U.S. v. Kills Warrior, 2023 WL 4541115 (D.S.D., July 14, 2023).

- **Holding**: The fact that a tribe's judicial system was founded in the provisions of the Indian Reorganization Act of 1934 was irrelevant to the determination of whether convictions by tribal and federal courts for the same conduct by a tribal member violated the constitutional prohibition on double jeopardy.
- **Summary**: In 2007, Donald Kills Warrior was convicted of sexual assault by the Oglala Sioux Tribe, and sentenced to six months custody. In 2007, Kills Warrior pled guilty in federal court to sexual contact in violation of 18 U.S.C. § 1153 and other federal statutes. In 2019 and 20022, Kills Warrior was indicted by federal grand juries for failure to register as a sex offender in violation of 18 U.S.C.A. § 2250(a). Kills Warrior moved to dismiss the two indictments and to vacate the prior convictions on double jeopardy grounds, and the magistrate judge denied the motions, holding that the Tribe's authority to prosecute Kills Warrior was derived from its inherent sovereignty, not a delegation from the federal government.

  The district court, reviewing the magistrate's report and recommendation, rejected Kills Warrior's attempt to distinguish the Supreme Court's holdings in *United States v. Wheeler*, 435 U.S. 313 (1978) and *Denezpi v. United States*, 142 S. Ct. 1839 (2022), which found no double jeopardy when tribal and federal courts convicted a tribal member of tribal and federal offenses for the same conduct. Kills Warrior asserted that those holdings were inapplicable because the Tribes in those cases were not subject to the Indian Reorganization Act. Kills Warrior asserted that because the Oglala Sioux Tribe's government "came in to being after the passage of the Indian Reorganization Act in 193[4] ... The tribal government, including the tribal court, of the Oglala Sioux Tribe is a facsimile of federal templates imposed on tribes by the United State government," such that "[t]he entire notion of inherent sovereignty is a falsehood." The court found the argument to be without merit, and upheld the magistrate's report and recommendation.
- **Relevant (2023) Deskbook Section**: 5:7
- **Comment**: Its unclear whether Kills Warrior was represented by counsel, so whether the decision is worthy of citation is questionable