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20: Amarante Silva-Cross Exam.pdf (191.1Kb)

U.S. District Court for the District of New Mexico

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U.S. District Court Docket No. 9717 Civil; 436 U.S. 49 (1978)

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1 I couldn't speak for my sister, so I couldn't answer even
2 in that respect.

3 MR. PRELO: May I have a moment, Your Honor.

4 Q (By Mr. Prelo) Do you know to what extent membership in
5 the Pueblo is religious?

6 A Will you rephrase your question.

7 Q Do you know to what extent, if any, membership in the
8 Pueblo itself is a religious membership?

9 A No, I don't.

10 Q You don't know it?

11 A No.

12 Q Did you state what reason you believe was responsible for
13 the Ordinance of 1939? Did you mention that already?

14 A I believe I answered that by saying that the man was
15 considered the head of the household and he has the sole
16 responsibility, and then on the basis of the outsiders
17 coming through, coming in, no, that was one of the bases,
18 I'm sure, that the elders at that time foresaw that thing
19 that was coming in, so that was the closing of that, or
20 the making of that Ordinance.

21 MR. PRELO: Your witness.

22 CROSS EXAMINATION

23 BY MR. COLLINS:

24 Q Mr. Silva, you said that your wife is Navajo, is that
25 correct?

- 1 A That's right.
- 2 Q Where is she from, the Navajo Country?
- 3 A She's from over in the Ganado area.
- 4 Q Is that where you went to live when you went to live over
5 there?
- 6 A No. I worked out at Leupp, Kayenta, Winslow, Fort Defiance,
7 and Gallup.
- 8 Q I see. You went there for employment of some sort?
- 9 A Right.
- 10 Q Your children speak Tiwa or Navajo?
- 11 A Neither.
- 12 Q They speak English?
- 13 A We all speak English at home.
- 14 Q Now, you were asked a few minutes ago about the purpose
15 of the Ordinance of 1939 and you said something about
16 stopping of naturalization, is that right?
- 17 Was that one of the purposes, stopping the naturaliza-
18 tions?
- 19 A I don't think it was stopping. The elders had foreseen
20 the great numbers of outsiders coming in.
- 21 Like it has been stated before, if these things kept
22 coming in, see, they wouldn't have any positions wherein
23 other means can be provided for the male members or for
24 the children of that tribe.
- 25 Q You mean there was going to be a shortage of things for

- 1 all these people coming in?
- 2 A Well, as you can see for yourself, there's a shortage all
3 over the land.
- 4 Q Shortage of land in the Santa Clara?
- 5 A Well, as far as we know, there's a shortage.
- 6 Q I see. That was one of the reasons for the Ordinance of
7 1939?
- 8 A Well, that's part of it, yes.
- 9 Q And is it true then that there were a lot of mixed marriage
10 taking place about that time?
- 11 A Not too many, but they were coming in.
- 12 Q Quite a number?
- 13 A They were coming in slowly, right.
- 14 Q Was that a change? Were there fewer mixed marriages
15 earlier?
- 16 A Will you rephrase that question.
- 17 Q In earlier times, I say, before the Constitution, were
18 mixed marriages there or were they rare or were they common?
- 19 A They were rare.
- 20 Q So they were becoming more common at this time?
- 21 A Right. Right.
- 22 Q This is your first testimony in this case, is that right?
- 23 A That is correct.
- 24 Q You didn't give a deposition?
- 25 A No.

1 Q Now, you said that there's this rule that the man is the
2 head of the household and the wife should go with him, is
3 that correct?

4 A Yes.

5 Q And you said it was an old rule?

6 A Right.

7 Q Do you know of any cases where, before 1939, a Santa Clara
8 woman married out, married a man from somewhere else, but
9 they continued to live at Santa Clara?

10 A I don't believe there's any because those that I've known
11 that married outside, like take one for instance, in
12 Santo Domingo, a woman from Santa Clara married a man from
13 Santo Domingo, and she went to Santo Domingo and lived
14 there and she died there, so here children are all down
15 in Santo Domingo.

16 Q Do you have a sister named Mrs. Gray, sir?

17 A Yes. That's my sister.

18 Q Does she live in Santa Clara?

19 A She lives in Santa Clara.

20 Q Is she married?

21 A She was married, yes. She was married to a non-Indian.

22 Q She was married to a non-Indian?

23 A Right.

24 Q Did she live at the Pueblo?

25 A They were living on the Pueblo, yes.

1 Q Are her children enrolled?

2 A The only ones that I know that are enrolled are the two
3 or three oldest children.

4 Q Two or three of her children are enrolled?

5 A Right.

6 Q Were they enrolled before or after 1939?

7 A They were enrolled before, I'm sure, or after. I don't
8 recall.

9 Q You don't know which way?

10 A No.

11 Q Was her non-Indian husband, Mr. Gray, ever naturalized?

12 A No, sir.

13 Q Are you a member of the Winter or the Summer People, sir?

14 A Well, I'm a member of the Summer.

15 Q Do you participate in the religious activities of the
16 Pueblo today?

17 A I don't know if I should answer that because I'm not doing
18 it now.

19 Q Well, if the answer is no, that's a satisfactory answer.

20 A Yes, right. It's no.

21 Q Have you ever been on the Council?

22 A Yes.

23 Q Were you on the Council in 1939 when the Ordinance was
24 passed?

25 A No, sir.

1 Q In 1944, when the Resolution was passed?

2 A No, sir.

3 Q You said that in Santa Clara, the man is the head of the
4 household. Is the same thing true of the Navajo Country?

5 A I know nothing about the Navajo.

6 Q You said you lived there for eleven years.

7 A I lived not on the Reservation, sir. I lived in the areas
8 where I was employed, so that is a difference from being
9 on the Reservation.

10 Q Does your wife ever tell you about whether the man is the
11 head of the household?

12 A No, we don't discuss that because I discuss my part and I
13 have no interest in her part because I'm the head of the
14 household and that is it.

15 Q Do you know how the Ordinance of 1939 works in the case
16 of illegitimate children?

17 A Well, they have been taken in.

18 Q Do you know how it works in the case of widows, where the
19 man dies and the woman then comes back?

20 A Well, if the widow comes back, they are taken like this
21 one that they referred to this morning, this Mirabal,
22 Julia Martinez's mother. It was that we felt she was
23 coming home. So she was coming home and her children
24 were taken in.

25 Q In other words, you are telling me what Mrs. Martinez said

1 this morning is correct?

2 A Right.

3 Q How about if there is a divorce? Suppose a woman from
4 Santa Clara marries a man from somewhere else, has children,
5 and then she is divorced and she comes home with her
6 children. Can those children be enrolled?

7 A Well, I never have encountered anything like that if there
8 is any divorce in the Pueblo and coming back. I don't
9 know.

10 Q Now, how about adoption, do you know what -- suppose a
11 man from the Pueblo adopts children of his non-membered
12 wife. Can his adopted children become members?

13 A I don't think they are members.

14 Q Did you once serve as a Tribal Judge or maybe you already
15 are?

16 A Yes.

17 Q Are you now the Tribal Judge?

18 A No.

19 Q When you were Tribal Judge, did you help out the Martinezes
20 in trying to present their problem?

21 A Yes.

22 MR. COLLINS: Thank you, sir.

23 Excuse me, Your Honor. He has one (Mr. Taradash).

24 Q (By Mr. Collins) Oh, in the case of your sister, Mrs.
25 Gray, the children we were talking about, they were the

1 children of that marriage, were they not?

2 A Right.

3 MR. COLLINS: Thank you. I pass the witness.

4 REDIRECT EXAMINATION

5 BY MR. PRELO:

6 Q Mr. Silva, do you know whether or not this Mirabal lady
7 was before the Constitution?

8 A Yes. That was before the Constitution. That was when
9 the girls were still small because the youngest girl or
10 youngest sister of Julia were neighbors and we used to
11 play together. So that's how I knew they were way before
12 the Constitution.

13 Q So that was in the 30's, perhaps, or the 20's, late 20's?

14 A Somewhere in the 20's.

15 Q Your home is run strictly under Santa Clara custom and
16 tradition, is that correct?

17 A I didn't get your question.

18 MR. COLLINS: Objection.

19 THE COURT: Sustained.

20 MR. PRELO: If the Court please, I don't know what
21 the objection is based upon, and I can't --

22 THE COURT: It is a leading question, Mr. Prelo.

23 MR. PRELO: He stated -- well, I will rephrase it,
24 Your Honor.

25 THE COURT: All right, sir.