

The Cherokee Supreme Court

EDCI
CHEROKEE SUPREME COURT
CHEROKEE, NC
2026 JUL 28 AM 10: 26

FILED

Eastern Band of Cherokee Indians

Qualla Boundary, Cherokee, North Carolina

No. CSC 25-05

Tribal court No. CV23-506

GINA LOUISE LAMBERT, Plaintiff,

v.

MADS GJESDAL, Defendant.

Appeal by defendant from order entered 16 September 2025 by Judge Monty C. Beck. Heard in the Eastern Band of Cherokee Indians Supreme Court 15 January 2026.

Hyde Brown Wilson, P.A., by David C. Brown, for plaintiff-appellee mother.

Mads Gjesdal, pro se, defendant-appellant father.

LETTS, Chief Justice.

Defendant Mads Gjesdal (“father”) appeals an “Order (Denying Defendant’s Motion for Relief from Judgment)” (or “16 September 2025 order”) entered in the tribal court on 16 September 2025. Father sought relief from a child custody order awarding the parties “shared parental responsibility” and awarding plaintiff Gina

LAMBERT V. GJESDAL

Opinion of the Court

Louise Lambert (“mother”) physical custody of the parties’ children. We affirm the order of the tribal court.

Mother is a resident of North Carolina domiciled on Eastern Band of Cherokee Indians (“E.B.C.I.”) trust lands, and she is an enrolled member of the E.B.C.I. Father is a citizen and resident of Norway. The parties married in 2019 and have two children, H.C.L.G. (born 4 July 2019) and L.N.L.G. (born 23 December 2020). Both children are enrolled members of the E.B.C.I.

In 2020, mother and father moved with H.C.L.G. to Cherokee. L.N.L.G. was born later that year. The family resided in Cherokee until January 2023. That month, father moved from the family home to Charlotte. Father moved from Charlotte, NC, to Norway in April 2023. Mother and the children followed father to Norway in June 2023. On the day of their arrival, father took the children away from mother to live with him and his parents. A temporary order was entered in a district court in Norway granting father primary physical custody with mother having limited visitation. Mother attended therapy, met with child protective services, and attended high conflict couples’ classes, in Norway.

In our tribal court, mother filed a complaint for child custody and a motion for temporary emergency ex parte custody on 29 August 2023. The court granted the request for emergency custody by order entered 29 August 2023 (amended 21 September 2023). The child custody complaint and motion, along with a civil summons, were served on father in Norway on 3 January 2024 in accordance with

the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters. Father did not file a responsive pleading and did not request an extension to do so.

Father petitioned the Sor-Rogaland District Court in Norway for an interim decision and submitted a claim to obtain habitual residence for the children and a claim to be awarded their sole parental responsibility. The district court entered an interim decision granting mother and father shared parental responsibility, granting father the children's primary residence and granting mother limited, supervised visitation. The district court in Norway further concluded that our tribal court had jurisdiction to hear the main action for custody. Both parties appealed.

The Gulating Court of Appeal affirmed in part and reversed in part the district court's decision. The Court of Appeal determined that the family's stay in Norway was of a temporary nature and that the children had not achieved "normal residence"¹ in Norway. The Court of Appeal concluded that "American courts therefore have jurisdiction in the parental dispute."²

Once jurisdiction and the issue of the Norwegian court's ability to hear this matter was determined, our tribal court exercised jurisdiction and undertook a determination of the merits of the case. Mother's complaint, filed with our tribal

¹ A legal term of art in Norwegian courts.

² During a 7 May 2024 hearing before our tribal court, mother's counsel asserted that the Norway Supreme Court had affirmed the Court of Appeal decision, but no copy of the decision was proffered.

court, was heard on 7 May 2024 before Judge Monty C. Beck. Due to the failure to file a responsive pleading, father was deemed to have admitted all material allegations of the complaint pursuant to the Rules of Civil Procedure, Rule 8(d). Mother, still in Norway, appeared for the proceeding virtually; mother's counsel appeared before the tribal court in person. Though father was served with the complaint on 3 January 2024 (more than four months before the hearing on mother's complaint) and was served notice of the hearing on 26 April 2024, father did not appear during the 7 May 2024 child custody hearing, and no attorney representing him was present. By order entered on 13 May 2024 (the "custody order" or "13 May 2024 custody order"), the court concluded that the territory of the E.B.C.I. was the "home state" of the minor children and that the tribal court had jurisdiction to adjudicate the child custody matter.³ The court awarded the parties shared parental responsibility of the minor children and awarded mother physical custody. Father was directed to provide mother with the children's passports within seven days of the order being served on him, and father was to allow the children to return with mother to the United States. Father was allowed to communicate with the children twice

³ The Cherokee Code references the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA"). *See, e.g.* C.C. §7B-200(e) ("The Cherokee Court is empowered to assert jurisdiction over children who have come under the jurisdiction of a Court outside that of the Cherokee Court and whose cases have been transferred to the Cherokee Court; or those in which the Tribe is authorized to intervene or assert rights pursuant to the applicable provisions of the . . . the Uniform Child Custody Jurisdiction and Enforcement Act, N.C.G.S. § 50A Article 2 . . ."); 48-4(d) (same). The tribal court correctly referenced it in its decision.

weekly, and father was awarded visitation. Father did not appeal the 13 May 2024 custody order.

The tribal court received emailed documents from father on 10 September 2024. These documents were not submitted by American counsel but by father acting in a pro se capacity. These same documents came 120 days (four months) after entry of the custody order. The tribal court treated the documents as an appeal from the 13 May 2024 custody order to our Supreme Court. However, by order entered 30 January 2025, this Court instructed the tribal court to treat father's filing as a motion for relief under Rule 60 of the Rules of Civil Procedure. In accordance with the directive, the tribal court scheduled a hearing on said motion for 9 April 2025.

On 21 March 2025, defendant sent an email to Judge Beck, copying the clerk of court, with six attachments. The court did not read the email or open the attachments as neither mother nor mother's counsel had been copied. Acting consistently with rules of judicial conduct, in an effort to be impartial to both parties and to avoid the perception of an ex parte communication with either mother or father, Judge Beck's forbearance was both warranted and appropriate.

On 8 April 2025, Judge Beck forwarded to mother's counsel father's 21 March 2025 email with the attachments and copied father on the communication.

On 9 April 2025, father sent an email response to Judge Beck's 8 April 2025 communication and included two affidavits. One affidavit identified the emails and documents father requested the tribal court consider in ruling on the Rule 60 motion,

and the other affidavit included allegations regarding father's submission of those documents.

The tribal court conducted a hearing on father's Rule 60 motion for relief on 9 April 2025. Per court records, father was notified of the 9 April hearing by email sent from the Clerk of Court's Office on Friday, 21 March 2025 directing father to provide an email address to the court should father intend to appear virtually. Father responded to the email with his address on Monday, 24 March 2025. Mother appeared before the tribal court in person with counsel. Father appeared pro se, virtually. Father requested permission to submit the emails and documents (affidavits). Mother objected to the submission. The court ruled that the documents may be submitted in a "legible, printed format," numbered in sequential order. The 8 April 2025 affidavit referenced: "January 6, 2025 'digital evidence,' " including an email (to be marked #1), a signed letter (to be marked #2), and 49 exhibits (marked 2.1, 2.2, 2.3, . . . 2.49); "February 17, 2025 'digital evidence,' " including an email (to be marked #3), a signed letter (to be marked #4), and 4 exhibits (to be marked 4.1, 4.2, . . . 4.4); and "March 21, 2025 'digital evidence,' " (referencing the 6 January and 17 February 2025 documents submitted) including additional evidence in the body of the email (to be marked as #5).

The tribal court ordered that for the exhibits to be considered, father must submit them to the clerk of court on or before 30 May 2025, copying mother's counsel. Mother's counsel would have thirty days after receipt to file objections with the court

LAMBERT V. GJESDAL

Opinion of the Court

by email. An objection should identify each exhibit by number and include the specific reason for the objection. After receipt of mother's objections or if no objection was filed, after the objection filing deadline had passed, the court would review the exhibits. The court would determine if further hearing was necessary or enter a ruling on father's Rule 60 motion without further hearing. The 13 May 2024 custody order was to remain in effect pending further order of the court.

The clerk of court received father's resubmitted documents on 2 May 2025. Mother filed notice of objections on 11 June 2025. Father filed a memorandum in support of the admission of exhibits and a response to mother's objections. Judge Beck determined that no supplemental hearing was necessary.

Judge Beck entered the Order (Denying Defendant's Motion for Relief from Judgment) on 16 September 2025. Considering the exhibits to the extent they might arguably support father's motion for relief, the court made the following determination:

[s]ome exhibits might have been relevant and admissible if presented during the hearing on custody, but [father] is not allowed to relitigate the underlying custody case under the guise of a Rule 60 motion for relief. Many documents include hearsay that would not have been admissible during the custody hearing and are not admissible to support [father]'s motion for relief. Furthermore, many exhibits are Facebook posts, text messages and reports for which no proper foundation was offered for their admissibility. Because [father] did not properly submit the exhibits during the hearing on April 9, 2025, it is difficult for the [c]ourt to discern the purpose for which many of them are being offered. Being cognizant of [mother]'s

objections, except for documents the court ruled were hearsay, the [c]ourt reviewed and considered each document to determine if it might possibly support any grounds for relief under Rule 60. The [c]ourt has given [father] every benefit of the doubt to attempt to determine the possible grounds for which the exhibits might have been offered. For example, some exhibits appear to support facts that are contrary to testimony presented by [mother] at the custody hearing. During the hearing, [father] did not argue fraud or misrepresentation as grounds for setting aside the custody order though he included fraud in his response to objections filed June 24, 2025. The [c]ourt has considered these admissible exhibits in determining if they are sufficient to persuade the [c]ourt to set aside the custody order based on fraud (or on any other grounds for that matter). To rule on their admissibility, the [c]ourt was required to review each exhibit. Even if the [c]ourt were to consider these inadmissible exhibits, it would not change the [c]ourt's conclusion that [father] has not offered sufficient evidence to persuade the [c]ourt to award any relief from the custody order.

The court's 16 September 2025 order included a ruling on the admissibility of each of father's proffered exhibits.

In recounting the history of the case, Judge Beck noted that the reason father gave for not participating in the child custody action heard on 7 May 2024 was "we don't live in Cherokee." Nevertheless, father was aware that on 18 December 2023, the Gulating Appeal Court in Norway issued a ruling which referenced the pending custody action in the E.B.C.I. court, found that the family stay in Norway was temporary, concluded that the children had not achieved normal residence in Norway, and decreed that "American courts therefore have jurisdiction in the parental dispute." Judge Beck found that father's "inaction shows an incredible and

inexcusable lack of diligence in attending to . . . litigation involving the custody of his children.” No credible evidence supported a conclusion that the tribal court lacked jurisdiction over the action or to set aside the 13 May 2024 custody order. Father presented evidence he could have presented during the custody hearing, and his challenge would have been more appropriate to a timely appeal. But no appeal was taken.

Judge Beck found that father

urges the [c]ourt to provide relief from the custody order because he was not allowed to participate in the custody hearing remotely. This argument ignores that he never requested to participate remotely. . . . [H]e never communicated with anyone at the court about this case at any time before the custody order was entered. He testified he sat around on the date of the hearing waiting for an invitation from the court to appear remotely.

Judge Beck drew the following conclusions:

4. . . . [Father] [wa]s not entitled to relief from the custody order based on mistake, inadvertence, surprise, or excusable neglect. Rule 60(b)(1).[¶]

5. While some of [father]’s documents include factual assertions contradicting testimony and evidence introduced during the custody hearing, under any standard of proof, the [c]ourt is not persuaded that the testimony/evidence introduced during the custody hearing was false or misleading or that [mother] engaged in any misconduct related to the hearing. [Father] is not entitled to relief from the custody order based on fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party. Rule 60(b)(3).

6. Because the court had, and continues to have, jurisdiction of this custody action, the custody order is not void. Rule 60(b)(4).

7. The [c]ourt recognizes that Rule 60(b)(6) is a “grand reservoir of equitable power” for the [c]ourt to provide relief from a judgment. However, the [c]ourt is not persuaded that either extraordinary circumstances exist to support relief or that justice demands it. Exercising its discretion, the [c]ourt concludes it is not appropriate to award [father] any relief from the custody order.

Judge Beck denied father’s motion for relief from the 13 May 2024 custody order pursuant to Rule 60(b) by order entered 16 September 2025. Father appeals.

Discussion

Father raises four issues before this Court: (I) whether the tribal court abused its discretion by excluding nearly all of his proffered evidence as inadmissible; (II) whether the tribal court erred by denying relief under Rule 60(b)(3), (4), and (6); (III) whether the 13 May 2024 custody order is void due to the tribal court’s lack of personal jurisdiction; and (IV) whether the cumulative effect of the tribal court’s evidentiary exclusions deprived father of a fair hearing.

As set forth in our Cherokee Code, “[p]roceedings in the courts of the Judicial Branch shall be governed by the North Carolina Rules of Civil Procedure, the North Carolina Rules of Evidence, and the North Carolina Rules of Appellate Procedure.” C.C. § 7-23(a). *See Carey v. Woodall*, Nos. CSC 25-03 and 25-04, slip op. at 46 (E.B.C.I. March 2026) (clarifying that the North Carolina Rules of Appellate Procedure are the controlling rules of appellate procedure before this Court). Father did not appeal the

Custody Order. Foregoing his right of appeal, father, after waiting four months, then sought relief from the 13 May 2024 custody order pursuant to Rules of Civil Procedure, Rule 60(b). N.C. Gen. Stat. § 1A-1, Rule 60(b). We review a tribal court's ruling to deny a motion for relief from judgment made pursuant to Rule 60(b) for abuse of discretion. *See Davis v. Davis*, 360 N.C. 518, 523, 631 S.E.2d 114, 118 (2006). However, a Rule 60 motion may not be used as a substitute for an appeal. *See id.* at 526, 631 S.E.2d at 120.

I

Father argues that the tribal court abused its discretion by excluding nearly all of his proffered evidence as inadmissible on procedural or technical grounds. Father contends that “foreign official records and certified translations are admissible under exceptions to hearsay,” under North Carolina Rules of Evidence, *see* N.C. Gen. Stat. § 8C-1, Rule 803(8) and 902(3), and that “[s]imilar rules should apply under the Cherokee Court’s discretionary authority.” We disagree.

On appeal, father fails to identify what foreign official record(s) and certified translation(s) the tribal court failed to admit. Even if we assume father intends for this Court to review each foreign official record and certified translation submitted with the Rule 60(b) motion, father fails to argue or indicate how he was prejudiced by the court’s failure to admit the evidence and how the admission would support a determination of relief under Rule 60(b). We will not construct father’s argument for him. As no argument was made, we must dismiss. *See* N.C.R. App. P. 28(b)(6) (“Issues

not presented in a party's brief, or in support of which no reason or argument is stated, will be taken as abandoned.").

II

Father argues that the tribal court erred as a matter of law by denying relief under Rule 60(b)(3), (4), and (6),⁴ when evidence demonstrated a lack of jurisdiction, improper service, denial of participation, and extraordinary circumstances. We disagree.

Father contends he is entitled to relief from judgment under Rule 60(b)(3), because mother engaged in fraud or misconduct. Father asserts that "[his] excluded evidence included examples of misleading statements and concealment of the children's removal from Norway under police-imposed travel bans."

Father contends that he is entitled to relief from judgment pursuant to Rule 60(b)(4), because the underlying custody order is void. Father states, "[t]he Tribal court found that [he] was properly served and failed to participate, but the record shows that service was deficient, and [he] was not afforded the opportunity to appear remotely, despite residing abroad."

Father contends he is entitled to relief from judgment given the equitable power of the court afforded under Rule 60(b)(6) and the extraordinary circumstances

⁴ Father makes reference to Rule 60(b)(1), (3), (4), and (6) in his argument to this Court, but does not otherwise address Rule 60(b)(1). Therefore, we take the reference as abandoned. See N.C.R. App. P. 28(b)(6).

of this case. “[He] provided extensive uncontested documentation of the international custody context, his attempts to appear, and his role as primary caregiver in Norway. The [tribal court]’s refusal to acknowledge these facts, and its assertion that it ‘would not change the outcome,’ ignores the core purpose of equitable relief.”

Father’s assertions are broad but fail to show or indicate what reflects that he was not properly served. Judge Beck twice observed that mother’s Complaint for Child Custody and Motion for a Temporary *Ex Parte* Custody Order were “properly served on Father in Norway on January 3, 2024 in accordance with the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters”: once, in the 13 May 2024 custody order and a second time, in the 16 September 2025 Order (Denying Defendant’s Motion for Relief from Judgment). We note that attached to Judge Beck’s 13 May 2024 custody order is an amended service affidavit filed by mother’s counsel acknowledging that a civil summons and verified complaint for child custody were served on father following the requirements of the United States State Department.

Father did not respond to the complaint and per the 13 May 2024 custody order “did not request to appear virtually and did not have counsel present to appear on his behalf even though he was properly served with the pleadings and properly notified[.]” In the 16 September 2025 Order (Denying Defendant’s Motion for Relief from Judgment), Judge Beck found that: mother’s counsel served father with notice

of the 7 May 2024 custody hearing on 26 April 2024; father admits he had actual knowledge of the custody hearing no later than 2 May 2024; and father

took absolutely no action to protect his interest in this custody action and to participate in the lawsuit or hearing. . . . [H]e filed no pleadings, made no appearance, did not communicate with the Clerk of Court or any court staff, and did not hire an attorney to appear on his behalf in this action.

Judge Beck observed that prior to the 7 May 2024 custody hearing in the tribal court, father had sought out counsel in North Carolina to discuss custody and immigration issues in 2023. During the Rule 60 hearing, “[t]he only explanation [father] offered for his apparent disinterest in participating in this custody action in the Cherokee Court involving his children was ‘we don’t live in Cherokee.’ ”

Father provides this Court with no support for his assertion that he was not properly served with mother’s child custody complaint and that he is entitled to relief from judgment on said ground. *See* N.C.R. Civ. P. 60(b).

As to father’s request for relief due to fraud by mother and request for relief based on the equitable power of the tribal court, father only proffers descriptions, such as misleading statements and concealment of the children’s removal from Norway under police-imposed travel bans, as grounds for relief. Father does not identify what supports his fraud contention. Father implicitly asks this Court to assess the record and the proffered descriptions to construct an argument in his favor.

This, we decline to do. We dismiss father's arguments for violation of N.C.R. App. P. 28(b)(6).

III

Father argues that the 13 May 2024 custody order is void due to the tribal court's lack of personal jurisdiction and failure to ensure his meaningful opportunity to be heard. Father contends that when the tribal court entered the 13 May 2024 custody order, he and the children resided in Norway. Prior to living in Norway, the family lived in Charlotte. Father had no residence or contact with Cherokee, NC. "The [tribal court]'s conclusion that [personal] jurisdiction existed relied on [father]'s unilateral actions and on Norwegian court statements that mischaracterized 'American courts' as including the Tribal Court" Furthermore, "[t]he Tribal Court's finding that [father] had 'actual knowledge' of the hearing ignores the procedural requirement for meaningful and fair notice." Father asserts that he "was not permitted to participate remotely, despite requesting virtual access." We disagree.

"[T]he defense of lack of personal jurisdiction can be waived." *Stunzi v. Medlin Motors, Inc.*, 214 N.C. App. 332, 336, 714 S.E.2d 770, 774 (2011) (citing *In re K.J.L.*, 363 N.C. 343, 346, 677 S.E.2d 835, 837 (2009) ("Deficiencies regarding the manner in which a court obtains jurisdiction over a party, including those relating to a summons, are waivable and must be raised in a timely manner. N.C.G.S. § 1A-1, Rule 12(h)(1) (2007))). "Typically, the parties will present personal jurisdiction issues

in one of three procedural postures: (1) the defendant makes a motion to dismiss without submitting any opposing evidence; (2) the defendant supports its motion to dismiss with affidavits, but the plaintiff does not file any opposing evidence; or (3) both the defendant and the plaintiff submit affidavits addressing the personal jurisdiction issues.” *Banc of Am. Sec. LLC v. Evergreen Int’l Aviation, Inc.*, 169 N.C. App. 690, 693, 611 S.E.2d 179, 182 (2005). “Even without a summons, a court may properly obtain personal jurisdiction over a party who consents or makes a general appearance, for example, by filing an answer or appearing at a hearing without objecting to personal jurisdiction.” *Stunzi*, 214 N.C. App. at 336, 714 S.E.2d at 774 (citing *Grimsley v. Nelson*, 342 N.C. 542, 545, 467 S.E.2d 92, 94 (1996)).

Father never challenged the tribal court’s exercise of personal jurisdiction over him until he appealed Judge Beck’s 16 September 2025 Order (Denying Defendant’s Motion for Relief from Judgment) to this Court. Father participated in the matters and issues before the tribal court from 22 July 2024 to 16 September 2025, some thirteen months. It is only now after his claims were unsuccessful that father argues a lack of personal jurisdiction.

Father also sought to appear at this Court remotely by virtual access. The tribal court, in an effort of accommodation and openness, allowed remote access for the motions and issues addressed before that court at the 9 April 2025 hearing. Unlike the tribal court, the Cherokee Supreme Court in the twenty-five

years of its existence has not permitted parties to appear and argue virtually. Thus, this Court denied father's motion to appear virtually.

Finally, father did not seek the assistance of American counsel to appear and represent his interests at the 15 January 2026 hearing, at any other hearing before the tribal court, or this appellate court, to address the custody of his two children enrolled in the E.B.C.I. Father has waived his personal jurisdiction argument. *See id.*

IV

Father argues that the cumulative effect of the tribal court's evidentiary exclusions deprived him of a fair hearing and rendered the judgment legally unsupportable. "[T]he cumulative exclusion of nearly all of [father]'s evidence denied him a meaningful opportunity to support his motion. . . . [His] arguments were effectively unheard." The tribal court "disregarded the bulk of the record [father] was expressly instructed to provide." We disagree.

Under the cumulative error doctrine, "[c]umulative errors lead to reversal when 'taken as a whole' they 'deprived [the] defendant of his due process right to a fair trial free from prejudicial error.'" *State v. Wilkerson*, 363 N.C. 382, 426, 683 S.E.2d 174, 201 (2009) (quoting *State v. Canady*, 355 N.C. 242, 254, 559 S.E.2d 762, 768 (2002)); *see generally Glossip v. Oklahoma*, 604 U.S. 226, 251–52, 221 L. Ed. 2d 90, 109 (2025) ("[P]rejudice analysis requires a 'cumulative evaluation' of all the evidence[.]"). The doctrine has been applied in review of criminal proceedings. *See, e.g., Glossip*, 604 U.S. 226, 221 L. Ed. 2d 90; *Nation v. MacDonald*, 1991 Navajo Sup.

LEXIS 18, *34 (“The cumulative error doctrine requires reversal of a conviction where the cumulative impact of errors was so prejudicial that the defendant was deprived of a fair trial.” (quoting *State v Martin*, 101 N.M. 595, 686 P.2d 937, 943 (1984))).

Father raises a concern of cumulative error violating due process rights in the context of a child custody proceeding, a civil matter. *But see generally In re J.D.O.*, 381 N.C. 799, 822, 874 S.E.2d 507, 523–24 (2022) (“[W]e have not previously recognized the theory of cumulative error . . . in civil cases generally.”). In this matter, we do not apply the cumulative error doctrine.

“[Indians] were, and always have been, regarded . . . as a separate people with the power of regulating their internal and social relations,” *United States v. Kagama*, 118 U.S. 375, 381–82, 30 L. Ed. 228, 230 (1886), “subject to the supreme legislative authority of the United States,” *Talton v. Mayes*, 163 U.S. 376, 384, 41 L. Ed. 196, 199 (1896) (citing *Cherokee Nation v. Kansas Railway Co.*, 135 U.S. 641, 34 L. Ed. 295 (1890)). Under the Indian Civil Rights Act (“ICRA”), “[n]o Indian tribe in exercising powers of self-government shall— . . . deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law[.]” 25 U.S.C.S. § 1302(a)(8); *see also Blankenship v. E. Band of Cherokee Indians*, 16 Am. Tribal Law 30, 41 (E.B.C.I. Feb. 1, 2019) (“After ICRA became law, Tribal Council incorporated its protections into the Cherokee Code in numerous places, clearly indicating that rights protected by ICRA would be recognized and protected by the EBCI tribal government.” (citing C.C. §§ 1-40, 15-7,

7A-27, 75-52, 48-10, 150-1)). “The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333, 47 L. Ed. 2d 18, 32 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552, 14 L. Ed. 2d 62, 66 (1965)).

Our Cherokee Code directs that our courts “shall exercise jurisdiction over the domestic relations of all individuals residing on Cherokee trust lands. Jurisdiction shall be exercised for cases including but not limited to child protection and child welfare, . . . [and] child custody[.]” C.C. § 1-2(b); *see also Carey*, Nos. CSC 25-03 and 25-04, slip op. at 11 (“Tribes maintain the sovereign power to regulate their family-law matters and domestic disputes.” (citing *Haaland v. Brackeen*, 599 U.S. 255, 329, 216 L. Ed. 2d 254, 308 (2023) (Gorsuch, J., concurring))).

“A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians . . . within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.” [*Montana v. United States*, 450 U.S. 544, 566, 67 L. Ed. 2d 493, 511 (1981) (citations omitted)].

In the realm of domestic relations, this principle of inherent sovereignty is acknowledged and followed throughout the courts of the United States. Matters involving the custody and care of tribal members in family law disputes fall within “the inherent power of tribes ‘to conduct internal self-governance functions.” *Alaska v. Cent. Council of Tlingit & Haida Indian Tribes of Alaska*, 371 P.3d 255, 265 (Alaska 2016) (emphasis omitted) (quoting *John v. Baker*, 982 P.2d 738 (Alaska 1999)); *see also John*, 982 P.2d at 751 (“[I]n particular, . . . domestic affairs lie within a tribe’s retained inherent sovereign

powers.”). This recognition of inherent sovereignty has been applied in many courts in matters of “extra-territorial jurisdiction when it comes to . . . domestic matters,” even when litigation parties are non-Indians. Cohen’s Handbook of Federal Indian Law § 15.03 (2024). *See, e.g., Atwood v. Fort Peck Tribal Ct. Assiniboine*, 513 F.3d 943, 945 (9th Cir. 2008) (affirming dismissal of non-Indian plaintiff’s custody dispute from federal court where plaintiff failed to exhaust tribal court remedies); *Kaltag Tribal Council v. Jackson*, No. 3:06-CV-211, 2008 WL 9434481, at *6 (D. Alaska Feb. 22, 2008) (unpublished) (concluding that tribal membership was the controlling jurisdictional concern in adoption of an Indian child and a non-Indian party, not living on reservation), *affirmed*, 344 Fed. Appx. 324, 325 (9th Cir. 2009) (unpublished) (observing “Tribe’s authority over its reservation or Indian country is incidental to its authority over its members.” (quoting *Native Village of Venetie IRA Council v. Alaska*, 944 F.2d 548, 559 n.12 (9th Cir.1991))); . . . *Byzewski v. Byzewski*, 429 N.W.2d 394, 395 (N.D. 1988) (reversing a [State] trial court’s custody dispute judgment involving a non-Indian parent living off reservation observing that “domestic relations among [tribal] members is an important area of traditional tribal control” and that “tribal interest in domestic relations [does not] dissipate[] merely because one of the parties to a marriage is a non-Indian”).

Carey, Nos. CSC 25-03 and 25-04, slip op. at 10–13.

Mother is a resident of and domiciled on E.B.C.I. trust lands. H.C.L.G. and L.N.L.G. are enrolled members of the E.B.C.I. who lived with mother on trust lands prior to June 2023, when they traveled to Norway.

Briefly, mother’s complaint seeking child custody was filed on 29 August 2023 and served on father on 3 January 2024. A scheduling conference hearing was conducted on 25 April 2024 and notice of the hearing to address the complaint was

served on father on 26 April 2024. The tribal court conducted the child custody hearing on 7 May 2024. Father did not attend, nor did counsel appear on his behalf. The court's custody order was entered on 13 May 2024. The clerk of court received documents from father on 10 September 2024 (dated 22 July 2024). Ultimately, these documents were construed as a Motion for Relief filed pursuant to Rule 60. Over mother's objection, the court allowed father to re-submit and properly serve mother with his exhibits and also instructed father how to order and identify the proffered exhibits for the court's consideration, by order entered 17 April 2025. Mother challenged the individual exhibits in the Notice of Objections filed on 11 June 2025, and father replied filing a Certificate of Service and Father's Memorandum in Support of Admission of Exhibits and Response to Mother's Objections on 24 June 2025. After considering "each document to determine if it might possibly support any grounds for relief under Rule 60," the court determined no additional hearing was necessary and denied father's Motion for Relief by order entered on 16 September 2025.

That the tribal court instructed father how to submit the exhibits to be proffered for the court's consideration but denied relief because the evidence did not support the relief from judgment sought pursuant to Rule 60(b), does not establish error or an abuse of discretion. Moreover, the request for Rule 60 relief comes despite three prior hearings which father neither attended nor arranged to be represented by counsel: a scheduling conference hearing held on 25 April 2024 (prior to the child

custody hearing), the 7 May 2024 child custody hearing, and the oral argument before this Court on 15 January 2026. To argue that three different and distinct hearings before the tribal court and Cherokee Supreme Court—where father chose not to attend and did not have legal representation—amounts to a denial of his due process rights is unconvincing.

Father does not show that his arguments were unheard. Father does not establish that the tribal court erred or that he was denied due process. Father shows only that the tribal court ruled against him.

We affirm the tribal court's 16 September 2025 Order (Denying Defendant's Motion for Relief from Judgment).⁵

AFFIRMED.

This the 28th day of July 2026.



Bradley B. Letts

Chief Justice

⁵ By entry of this Opinion addressing the merits of father's appeal, mother's 19 December 2025 Motion to Dismiss Appeal is denied.

LAMBERT V. GJESDAL

Opinion of the Court

A handwritten signature in blue ink that reads "Robert C. Hunter". The signature is written in a cursive style with a horizontal line underneath.

Robert Hunter (Jul 28, 2026 09:40:07 EDT)

Robert C. Hunter

Associate Justice

A handwritten signature in blue ink that reads "Sharon Tracey Barrett". The signature is written in a cursive style with a horizontal line underneath.

Sharon Tracey Barrett

Associate Justice by designation