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Officially known as the Zuni Tribe of the Zuni Indian Reservation

PUBLIC NOTICE

August 17, 2016

ZUNI TRIBAL COURT DECISION UPHOLDING SUPREMACY OF ZUNI CONSTITUTION AFFIRMED BY SWITCA

Zuni, New Mexico–The Southwest Intertribal Court of Appeals (“SWITCA”) entered an Order on July 29, 2016, that has effectively affirmed an earlier ruling by the Zuni Tribal Court, that the Zuni Constitution is controlling with respect to matters related to the organization and functioning of the secular Zuni Tribal Government. SWITCA rejected an appeal from that ruling by former members of the Tribal Council Margaret Eriacho and Phillip Vicenti, ruling that Eriacho and Vicenti had failed to state any valid grounds for their appeal. That ruling by SWITCA ends the lawsuit.

Eriacho and Vicente had originally filed suit in Zuni Tribal Court against the Governor, the Lieutenant Governor and the other four members of the Council, claiming that the defendants had wrongfully suspended Eriacho and Vicenti from their positions. While the suit was pending, the Council determined that Eriacho and Vicenti had committed actions that warranted their permanent removal from the Tribal Council as provided by the Constitution, and the Council permanently removed the two from their positions on the Tribal Council. Neither Eriacho nor Vicenti ever challenged the propriety of the action by which they were removed.

At a hearing in the case before Zuni Tribal Court Judge Peter Tasso (who was appointed to hear this case when regular Judge Albert Banteah recused himself), on February 24, 2016, counsel for Eriacho and Vicenti claimed that the Governor, the Lieutenant Governor and the other Council members had all been “traditionally removed” from office by the Zuni Rain Priest, and that they therefore no longer held any official position in the tribal government. The defendants countered that the Zuni Constitution contains detailed provisions setting forth the manner in which tribal officials may be removed from office, and that nowhere is there any provision for “traditional removal” by a religious leader. In papers filed with the court after the hearing, the defendants showed that one of the main purposes for the adoption the Zuni Constitution was to make clear that the religious leaders were no longer to have any role in the secular tribal government, other than the ceremonial function of administering the oath of office to newly elected officials.

Judge Tasso entered an opinion in the case on April 25, 2016, in which he rejected Eriacho’s and Vicenti’s claim of “traditional removal.” He noted that the Constitution’s detailed provisions regarding removal made no reference to “traditional removal,” and that to the extent the Constitution preserved “retained powers” of the Zuni people, it required that those powers could only be exercised by referendum. He also noted that the Zuni Tribal Code made the Constitution the supreme legal authority to be followed by the Tribal Court. Rejecting the claim that the religious leaders retained some unwritten power over the tribal government, Judge Tasso wrote, “If a religious leader could remove a council member unilaterally, the entire tribal government system could be dismantled or overturned by one person or a small group of people, at any time, acting for whatever motive or under whatever influence. The very foundations of civil government would be built on sand.”

Finding that the defendants all still held their positions as members of the Tribal Council, and that they were fully protected by tribal sovereign immunity, Judge Tasso therefore ordered that Eriacho’s and Vicenti’s suit be dismissed. The SWITCA ruling makes that decision final.

Governor Val Panteah hailed the SWITCA order as affirming the ability of the Zuni tribal government to exist and to function as intended by the drafters of the Zuni Constitution. “We fully respect the authority of our religious leaders in all traditional and cultural matters,” he said, “but it is vitally important that persons who deal with the secular tribal government be able to have confidence that the government will function in accordance with our Constitution and written laws. This landmark decision affirms that principle.”

A special election to fill the Council positions formerly held by Eriacho and Vicenti will be held soon, Panteah said.