

*Jennings
Birmingham
Bartlett*

October 9, 1954
Opinion No.
54-151

TO: The Honorable Barry DeRose
Gila County Attorney
Courthouse
Globe, Arizona

RE: Placing of an Indian juvenile in
the Fort Grant Industrial School

QUESTION: If the Tribal Court sentences a
boy to the Fort Grant Industrial
School, can the Fort Grant Industrial
School accept such child?

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We assume from the above quoted question as it is contemplated that the Tribal Court will sentence the individual, that the offense was committed within an Indian reservation so as to give the Tribal Court jurisdiction.

Our first reference will be to the Juvenile Code of the State of Arizona, Chapter 46, Articles 1 and 2, and more particularly to Section 46-133, A. C. A. 1939, as amended, which provides:

"46-133. When child may not be committed.--
* * * * *

(b) No child shall be received by the state industrial school, or by any school or institution for girl juvenile offenders, except upon commitment by a juvenile court."
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Obviously, then, the Tribal Court sentencing the juvenile to Fort Grant Industrial School could have no force and effect, and the Industrial School could not accept the individual as not being committed by a juvenile court of the state of Arizona.

Having determined this problem, the next and obvious question is, could the juvenile court commit a juvenile Indian offender to the Fort Grant Industrial School?

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As we have determined that the problem is one where the offenses are committed within an Indian reservation; it is fundamental that the state of Arizona has no jurisdiction over criminal acts committed by Indians within an Indian reservation, whether they be juvenile or adult offenders. See WILLIAMS vs. UNITED STATES, 66 Supreme Court 778, 327 U. S. 711; Handbook of Federal Indian Law, pages 358 through 365.

It is, therefore, the opinion of this office that a juvenile may be committed to the Fort Grant Industrial School only by the juvenile courts of the state of Arizona, and as such courts do not have jurisdiction over Indians for crimes committed within the reservations, the Fort Grant Industrial School could not accept juvenile Indian offenders.

A possible remedy to the situation would be sentencing the Indian offenders through the Federal Courts and committing them to Federal juvenile institutions.

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