United States v. Milk, ___ F.4th ___, 2023 WL 3218035 (8th Cir., May 2, 2023).

- **Holding**: Member of Oglala Sioux Tribe could be prosecuted for violations of federal laws of general nationwide applicability occurring on-reservation without reference to requirements or restrictions of the Major Crimes Act, General Crimes Act, or Article I of Treaty of Fort Laramie.
- **Summary**: Defendant, an enrolled member of the Oglala Sioux Tribe, was convicted for violation of several general laws of the United States, including conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846, possession of a firearm as a convicted felon, in violation of 18 U.S.C. §§ 922(g)(l), and obstruction of justice, in violation of 18 U.S.C. § 1503. On appeal, Defendant argued that the district court lacked jurisdiction because the alleged unlawful acts occurred on the Pine Ridge Reservation and involved only Indian people, and (1) the crimes for which he was convicted are not enumerated under the Major Crimes Act, 18 U.S.C. § 1153, and (2) the on-reservation crimes were not prosecutable under the General Crimes Act, 18 U.S.C. § 1152, because they involved only American Indian people.

  The court rejected the arguments because the non-inclusion of the crimes in the list of crimes prosecutable under the Major Crimes Act was irrelevant because federal criminal laws of general application "apply on Indian reservations, even to offenses committed by an Indian person against the person or property of another Indian person." 2023 WL 3218035 at *3 (citing *United States v. Wadena*, 152 F.3d 831, 841 (8th Cir. 1998). Likewise, the "General Crimes Act and its exceptions do not extend or restrict the application of general federal criminal statutes to Indian reservations." *Id*. (citing *Wadena*) (internal quotation marks and citation omitted).

  The court of appeals also rejected Defendant's assertion that the district court lacked jurisdiction under the Fort Laramie Treaty, which provides that:

  > If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, ... the Indians herein named solemnly agree that they will, upon proof made to their agent, and notice by him, deliver up the wrongdoer to the United States to be tried and punished according to its laws." Treaty of Fort Laramie, art. I, April 29, 1868, 15 Stat. 635.

  The court noted that a similar argument that the Fort Larami Treaty established jurisdictional prerequisites to federal prosecution had already been rejected in *United States v. Jacobs*, 638 F.3d 567, 568 (8th Cir. 2011).
- **Relevant (2023) Deskbook Section**: 4:8