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33: Julia Martinez-Cross Exam.pdf (497.5Kb)

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 Q At Santa Clara Pueblo?
- 2 A Yes.
- 3 Q And you have resided there all your life, is that correct?
- 4 A Yes.
- 5 Q If you don't understand any of my questions or they are
6 too fast, please feel free to slow me down.
- 7 Your husband moved there when you were a young girl,
8 when you were married, is that correct?
- 9 A Yes.
- 10 Q Where did you meet Mr. Martinez?
- 11 A Santa Fe Indian School.
- 12 Q And thereafter, you married, went to live with your mother?
- 13 A Yes.
- 14 Q Now, he testified that the reason you went to live with
15 your mother was because she was ill, is that correct?
- 16 A Yes. She was not very well. She was just like he said.
17 She was paralyzed on one side and was old.
- 18 Q Did you all discuss that at the time that you were going
19 to have to stay here and take care of your old mother?
- 20 A Yes, because my mother don't want to go out anyplace but
21 stay there and no one to live with her.
- 22 Q Where did you discuss going, had you not stayed with your
23 mother?
- 24 A No place.
- 25 Q I'm sorry?

- 1 A No place.
- 2 Q Did you consider having --
- 3 A Just stay in Santa Clara.
- 4 Q I'm sorry?
- 5 A I said, no place.
- 6 Q Did you consider going to the Navajo Country?
- 7 A No.
- 8 Q Did you consider that?
- 9 A No.
- 10 Q You must have talked about it if you decided that, the
- 11 reason you talked about your mother, having to stay with
- 12 her.
- 13 A I have always lived with my mother and I can't very well
- 14 leave her.
- 15 Q Your husband, Mr. Myles Martinez, is still a member of
- 16 the Navajo Tribe, is that correct?
- 17 A Yes.
- 18 Q Have you ever become a member of the Navajo Tribe?
- 19 A No.
- 20 Q Has he ever tried to enroll you?
- 21 A No.
- 22 Q Does he keep what you would consider close ties with the
- 23 Navajo Tribe? Does he go over there frequently and visit?
- 24 A Not at that time; until very lately, we went over there
- 25 to visit his sister.

1 Q Recently?

2 A Recently.

3 Q Does he have family there?

4 A Just a sister.

5 Q Just a sister. You finally -- you told the Court the
6 many things you did to get the children enrolled. You
7 finally filed a lawsuit, isn't that right, this lawsuit?

8 A Yes.

9 Q And your attorney is from Navajo Country, is that correct?

10 A Yes.

11 Q Where is Mr. Taradash from?

12 A From -- I know. I'll remember. But I forgot.

13 Q Somewhere in --

14 MR. COLLINS: Your Honor, we will have to ask the
15 relevance of this. It is getting pretty far afield.

16 THE COURT: Fine. I don't see that it has any bearing
17 on the issue.

18 MR. PRELO: If the Court please, they have raised
19 the fact that they don't speak anything but Tiwa at home,
20 that they cut or severed relations with the Navajo Country,
21 and I'd like to establish that they have not severed it
22 to the extent --

23 THE COURT: I do not think that there is any testimony
24 that they have severed any relations with the Navajo
25 Country.

1 The language, the fact was testified to by Mr.
2 Martinez. There's nothing about any severance of any
3 relations.

4 MR. PRELO: Thank you.

5 Q (By Mr. Prelo) Mrs. Martinez, do you know whether or not
6 you can graze cattle on the Pueblo?

7 A I don't know because I have never owned any cattles.

8 Q So you never requested to graze cattle?

9 A No.

10 Q Has your husband ever owned any cattle?

11 A No.

12 Q He's never requested to graze cattle?

13 A No.

14 Q Have any of your children ever been enrolled on the
15 Navajo Tribe roll?

16 A No.

17 Q Do you know if they are eligible? If you know? If you
18 don't know, that's all right.

19 A No, I don't know.

20 Q Do all of your children presently have census numbers?

21 A Yes.

22 Q BIA census numbers?

23 A Yes, right now.

24 Q When were these finally acquired?

25 A In the year of 1968.

- 1 Q For all of them?
- 2 A For all of them.
- 3 Q In 1968, some of your children were in their twenties,
4 is that correct, or at least in their late teens?
- 5 A Yes.
- 6 Q Have you ever had occasion, before, during all of these
7 years, to acquire a census number for them?
- 8 A May I please have the question repeated.
- 9 Q Have you ever had an occasion, prior to 1968, to need a
10 census number for any of your children?
- 11 A I don't understand that question.
- 12 Q Okay. Let me rephrase it.
13 Prior to 1968, did you ever need medical attention
14 for your children?
- 15 A Before '68?
- 16 Q Yes, ma'am.
- 17 A Yes.
- 18 Q I'm sorry?
- 19 A Yes.
- 20 Q Yes. And did you get medical attention for them?
- 21 A Please repeat the question.
- 22 Q Were you able to get medical attention for them prior to
23 1968?
- 24 A Before 1968?
- 25 Q Yes, ma'am.

1 A We had a hard time during that time.

2 Q But from 1940 -- I think your first child was born in
3 '45, is that right?

4 A Yes.

5 Q From 1945 to 1968, were your children given Government
6 medical benefits?

7 A Yes. But we had problems all along that time.

8 Q And during those years, did you ever try to get a census
9 number for them?

10 A No, we didn't.

11 Q Subsequent, after the time that you got the census number,
12 have your children been denied any kind of health benefits?

13 A After the year 1968? After they've received their census
14 number?

15 Q Yes, ma'am.

16 A Not that I know of.

17 Q Not that you know of. And that applies to all of your
18 children?

19 A Yes.

20 Q Now, you, personally, have never had a problem with
21 medical benefits, is that correct?

22 A For myself?

23 Q Yes, ma'am.

24 A No.

25 Q Has your husband ever had, as far as you know, for himself?

- 1 A Not that I know of it.
- 2 Q Have your children participated in all school activities
3 on the Pueblo?
- 4 A Some of it.
- 5 Q Have they gone through the day school there on the Pueblo?
- 6 A Yes, they do.
- 7 Q Have they been entitled to hot lunches, for example?
- 8 A Right now, they do.
- 9 Q Were they ever denied that?
- 10 A Yes, before.
- 11 Q When?
- 12 A Before.
- 13 Q When was that?
- 14 A In Espanola at the public school.
- 15 Q At the public school. Okay. The Pueblo doesn't run the
16 public school, is that your understanding?
- 17 A Yes.
- 18 Q When you had that problem, did Governor Paul Tafoya go
19 with you to straighten that out?
- 20 A Not with me.
- 21 Q Did he go with some members of your family?
- 22 A With my husband.
- 23 Q And they straightened out the problem with Espanola.
24 Speaking about the Governor, has he done anything to try
25 to help you in all of your problems, personally?

- 1 A Yes, in some of them.
- 2 Q I'm sorry?
- 3 A Yes.
- 4 Q He has tried to help you?
- 5 A Yes.
- 6 Q He gave you permission to see outside people?
- 7 A Yes.
- 8 Q He gave you permission to go before the Council?
- 9 A Yes.
- 10 Q He has never turned you down, personally, on any request
- 11 that you made?
- 12 A Not that I know of.
- 13 Q That you know of. Thank you. Did your children also
- 14 get -- where did your children go to school, Mrs. Martinez?
- 15 A They first started from the day school.
- 16 Q And that is on the Pueblo?
- 17 A From there on, they go to the public school.
- 18 Q While they are in the day school, do they get any other
- 19 benefits as a result of attending school there?
- 20 A At times, they come home to lunch. Now, they have free
- 21 lunch over there.
- 22 Q Have they gotten a free lunch as long as --
- 23 A Right now?
- 24 Q Since it has been available, have they been able to get
- 25 it?

- 1 A At this time, yes.
- 2 Q They were never denied the free lunch, were they?
- 3 A They never did have it before; just recently, they have
- 4 this.
- 5 Q How about books?
- 6 A Yes.
- 7 Q Do they get free books?
- 8 A Yes.
- 9 Q Free gymnasium, tennis shoes, this type of thing?
- 10 A At the public school, we had a problem before 1968.
- 11 Q At the public school in Espanola?
- 12 A Yes.
- 13 Q Of course, the Pueblo has nothing to do with that, is that
- 14 correct, as far as you know?
- 15 A Yes.
- 16 Q The Governor has nothing to do with that?
- 17 A We go in to help us, to see if he can do anything to help
- 18 us.
- 19 Q But he did just that when you called upon him?
- 20 A (Nods head in the affirmative.)
- 21 Q You still have children attending schools at the Pueblo
- 22 today?
- 23 A Yes. I have one 7-year-old son attending the day school
- 24 at this time.
- 25 Q Is your older daughter, Audrey, still in school?

- 1 A No, not right now.
- 2 Q Did she attend the day school at the Pueblo?
- 3 A Yes.
- 4 Q After that, did she attend the public school in Espanola?
- 5 A Yes.
- 6 Q After that, did she attend the University of New Mexico?
- 7 A Yes.
- 8 Q Do you know of your own knowledge whether she had Federal
- 9 grants that would have permitted her to go to the Univer-
- 10 sity?
- 11 A At this time, when she was ready to go to the University
- 12 of Albuquerque, I received a letter from the BIA, Bureau
- 13 of Indian Affairs, saying that my daughter's college
- 14 grant wasn't approved. A letter directly came to us.
- 15 Q And who was supposed to approve that, if you know?
- 16 A I don't know that part.
- 17 Q Was the Governor supposed to approve it?
- 18 A At that time, I was never called to any meetings, and I
- 19 never knew how the pursuit of that comes. So, at that
- 20 time, at this one night, myself and a few other ladies
- 21 went to the Pueblo to see Marty Vigil, now deceased, about
- 22 this enrollment.
- 23 There, I presented my letter to him about Audrey
- 24 Martinez not being approved in the grant. He helped me
- 25 on that.

1 The following two, three days, I received the approval
2 of that letter for the BIA again.

3 Q The letter was from the BIA approving the grant?

4 A Yes.

5 Q Can you tell us what privileges your children have been
6 denied, if any, on the Pueblo by the Governor?

7 A Right now?

8 Q Any time.

9 A Right now, as far as I know, no, they are not.

10 Q Have you, personally, been denied any privilege by the
11 Governor of the Pueblo itself?

12 A At this one time, we were going to the canyon, below the
13 dirt road; there was this man standing there, Jose Padilla,
14 who stopped us. We were going up there to picnic.

15 He stopped us on that road, saying we could not go
16 up there because my husband wasn't a member of Santa Clara.
17 So we turned back from there.

18 Q What year was that?

19 A It was -- I don't know the date of the year. But at the
20 time, my mother was still alive.

21 Q Would that be twenty years ago?

22 A And my son was two or four months old at the time.

23 Q So that would be closer to --

24 A It's quite a while back.

25 Q Thirty some years? Over thirty years?

- 1 A Yes.
- 2 Q And you don't know why they turned you back?
- 3 A No, but only he said that my husband wasn't a member of
4 the tribe.
- 5 Q Now, since then, you had the opportunity to get all the
6 privileges, including firewood, housing, hunting, fishing,
7 the canyon, everything, is that correct?
- 8 A Yes, right now, I do. But, at that time, if they tell my
9 husband not to get wood or not to use the water, it will
10 be just like denying my rights.
- 11 Q So he didn't do it?
- 12 A No.
- 13 Q At any time?
- 14 A No.
- 15 Q They let you have your rights, your children have had
16 these rights, and your husband, for whatever reason, has
17 also had them?
- 18 A At the time.
- 19 Q You have been on the Pueblo all of your life, right?
- 20 A Except the time when I was off to school.
- 21 Q And how long was that?
- 22 A Six years of my time.
- 23 Q And you are presently approximately 53 years old?
- 24 A Over my fifties.
- 25 Q I shouldn't ask that kind of question. I apologize.

1 Before you got married, were you aware of any rule
2 or anything that said if you married an outsider, your
3 children would not be enrolled?

4 A Yes.

5 Q You were aware of that. Did your parents tell you?

6 A No. My parents didn't tell me, because my father and
7 mother were separated and none of that came out of them.

8 Q Who did tell you?

9 A One of my uncles.

10 Q Do you recall, more or less, what he told you?

11 A He told us that there was a paper made that stopped the
12 enrolling of our children if we were married an outsider.

13 Q Did you see the paper?

14 A No.

15 Q Did you ask anyone to see the paper?

16 A No.

17 Q But you went ahead and got married?

18 A Yes.

19 Q Now, in your Complaint, you stated that you are denied
20 equal protection of the laws because of -- basically
21 because of that rule.

22 Do you know of any exceptions to that rule where
23 someone like yourself has had their children enrolled?

24 A I don't quite understand that.

25 Q Okay. Do you know any ladies like you that married

1 outsiders that have children and that their children are
2 enrolled members of the Santa Clara Pueblo?

3 A Please repeat the question.

4 Q Okay. You were told that if you married an outsider, your
5 children would not be enrolled, right?

6 A Yes.

7 Q And that is -- assume that that is the rule, that is the
8 rule that they told you applied, is that correct?

9 A Yes.

10 Q Now, do you know any ladies that married outsiders and
11 had children after 1939 where they were allowed to enroll
12 their children?

13 A That, I don't know.

14 Q You don't know any?

15 A No.

16 Q Do you know who owns the actual land in Santa Clara?

17 A No, I don't.

18 Q Does the Pueblo own all of the land? Is that your
19 understanding of it?

20 A I really don't.

21 Q You don't. Is your representative -- you have been talking
22 about your representative. Is that your religious
23 representative or is he strictly your political representa-
24 tive?

25 A My understanding of the Constitution, it calls for a

1 representative to represent your parties, like the Winter
2 People side and the Summer People side.

3 Q Yes, ma'am. I understand that. But as far as you know,
4 if you know, is this representative also your religious
5 representative or is he strictly political to take care
6 of these other problems?

7 A That, I don't know.

8 Q You don't know. Mrs. Martinez, earlier, in answering one
9 of Mr. Taradash's questions, you mentioned a Treva Talk.
10 Would you tell us again who she is and what you said about
11 her?

12 A What was the question?

13 Q What you said earlier about Treva Talk. Who is Treva
14 Talk?

15 A Treva Talk is now deceased, is the daughter of Mrs.
16 Lillian Sisneros, married to a man from Santa Clara, Tito
17 Sisneros.

18 Q She married a Santa Clara man?

19 A Tito Sisneros is from Santa Clara and married to Treva
20 Talk's mother, Mrs. Lillian Sisneros, now deceased, too.

21 Q I'm sorry. I'm going to have to ask you to repeat that.
22 Treva Talk -- go ahead and tell me again. I didn't
23 understand.

24 A Treva Talk's mother is Mrs. Lillian Sisneros, married to
25 Mr. Tito Sisneros of Santa Clara.

1 Q Okay. So Treva then is a member of the Santa Clara tribe,
2 is that right?

3 A Treva, yes. Treva.

4 Q How about Edith Padilla, what did you say about her?

5 A She is also -- she is a sister to Treva Talk, also have
6 the same mother, Mrs. Lillian Sisneros, married now to a
7 man from Santa Clara.

8 Q Edith is married to a Santa Clara?

9 A Yes.

10 Q And her mother was married to a Santa Clara?

11 A Yes.

12 Q Mr. Taradash, in asking you a while ago, used the word
13 a while ago, "Somebody waved a paper in front of you."
14 That was a paper having to do with enrollment.

15 First of all, did they wave it in front of you, Mrs.
16 Martinez?

17 A At the general meeting.

18 Q Did they wave it?

19 A Yes.

20 Q That was his name for it. But you are saying they did
21 wave it in front of you?

22 A Yes.

23 Q Did you ask them to let you see it?

24 A What was the question?

25 Q Did you ask them if you could see the paper?

1 A No.
2 Q You did not. When you finally got your census numbers for
3 your children, it was all done through the BIA, is that
4 right?

5 A That's where the census number came in, through the mail.

6 Q Mrs. Martinez, do you know of your own knowledge when a
7 Santa Clara girl marries a man that is not from Santa
8 Clara, where do they normally live?

9 A Most of them that I see right now, they're living in Santa
10 Clara.

11 Q Most of them live there?

12 A Yes.

13 THE COURT: How much more examination do you have,
14 Mr. Prelo?

15 MR. PRELO: I'm sorry, Your Honor.

16 THE COURT: How much more examination do you have?

17 MR. PRELO: I think perhaps ten or fifteen minutes,
18 maybe.

19 THE COURT: Fine. Let's take a recess until then.

20 (Whereupon, at 10:50 o'clock A.M., Court stood in
21 recess; and at 11:03 o'clock A.M., the following
22 proceedings were held in open Court.)

23 THE COURT: Mrs. Martinez.

24 (Witness resumes the witness stand.)

25 Q (By Mr. Prelo) Mrs. Martinez, after the meeting in 1968,

1 sometime before that date, have you seen that paper that
2 we have been talking about, the one that says your children
3 could not be enrolled? Have you ever seen it today?

4 A Yes, today.

5 Q You have seen it?

6 A Yes, I have.

7 Q Have you read it?

8 A Yes.

9 Q Do you know of anybody, Mrs. Martinez, that has been
10 naturalized by the Santa Clara Pueblo since you can
11 remember?

12 A You mean around the thirties or fourties, anytime?

13 Q Anytime as far back as you can remember, yes.

14 A Yes.

15 Q Would you tell us who those parties are?

16 A There's Lawrence Singer, Lawrence Singer, Sr., Mr. Philip
17 Dasheno, now deceased, Mr. David Tallman, also now deceased
18 Mr. Paul Tsosie, now deceased, and Mr. Abeyta and Mr.
19 Shupla.

20 Q Do you know when these people were naturalized?

21 A No, I don't know.

22 Q Was it before 1939?

23 A All I know is before they ever had this Ordinance.

24 Q It was before the Ordinance. You don't know of anybody
25 that was naturalized during the time that Mr. Martinez

1 was asking for naturalization, do you know?

2 A Not that I know of it.

3 Q Did anyone ever tell you that your children had to be
4 enrolled members of the Santa Clara Pueblo to get a census
5 number?

6 A Repeat the question.

7 Q Did anyone ever tell you that your children, in order to
8 get a census number, must be enrolled members of the Santa
9 Clara Pueblo?

10 A All I know is they have to have a census number so they
11 can be verified by what the Government, Federal Government's
12 benefits is to the Indians.

13 Q That's not what I asked, Mrs. Martinez. But let me ask you
14 this way.

15 Do you know what the BIA requires before they will
16 give a census number?

17 A Yes.

18 Q Would you tell us what that is? Is it one-fourth Indian
19 blood?

20 A That's right. You have to be -- have to be recognized a
21 fourth blood Indian to get the benefit of Federal grant
22 or --

23 Q And that's all, is it not? They don't have to be members
24 of a given tribe?

25 A That's my understanding.

1 Q So the fact that your children are not enrolled members of
2 Santa Clara did not prohibit them from getting medical
3 service, is that right?

4 A Still, we did have problems on that.

5 Q But it wasn't because --

6 A Even if it takes a fourth.

7 Q I'm sorry?

8 A Even if it did take a fourth blood Indian to be, still,
9 we did have problems.

10 Q But the problem was just with BIA officials in getting
11 the right paperwork and documentation, is that correct?

12 A I don't understand that question correct.

13 Q I say, your problem was not getting the right paperwork
14 from the BIA, convincing BIA that they had one-quarter
15 Indian blood?

16 A Yes.

17 Q Is that right?

18 A Yes.

19 Q Do you know, Mrs. Martinez, do you consider yourself a
20 traditional person in the Santa Clara ways?

21 A Yes.

22 Q You do? Do you know what the traditions are?

23 A No.

24 Q You don't. Were you raised in the tradition, do you
25 think?

- 1 A I was brought up.
- 2 Q In the tradition of the Santa Clara Pueblo?
- 3 A Yes.
- 4 Q Do you know what the tradition is about women following
5 their husbands wherever they married? You don't know
6 anything about that?
- 7 A No.
- 8 Q Other than the paper your uncle told you about, that's the
9 only thing you know about that?
- 10 A Yes.
- 11 Q Did your uncle give you any other explanation about the
12 paper at all?
- 13 A No.
- 14 Q Do you have any married children?
- 15 A My oldest son.
- 16 Q And where does he reside?
- 17 A In Santa Clara at the present time.
- 18 Q In Santa Clara?
- 19 A Yes.
- 20 Q Where is his wife from?
- 21 A She's also a Navajo from Counselor.
- 22 Q Thank you. Were any of your children ever employed by the
23 Santa Clara Pueblo or any of its officers?
- 24 A Could you repeat the question.
- 25 Q Were any of your children employed either by the Santa

1 Clara Pueblo or by any of its officers, any of its branches

2 A Yes.

3 Q Would you tell us what that was, if you remember?

4 A I don't remember.

5 Q And you stated that if you had cattle, you don't know
6 whether you could graze them if you had them?

7 A No.

8 Q Do you know what the laws of inheritance are? Can your
9 children inherit your property?

10 A If they are members of the tribe.

11 Q They can inherit your real property, the land?

12 A A personal inheritance of mine.

13 Q Do you know the distinction, Mrs. Martinez, between
14 personal property and real property?

15 A What my understanding, my knowledge, is in the homes of
16 what I have, what I have.

17 Q If I tell you that land is real property and that personal
18 property is all of your other things, do you know whether
19 your children could inherit your personal property regard-
20 less of membership?

21 A I don't know.

22 Q Do you know whether or not, Mrs. Martinez, there is a
23 natural enrollment list of Santa Clara Pueblo?

24 A No.

25 Q Have you ever seen such a document?

- 1 A No.
- 2 Q Do you know whether or not enrollment is partly religious?
- 3 A No, I don't.
- 4 Q You don't know. Were you ever read that Ordinance by
5 Governor Paul Tafoya?
- 6 A Yes.
- 7 Q When was that?
- 8 A At the time it was sent. I can't remember which one it
9 was sent, from the Area Director to us, whether the
10 Ordinance or the Resolution, one of them was sent through
11 them.

12 MR. PRELO: I think that's all I have, Your Honor.

13 THE COURT: Mr. Taradash.

14 MR. TARADASH: We have no further questions, Your
15 Honor.

16 THE COURT: You may step down, Mrs. Martinez.

17 (Witness excused.)

18 MR. COLLINS: We will call Plaintiff Audrey Martinez,
19 please.

20 (Witness sworn by Court Clerk.)

21 AUDREY LaROSE MARTINEZ,

22 having been first duly sworn according to law, upon her oath
23 testified as follows:

24 DIRECT EXAMINATION

25 BY MR. TARADASH: