In re Interest of Manuel C. & Mateo S, 314 Neb. 91, ___ N.W. 2d ___ (April 21, 2023), modified on rehearing, 314 Neb. 380 (June 23, 2023).

- **Holding**: Tribe not entitled to intervene in termination hearing of children eligible for tribal membership when mother, likewise eligible, was not an enrolled member of the Tribe.
- **Summary**: The Red Lake Tribe of Chippewa Indians sought to intervene in a proceeding to terminate the parental rights of two minors. While the Tribe was initially granted intervention, the court, on motion to reconsider, denied intervention, finding that the children were not "Indian Childs" under the terms of Neb. Rev. Stat. § 43-1504(3), which states that "[i]n any state court proceeding for the ... termination of parental rights [to] an Indian child … the Indian child's tribe or tribes shall have a right to intervene at any point in the proceeding," and defines "Indian child" to mean "any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe." Both the children and the children's mother were eligible for tribal membership," but the mother was not an enrolled member of the Tribe. While the Tribe considered the mother to be "a member for purposes of being accorded the protections of ICWA," the court found such evidence to be insufficient to meet the Tribe's burden of showing that ICWA applied. Because the mother was not an enrolled member, the children did not have a biological parent that is a member of the Tribe, and the order denying intervention was upheld.

  On rehearing, the court made no substantive changes, but added a footnote recognizing that subsequent to its holding, the Indian Child Welfare Act Proceedings, 81 Fed. Reg. 38,778 (June 14, 2016) (codified at 25 C.F.R. § 23 et seq. (2022)) were adopted, and its prior opinion adhered to the provisions of the regulations.
- **Relevant (2023) Deskbook Sections**: 13:7, 13:8