



1 San Carlos Apache Tribe
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 12 **IN THE SAN CARLOS APACHE CHILDREN'S COURT**
 13 **SAN CARLOS APACHE RESERVATION**
 14 **SAN CARLOS, ARIZONA**

15 In the Matter of:

16 Case No.: CW-2026 0006

17 **DAVINA KENTON**

18 **DOB: 06/09/2011**

19 **CHILD IN NEED OF CARE PETITION**

20 Minor Child

21 The San Carlos Apache Tribe, by and through its representative undersigned petitions
 22 the Children's Court, pursuant to Chapter IV, Title V, Section 15. C. of the Child and
 23 Family Protection Code ("CFPC") to make the above minor a temporary ward of the
 24 Court pending further proceedings, based on the following:

25 **Jurisdiction**

- 26 1) The ("Minor Child") Davina Kenton (Age: 14), is a dependent Native American
 27 Indian child and tribally affiliated as an enrolled member or eligible to be an enrolled
 28 member with the San Carlos Apache Tribe.
- 2) The Children's Court of the San Carlos Apache Tribe ("Tribe") has exclusive
 jurisdiction pursuant to the San Carlos Apache Law and Order Code (SCALOC)

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Chapter 3, Title V, of the Child and Family Protection Code (CFPC), under Section 5 (A) General Jurisdiction.

- 3) The Minor Child's mother is Marie Kenton Upshaw ("Mother"). The Minor Child's father's identity is unknown. The mother is an enrolled member of the San Carlos Apache Tribe, which is a federally recognized Indian tribe; as such, the Minor Child is eligible for membership with the San Carlos Apache Tribe, which establishes Jurisdiction of the San Carlos Apache Children's Court pursuant to SCAT-CFPC.

Specific Allegations

- 4) On March 17, 2026, San Carlos Apache Police Officer Titla reported to the Child Protective Services Investigator Jerry James that the minor child had been assaulted by her mother.
- 5) Mr. James met Officer Titla at the San Carlos Apache Healthcare Corporation's Emergency Department in Peridot, AZ.
- 6) Officer Titla reported that the minor child had lived most of her life with her aunts and not with her mother, Marie Kenton Upshaw.
- 7) Ms. Upshaw heard rumors that the minor child was pregnant and became angry about that.
- 8) Ms. Upshaw confronted the minor child at her aunts' home and slapped her across her face, causing swelling and redness.
- 9) Officer Titla investigated and then arrested Ms. Upshaw and took her into custody.
- 10) On March 18, 2026, Mr. James went to Old Moonbase #130 to meet Marilyn Kenton and Andie Apachito, who are maternal aunts of the minor child.
- 11) Marilyn Kenton said that she and her sister, Andie, have raised the minor child since her birth.

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12) Marilyn Kenton said that her sister, Marie Kenton Upshaw, is not involved in the minor child's life.

13) Marilyn Kenton said that she and her other sister, Andie, do not have any court documents giving them authority to care for their niece. But they have been able to act on the minor's behalf in the schools and in the hospital on the Reservation.

14) Marilyn Kenton said that her sister, Marie, came over to her house the day before, upset and yelling that she heard the minor child was pregnant. She said that Marie Kenton Upshaw slapped the minor child, so Marilyn Kenton called the police.

15) Mr. James spoke to the minor child at her aunts' home. He asked if she had ever lived with her mother, Marie Kenton Upshaw.

16) The minor child reported that she had always lived with her aunts, Marilyn Kenton and Andie Apachito. A few times, she stayed with her mom but that ended shortly because her mother was abusive and yelled at her.

17) The minor child also said that she witnessed domestic violence between her mother and stepfather, Victor Upshaw, Jr. She said she felt safer with her aunts.

18) When Mr. James talked to the minor child, he saw that her right cheek was red and slightly swelled. He asked her what happened, the minor child said that her mother slapped her while yelling about her being pregnant.

19) Mr. James asked the minor child if she thought she might be pregnant. She said no.

20) Mr. James asked about a boy he had heard about. The minor child said that the boy was just her friend, and they were not romantically involved.

21) Mr. James also asked the minor child if she would feel safe at her mother's house. She said no. She also said that she did not want to go to her mother's house.

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1 22) Mr. James then asked Marilyn Kenton and Andie Apachito if they believed the minor
2 child would be safe at her mother's house. They both said no, and that they want to
3 keep caring for the minor child in their home as they have been doing since she was a
4 baby.

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6 23) They said they feared for the minor child's safety if she was to live with her mother
7 and her stepfather.

8 24) Mr. James asked Marilyn Kenton to take the minor child to the hospital to be tested
9 for pregnancy.

10 25) The minor child was tested and found to not be pregnant. However, Mr. James also
11 said that school officials reported hearing that the minor child was pregnant.

12 26) On March 19, 2026, the mother, Marie Kenton Upshaw told Mr. James that her
13 daughter, Davina Kenton, was not pregnant, which she verified at the hospital.

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15 27) On March 19, 2026, gave the mother, Marie Kenton Upshaw, a temporary custody
16 notice indicating his concerns for the minor child's safety and decision to remove her
17 from the mother's care and custody. Ms. Kenton Upshaw refused to sign the TCN.

18 28) Also, on March 19, 2026, Mr. James gave an Agreement for Placement of Child with
19 Relatives to maternal aunts, Marilyn Kenton and Andie Apachito. Both agreed to
20 continue taking care of the minor child in their home.

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22 29) Mr. James did not receive information on the identity of the minor child's father.

23 30) Mr. James completed his investigation and provided his report to the Juvenile
24 Presenter with a request to proceed to a Shelter Care Hearing.

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Placement

31) On March 19, 2026, CPS Investigator Jerry James gave an Agreement for Child Placement with a Relative to Marilyn Kenton and Andie Apachito, the minor child's maternal aunts.

32) On March 19, 2026, Mr. James gave a Temporary Custody Notice to the mother, Marie Kenton Upshaw, indicating his concerns for the safety of the minor child and his decision to remove the minor child from her care and custody. Ms. Kenton Upshaw refused to sign the TCN, but Mr. James left it with her.

33) Precautionary efforts will be made available for the minor child's protection pursuant to CFPC Section 13. B. 1. The Minor Child is placed as a temporary ward with the San Carlos Apache Children's Court and the San Carlos Tribal Social Services Department. The Minor Child is placed with her maternal aunts, Marilyn Kenton and Andie Apachito, in Old Moonbase, Peridot, AZ.

34) Current address of Parents and Relatives:

Parents: Mother—Marie Kenton Upshaw
Hollywood Ridge #66
Peridot, AZ 85542

P.O. Box 857
Peridot, AZ 85542

Father—Unknown

Placement: Maternal Aunts—Marilyn Kenton and
Andie Apachito

Address: Old Moonbase #130
Peridot, AZ 85542

P.O. Box 651
Peridot, AZ 85542

Shelter Care Hearing

35) Based on the information provided above, the Tribe is recommending the minor child be placed in temporary protective custody under the protection of the Children's Court and request that Jaden Dillon be made a temporary ward of the Court pending further proceedings.

36) Additionally, the Tribe requests, pursuant to CFPC Section 16, that a **Shelter Care Hearing** be scheduled within ten (10) working days of the filing of this Child in Need of Care Petition, pursuant to C.F.P.C. Section 16 (B), and that Mother Marie Kenton Upshaw be provided notice of the Hearing pursuant to C.F.P.C. Section 16(C).

I, Attorney Justine R. Jimmie, have read the foregoing and attest that the information contained herein is true and correct to the best of my knowledge.

Signed and dated this 20th day of March, 2026.



Justine R. Jimmie
Deputy Attorney General
San Carlos Apache Tribe