

## No Early-Voting Site for the Pascua Yaqui Tribe

*Pascua Yaqui Tribe v. Rodriguez*  
(James A. Soto, D. Ariz. 4:20-cv-432)

A suit to establish an early-voting location on an Indian reservation was unsuccessful. On the one hand, the suit was brought too close to the election. On the other hand, the plaintiff tribe did not show a sufficient barrier to voting for tribal members on the reservation.

*Subject:* Absentee and early voting. *Topics:* Early voting; poll locations; laches; Covid-19.

A federal complaint filed in the District of Arizona on October 12, 2020, challenged a decision to close the only in-person early-voting site on an Indian reservation.<sup>1</sup> The complaint alleged that “[t]he need for increased access to in-person early voting on the Pascua Yaqui Reservation is paramount particularly in light of the devastating impact of the COVID-19 pandemic on tribal communities and the fact that mail voting is not an available or adequate substitute for many Native voters.”<sup>2</sup>

On the next day, the tribe filed a motion for a preliminary injunction and a motion for expedited consideration, seeking an injunction ruling by October 20.<sup>3</sup> Judge James A. Soto agreed to hear the injunction motion on October 19.<sup>4</sup>

On October 15, the parties filed a joint request for an October 16 status conference to determine whether the hearing could be conducted remotely.<sup>5</sup> Judge Soto agreed: “Although the parties and counsel are welcome to appear in-person for the status conference the Court presumes that pertinent counsel and parties will appear telephonically in light of the truncated notice, deadlines and filings in this case.”<sup>6</sup> Judge Soto provided telephonic contact information in the order.<sup>7</sup>

The two-day hearing began at 1:13 p.m. on October 19 and concluded at 6:00 p.m. on October 20.<sup>8</sup> On October 22, Judge Soto denied the tribe immediate relief.<sup>9</sup> “As a threshold matter, although Plaintiff’s emergency motion

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1. Complaint, *Pascua Yaqui Tribe v. Rodriguez*, No. 4:20-cv-432 (D. Ariz. Oct. 12, 2020), D.E. 1.

2. *Id.* at 2.

3. Motion for Expedited Consideration, *id.* (Oct. 13, 2020), D.E. 5; Preliminary-Injunction Motion, *id.* (Oct. 13, 2020), D.E. 4, 13.

4. Order, *id.* (Oct. 13, 2020), D.E. 10; *see* Order, *id.* (Oct. 16, 2020), D.E. 30; *see also* Howard Fischer, *Yaqui Voters Seek Location on Tribal Land Where They Can Drop Off or Cast Early Ballots*, *Ariz. Daily Star*, Oct. 17, 2020, at B1.

5. Joint Motion, *Pascua Yaqui Tribe*, No. 4:20-cv-432 (D. Ariz. Oct. 15, 2020), D.E. 15.

6. Order, *id.* (Oct. 15, 2020), D.E. 19 [hereinafter Oct. 15, 2020, Order]; *see* Minutes, *id.* (Oct. 16, 2020), D.E. 29.

7. Oct. 15, 2020, Order, *supra* note 6.

8. Minutes, *Pascua Yaqui Tribe*, No. 4:20-cv-432 (D. Ariz. Oct. 19 and 20, 2020), D.E. 37, 38.

9. Opinion, *id.* (Oct. 22, 2020), D.E. 43, 2020 WL 6203523; *see* Howard Fischer, *Judge Denies Pascua Yaqui Tribe’s Request for an Early-Voting Site*, *Ariz. Daily Star*, Oct. 23, 2020, at

was filed on October 13, 2020, Plaintiff had notice that there would not be an in-person early-voting site on the reservation in July of 2018.”<sup>10</sup> Moreover, Judge Soto found “no evidence that any Tribal member on the Reservation [would] be denied the ability to vote in the General Election without a site.”<sup>11</sup> Among other opportunities, there was to be a polling place on the reservation on election day.<sup>12</sup>

On July 7, 2021, Judge Soto determined that in light of intervening circumstances and legal developments he would dismiss the complaint without prejudice to an amended complaint.<sup>13</sup> He granted a stipulated dismissal on August 13.<sup>14</sup>

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B1; Shondlin Silversmith, *Judge Denies Pascua Yaqui Tribe Voter Lawsuit*, Ariz. Republic, Oct. 24, 2020, at A10.

10. Opinion, *supra* note 9, at 5.

11. *Id.* at 8.

12. *Id.* at 9.

13. Order, *Pascua Yaqui Tribe*, No. 4:20-cv-432 (D. Ariz. July 7, 2021), D.E. 44.

14. Order, *id.* (Aug. 13, 2021), D.E. 46; *see* Stipulation, *id.* (Aug. 12, 2021), D.E. 45.