaw Treaties.**

6. ***United States v. Winans*, 198 U.S. 371, 25 S. Ct. 662, 49 L. Ed. 1089 (1905), in which the U.S. Supreme Court ruled that a treaty is "not a grant of rights to the Indians, but a grant of rights from them." Any right not explicitly extinguished by a treaty or a federal statute is considered to be "reserved" to the tribe. Even when a tribe is officially "terminated" by Congress, it retains any and all rights that are not specifically mentioned**

in the termination statute. A more commonly cited source of federal power over Native American affairs is the Commerce Clause of the U.S. Constitution, which provides that "Congress shall have the Power … to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes" (Art. I, Sec. 8, Cl. 3). This clause has resulted in what is known as Congress's "plenary power" over Indian affairs, which means that Congress has the ultimate right to pass legislation governing Native Americans, even when that legislation conflicts with or abrogates Indian treaties. The most well-known case supporting this congressional right is *Lone Wolf v. Hitchcock*, 187 U.S. 553, 23 S. Ct. 216, 47 L. Ed. 299 (1903), in which Congress broke a treaty provision that had guaranteed that no more cessions of land would be made without the consent of three-fourths of the adult males from the Kiowa and Comanche tribes. In justifying this abrogation, Justice Edward D. White declared that when "treaties were entered into between the United States and a tribe of Indians it was never doubted that the *power* to abrogate existed in Congress, and that in a contingency such power might be availed of from considerations of governmental policy."

7. **Another source for the federal government's power over Native American affairs is what is called the "trust relationship" between the government and Native American tribes. This "trust relationship" or "trust responsibility" refers to the federal government's consistent promise, in the treaties that it signed, to protect the safety and well-being of the tribal members in return for their willingness to give up their lands. This notion of a trust relationship between Native Americans and the federal government was developed by U.S. Supreme Court Justice John Marshall in the opinions that he wrote for the three cases on tribal sovereignty described above, which became known as the Marshall Trilogy.**

8. Therefore, the Magistrate has adopted a policy of persecution, repression, and an extermination against Mr. Montgomery that is similar to the civilians in Germany who were, or who were believed to be, or who were believed likely to become, hostile to the Nazi Government and the common plan or conspiracy described in Count One.

9. All the defendants, with divers other persons, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a

Common Plan or Conspiracy to commit, or which involved the commission of Crimes against Peace, War Crimes, and Crimes against Humanity, as defined in the Charter of this Tribunal and, in accordance with the provisions of the Charter, are individually responsible for their own acts and for all acts committed by any persons in the execution of such a plan and conspiracy. The Common Plan or Conspiracy embraced the commission of Crimes against Peace, in that the defendants planned, prepared, initiated, and waged wars of aggression, which were also wars in violation of international treaties, agreements, or assurances.

10. In the development and course of this 'Common Plan or Conspiracy, it came to embrace the commission of War Crimes that it contemplated, and the defendants determined upon and carried out, ruthless wars against countries and populations, in violation of the rules and customs of war, including as typical and systematic means by which the wars were prosecuted, murder, ill-treatment, depotation for slave labor and for other purposes of civilian populations of occupied territories, murder and ill-treatment of prisoners of war and of persons on the High Seas, the taking and killing of hostages, the plunder of public and private property, the wanton destruction of cities, towns, and villages, and devastation not justified by military necessity.

11. The Common Plan or Conspiracy contemplated and came to embrace as typical and systematic means, and the defendants determined upon and committed, Crimes against Humanity, both within Germany and within other occupied territories, including murder, extermination, enslavement, deportation, and other inhumane acts committed against civilian populations before and during the war, and persecutions on political, racial, or religious grounds, in execution of the plan for preparing and prosecuting aggressive or illegal wars, many of such acts and persecutions being violations of the domestic laws of the countries where they are perpetrated.They imprisoned such persons without judicial process, holding them in "protective custody" and concentration camps, and subjected them to persecution, degradation, despoilment, enslavement, torture, and murder. Special courts were established to carry out the will of the conspirators; favored branches or agencies of the State and Party were permitted to operate outside the range even of nazified law and to crush all tendencies and elements which were considered "undesirable" means, these acts and policies were continued and extended to the occupied countries after 1 September 1939, and until 8 May 1945.

12. Functioning in such capacities and in association as; a group at a highest level in the German Armed Forces Organization, these persons had a major responsibility for the planning, preparation, initiation, and waging of illegal wars as set forth in the Indictment, for the War Crimes and Crimes against Humanity involved in the execution of the common plan or conspiracy set forth in the Indictment.

13. The Purposes of the United Nations are: To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace; To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace; To achieve international cooperation involving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and to be a center for

harmonizing the actions of nations in the attainment of these common ends. The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles. The Organization is based on the principle of the sovereign equality of all its Members.

14. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present United Nations Charter.

15. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

16. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any State against which the United Nations is taking preventive or enforcement action. The Organization shall ensure that States which are not

Members of the United Nations act in accordance with these Principles, so far as may be necessary for the maintenance of international peace and security. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

17. The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

18. The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality. The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it. All of the Treaties and free trade agreements applicable to the Brahman Spirit Tribe have been Published with the Secretary at: the FCC- under Bureau ID: 0028808145, for search and comments.

19. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of the Trusteeship System, may invoke that treaty or agreement before any organ of the United Nations. The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

20. This Matter may be subject to Arbitration pursuant to: Convention on the Settlement of Investment Disputes Act of 1966. (Pub.L. 89-532; 80 Stat. 344; 22 U.S.C. sec. 1650-1650a, August 11, 1966) Executive Order designating

certain Public International Organizations entitled to enjoy certain privileges, exemptions and immunities. (Exec. Order 11966; 42 Fed. Reg. 4331 (1977)

21. Mr. Montgomery is a Choctaw (Muur) American National due to his Algerian and Mauritania Descent. Mr. Montgomery is by right a Citizen of the Mississippi Band of Choctaw Nation and our prayer request to the Attorney General or a federal law enforcement official is to notify a consular officer from the most Favorite Nation of Algeria that Mr. Montgomery has been arrested — even without Mr. Montgomery's request, a treaty or other international agreement may require consular notification. Mr. Montgomery has diligently informed the Court Martial of the contents in our Treaties with the Choctaw and AL-Moroccon Empires and Mr. Montgomery has submitted works to support the fact that he is not a U.S. citizen in his Proof of Indian Claim.

22. Mr. Montgomery is a Federally Protected Person of the Mississippi Band of Choctaw Nation and accused of injuring a non-indian entity known as; the State of Indiana. To the extent that actions of the State shall conflict with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the

requirements of the treaty or agreement shall prevail. (Added Pub. L. 109–8, title VIII, §801(a), Apr. 20, 2005, 119 Stat. 136. ‘debt relief agency’ means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—‘‘(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer; ‘‘(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986; ‘‘(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor; ‘‘(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or ‘‘(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.’’ We, the people of the Brahman Spirit Tribe are a debt relief Agency because of the works that we have published with the FCC while acting in such capacity as; a Conformity Scheme Owner.

23. Our General Executor is the Supreme, Secured Party Creditor of our assisted person and consortium, Mr. Clinton Lamont Montgomery. Any waiver by; Mr. Montgomery of any protection or right provided under this section shall not be enforceable against Mr. Montgomery by; any Federal or State court or any other person, but may be enforced against the debt relief agency e.g. the Brahman Spirit Tribe.

24. These rules apply to petty offenses and other misdemeanor cases and on appeal to a district judge in a case tried by a magistrate judge, unless this rule provides otherwise. In a case involving a petty offense for which no sentence of State imprisonment will be imposed, the court may follow any provision of these rules that is not inconsistent with this rule and that the court considers appropriate.

25. Definition. As used in this rule, the term "petty offense for which no sentence of imprisonment will be imposed" means a petty offense for which the court determines that, in the event of conviction, no sentence of State imprisonment will be imposed. The trial of a misdemeanor may proceed on an indictment, information, or complaint. The trial of a petty offense may also proceed on a citation or violation notice. At the defendant's initial appearance on a petty

offense or other misdemeanor charge, the magistrate judge must inform the defendant of the following: (A) the charge, and the minimum and maximum penalties, including imprisonment, fines, any special assessment under 18 U.S.C. §3013, and restitution under 18 U.S.C. §3556;(B) the right to retain counsel; (C) the right to request the appointment of counsel if the defendant is unable to retain counsel—unless the charge is a petty offense for which the appointment of counsel is not required; (D) the defendant's right not to make a statement, and that any statement made may be used against the defendant; (E) the right to trial, judgment, and sentencing before a district judge—unless: (i) the charge is a petty offense; or (ii) the defendant consents to trial, judgment, and sentencing before a magistrate judge; (F) the right to a jury trial before either a magistrate judge or a district judge—unless the charge is a petty offense; and (G) any right to a preliminary hearing under Rule 5.1, and the general circumstances, if any, under which the defendant may secure pretrial release.; and (H) that a defendant who is not a United States citizen may request that an attorney for the government or a federal law enforcement official notify a consular officer from the defendant's country of nationality that the defendant has been arrested — but that even without the defendant's request, a treaty or other international agreement may require consular notification.

26. The magistrate judge may take the defendant's plea in a petty offense case. In every other misdemeanor case, a magistrate judge may take the plea only if the defendant consents either in writing or on the record to be tried before a magistrate judge and specifically waives trial before a district judge. The defendant may plead not guilty, guilty, or with the consent of the magistrate judge, plead nolo contendere. Except in a petty offense case, the magistrate judge must order a defendant who does not consent to trial before a magistrate judge, to appear before a district judge for further proceedings. The following procedures also apply in a case involving a petty offense for which no sentence of State imprisonment will be imposed: The court must not accept a guilty or nolo contendere plea unless satisfied that the defendant understands the nature of the charge and the maximum possible penalty. .

27. If a defendant is arrested, held, or present in a district different from the one where the indictment, information, complaint, citation, or violation notice is pending such as; the Warrant present in Saint Joseph County, the defendant may state in writing a desire to plead guilty or nolo contendere; to waive venue and trial in the district where the proceeding is pending; and to consent to the court's disposing of the case in the district where the defendant was arrested,

is held, or is present. Mr. Montgomery did not knowingly, intentionally and/or willingly waive his right to a jury trial in the district where the Warrant had been executed nor did Mr. Montgomery knowingly or willingly plead guilty or nolo contendere and unless Mr. Montgomery later pleads not guilty, the prosecution will proceed in the district where Mr. Montgomery was arrested, is held, or is present. The district clerk must notify the clerk in Saint Joseph Circuit Court of the defendant's waiver of the venue in Laporte County. The defendant's statement of a desire to plead guilty or nolo contendere is not admissible against the defendant, in the Trials of this Military Tribunal.

28. Upon an indictment, or upon a showing by one of the other charging documents specified in Rule 58(b)(1) of probable cause to believe that an offense has been committed and that the defendant has committed it, the court may issue an arrest warrant or, if no warrant is requested by an attorney for the government, a summons. The showing of probable cause must be made under oath or under penalty of perjury, but the affiant need not appear before the court. If the defendant fails to appear before the court in response to a summons, the court may summarily issue a warrant for the defendant's arrest. There is no record of a summons ever being issued to: Mr. Montgomery or his Secured Party, there is no receipt of a summons or service of process from

Laporte County. The court must record any proceedings under this rule by using a court reporter or a suitable recording device. Either party may appeal an order of a magistrate judge to a district judge within 14 days of its entry if a district judge's order could similarly be appealed. The party appealing must file a notice with the clerk specifying the order being appealed and must serve a copy on the adverse party.

29. This new rule is largely a restatement of the Rules of Procedure for the Trial of Misdemeanors before United States Magistrates which were promulgated in 1980 to replace the Rules for the Trial of Minor Offenses before United States Magistrates (1970). The Committee believed that a new single rule should be incorporated into the Rules of Criminal Procedure where those charged with its execution could readily locate it and realize its relationship with the other Rules. A number of technical changes have been made throughout the rule and unless otherwise noted, no substantive changes were intended in those amendments. The Committee envisions no major changes in the way in which the trial of misdemeanors and petty offenses are currently handled.

30. The title of the rule has been changed by deleting the phrase “Before United States Magistrates” to indicate that this rule may be used by district judges as

well as magistrates. The phrase "and Petty Offenses" has been added to the title and elsewhere throughout the rule because **the term "misdemeanor" does not include an "infraction."** See 18 U.S.C. §3559(a). A petty offense, however, is defined in 18 U.S.C. §19 as a Class B misdemeanor, a Class C misdemeanor, or an infraction, with limitations on fines of no more than $5,000 for an individual and $10,000 for an organization.

31. The term "magistrate" is amended to read "the court," wherever appropriate throughout the rule, to indicate that both judges and magistrates may use the rule. 18 U.S.C. §3401(a), provides that a magistrate will have jurisdiction to try misdemeanor cases when specially designated to do so by the district court or courts served by the Magistrate. The Rule is amended to conform to the Judicial Improvements Act of 1990 [P.L. 101–650, Title III, Section 321] which provides that each United States magistrate appointed under section 631 of title 28, United States Code, shall be known as a United States magistrate judge. Rule 58(b)(2)(H). Article 36 of the Vienna Convention on Consular Relations provides that detained foreign nationals shall be advised that we may have the consulate of our home country [Algeria] notified of our arrest and detention, and bilateral agreements with numerous countries require consular notification whether or not the detained foreign national requests it.

32. Article 36 requires consular notification advice to be given "without delay," and arresting officers are primarily responsible for providing this advice. Providing this advice at the initial appearance is designed, not to relieve law enforcement officers of that responsibility, but to provide additional assurance that U.S. treaty obligations are fulfilled, and to create a judicial record of that action. The Committee concluded that the most effective and efficient method of conveying this information is to provide it to every defendant, without attempting to determine the defendant's citizenship. The Magistrate, Paul E. Singleton had opined at the Initial Hearing that Mr. Montgomery's Citizenship with the Mississippi Band of Choctaw Nation did not make any sense and that it was based on His Opinion to not be True, thus acting as; a witness to the case and testifying from the bench.

33. At the time of this amendment, many questions remain unresolved by the courts concerning Article 36, including whether it creates individual rights that may be invoked in a judicial proceeding and what, if any, remedy may exist for a violation of Article 36. Sanchez-Llamas v. Oregon, 548 U.S. 331 (2006). This amendment does not address those questions. More particularly, it does not create any such rights or remedies.

34. In response to public comments the amendment was rephrased to state that the information regarding consular notification should be provided to all defendants who are arraigned. Although it is anticipated that ordinarily only defendants who are held in custody will ask the government to notify a consular official of their arrest, it is appropriate to provide this information to all defendants at the initial appearance. That of which Mr. Montgomery was never provided from; the Magistrates.

35. The principal editorial change is to deal separately with the initial appearance before the magistrate and the preliminary examination. They are dealt with together in old rule 5. They are now separated in order to prevent confusion as to whether they constitute a single or two separate proceedings. Although the preliminary examination can be held at the time of the initial appearance, in practice this ordinarily does not occur. Usually counsel will need time to prepare for the preliminary examination and as a consequence a separate date is typically set for the preliminary examination.

36. The term "magistrate," which is defined in new rule 54, is substituted for the term "commissioner." As defined, "magistrate" includes those state and local

judicial officers specified in 18 U.S.C. §3041, and thus the initial appearance may be before a state or local judicial officer when a federal magistrate is not reasonably available. This is made explicit in subdivision (a).

37. Subdivision (b) conforms the rule to the procedure prescribed in the Federal Magistrate Act when a defendant appears before a magistrate charged with a "minor offense" as defined in 18 U.S.C. §3401(f):

38. "misdemeanors punishable under the laws of the United States, the penalty for which does not exceed imprisonment for a period of one year, or a fine of not more than $1,000, or both, except that such term does not include . . . [specified exceptions]."

39. If the "minor offense" is tried before a United States magistrate, the procedure must be in accordance with the Rules of Procedure for the Trial of Minor Offenses Before United States Magistrates, (January 27, 1971).

40. A person must be taken without unnecessary delay before a magistrate judge in the district of arrest, if the person has been arrested under a warrant issued in another district for:

41. (i) failing to appear as required by the terms of that person's release under 18 U.S.C. §§3141 –3156 or by a subpoena; or (ii) violating conditions of release set in another district. (b) Proceedings. The judge must proceed under Rule 5(c)(3) as applicable. (c) Release or Detention Order. The judge may modify any previous release or detention order issued in another district, but must state in writing the reasons for doing so. If a defendant is arrested without a warrant, a complaint meeting Rule 4(a)'s requirement of probable cause must be promptly filed in the district where the offense was allegedly committed.

42. A defendant need not be present under any of the following circumstances: The defendant is an organization represented by counsel who is present. The offense is punishable by fine or by imprisonment for not more than one year, or both, and with the defendant's written consent, the court permits arraignment, plea, trial, and sentencing to occur by video teleconferencing or in the defendant's absence. The fourth sentence of the rule empowering the court in its discretion, with the defendant's written consent, to conduct proceedings in misdemeanor cases in defendant's absence adopts a practice prevailing in some districts comprising very large areas. In such districts appearance in court may require considerable travel, resulting in expense and hardship not commensurate with the gravity of the charge, if a minor

infraction is involved and a small fine is eventually imposed. The rule, which is in the interest of defendants in such situations, leaves it discretionary with the court to permit defendants in misdemeanor cases to absent themselves and, if so, to determine in what types of misdemeanors and to what extent. Similar provisions are found in the statutes of a number of States. See A.L.I. Code of Criminal Procedure, pp. 881–882.

43. Subdivision (b)(1) makes clear that voluntary absence may constitute a waiver even if the defendant has not been informed by the court of his obligation to remain during the trial. Of course, proof of voluntary absence will require a showing that the defendant knew of the fact that the trial or other proceeding was going on. C. Wright, Federal Practice and Procedure: Criminal §723 n. 35 (1969). But it is unnecessary to show that he was specifically warned of his obligation to be present; a warning seldom is thought necessary in current practice. [See Taylor v. United States, 414 U.S. 17, 94 S.Ct. 194, 38 L.Ed.2d 174 (1973). Subdivision (c)(3) makes clear that the defendant need not be present at a conference held by the court and counsel, where the subject of the conference is an issue of law. See rule 11(c)(5) which provides that the judge may set a time, other than arraignment, for the holding of a plea agreement procedure. Amendments Proposed by the Supreme Court. Rule 43 of the

Federal Rules of Criminal Procedure deals with the presence of the defendant during the proceedings against him. It presently permits a defendant to be tried in absentia only in non-capital cases where the defendant has voluntarily absented himself after the trial has begun. The Supreme Court amendments provide that a defendant has waived his right to be present at the trial of a capital or noncapital case in two circumstances: (1) when he voluntarily absents himself after the trial has begun; and (2) where he "engages in conduct which is such as to justify his being excluded from the courtroom."

44. The first substantive change is reflected in Rule 43(a), which recognizes several exceptions to the requirement that a defendant must be present in court for all proceedings. In addition to referring to exceptions that might exist in Rule 43 itself, **the amendment recognizes that a defendant need not be present when the court has permitted video teleconferencing procedures under Rules 5 and 10 or when the defendant has waived the right to be present for the arraignment under Rule 10**. Second, by inserting the word "initial" before "arraignment," revised Rule 43(a)(1) reflects the view that a defendant need not be present for subsequent arraignments based upon a superseding indictment. The Rule has been reorganized to make it easier to read and apply; revised Rule 43(b) is former Rule 43(c). This rule currently

allows proceedings in a misdemeanor case to be conducted in the defendant's absence with the defendant's written consent and the court's permission. The amendment allows participation through video teleconference as an alternative to appearing in person or not appearing. Participation by video teleconference is permitted only when the defendant has consented in writing and received the court's permission. Mr. Montgomery's initial conference was by; teleconference and was consented to by the Courts. Therefore, Mr. Montgomery consents to proceed through video conference at his own undisclosed location.

45. The Committee reiterates the concerns expressed in, 2002. Committee Notes to Rules 5 and 10, when those rules were amended to permit video teleconferencing. The Committee recognized the intangible benefits and impact of requiring a defendant to appear before a federal judicial officer in a federal courtroom, and what is lost when virtual presence is substituted for actual presence. These concerns are particularly heightened when a defendant is not present for the determination of guilt and sentencing. However, the Committee concluded that the use of video teleconferencing may be valuable in circumstances where the defendant would otherwise be unable to attend and the rule now authorizes proceedings **in absentia**. Therefore, Mr.

Montgomery has chosen not to be present at: the Arraignment and all other conferences related to this Matter.

46. (Rules 10 and 43 are broader in protection than the Constitution). The amendments to Rule 10 create two exceptions to that requirement. The first provides that the court may hold an arraignment in the defendant's absence when the defendant has waived the right to be present in writing and the court consents to that waiver. The second permits the court to hold arraignments by video teleconferencing when the defendant is at a different location. A conforming amendment has also been made to Rule 43.

47. Article 12 of the Charter, authorizes the trial of a defendant in absentia if found by the Tribunal to be "necessary in the interests of justice." Which is why we the People of the Brahman Spirit Tribe cannot grasp the reason why there has been an insurance of WARRANT for Mr. Montgomery's failure to appear for Arraignment. We believe that such acts are Crimes against our Peace, War Crimes, and Crimes against Humanity. The Signatories to the Agreement and Charter are the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the United States of

America, the Provisional Government of the French Republic, and the Government of the Union of Soviet Socialist Republics.

48. All the defendants, acting in concert with others, formulated and executed a Common Plan or Conspiracy to commit War Crimes as defined in Article 6 (b) of the Charter. This plan involved, among other things, the practice of "total war" including methods of combat and of military occupation in direct conflict with the laws and customs of war, and the perpetration of crimes committed on the field of battle during encounters with enemy armies, against prisoners of war, and in occupied territories against the civilian population of such territories. The said War Crimes were committed by the defendants and by other persons for whose acts the defendants are responsible (under Article 6 of the Charter) as such other persons when committing the said War Crimes performed their acts in execution of a Common Plan and Conspiracy to commit the said War Crimes, in the formulation and execution of which plan and conspiracy all the defendants participated as leaders, organizers, instigators, and accomplices. These methods and crimes constituted violations of international conventions, of internal penal laws, and of the general principles of criminal law as derived from the criminal law of all civilized nations, and were involved in and part of a systematic course of conduct.

49. In some occupied territories the defendants interfered with religious services, persecuted members of the clergy and monastic orders, and expropriated church property. In this systematic genocide; viz., the extermination of racial and national groups and against the civilian population of certain occupied territories in order to destroy particular races and classes of people, and national, racial, or religious groups, particularly Jews, Poles, and Gypsies. Civilians were systematically subjected to tortures of all kinds, with the object of obtaining information.

50. Such crimes and ill-treatment are contrary to international conventions, in particular to Article 46 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and to Article 5 (b) of the Charter and Mr. Montgomery has suffered the exact same nightmare in his encounter with the belligerent State Actors that are responsible for these international violations.Amendments of this rule are embraced in the order of the United States Supreme Court on Apr. 22, 1974 and the amendments of this rule made

by section 3 of Pub. L. 94–64, effective Dec. 1, 1975, see section 2 of Pub. L. 94–64, set out as a note under rule 4 of these rules.