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35: Myles Martinez-Cross and Redirect

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

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CROSS EXAMINATION

1

2 BY MR. PRELO:

3 Q Mr. Martinez, how old were you when you married Mrs.

4 Martinez?

5 A I was 24 years old.

6 Q Where had you lived prior to marrying her?

7 A I was working in Santa Fe and lived there at the time.

8 Q Where were you born, sir?

9 A In Tohatchi, New Mexico.

10 Q And is that Navajo country?

11 A Yes.

12 Q How long had you lived there?

13 A I lived there up to the time in 1937.

14 Q So you were born about 20 -- when were you born?

15 A January 18, 1918.

16 Q Were you given a census number from the Navajo Tribe
17 upon birth?

18 A Yes.

19 Q And you still carry that census number?

20 A Yes.

21 Q Do you know that number?

22 A Yes.

23 Q What is it?

24 A 43811.

25 Q Does that census number entitle you to all benefits on

1 the Navajo Reservation?

2 A Yes.

3 Q Are your children, if you so desired, entitled to the
4 benefits of the Navajo Reservation?

5 A No, because they're not registered there.

6 Q But could you register them, if you wished?

7 A Yes, if I wished, I would.

8 Q There would be no problem in doing that?

9 A I haven't made any attempts yet.

10 Q Do your children understand Navajo?

11 A No, they don't.

12 Q None of them?

13 A None.

14 Q You talked about Governor Paul Tafoya on several occasions.

15 Did he ever do anything other than try to help you with
16 your problems?

17 A He was trying to help us in a way, in all our times.

18 Q He honored your request to go before the Council, for
19 example?

20 A Yes.

21 Q And he would talk to you every time you went to him?

22 A Yes. He honored us.

23 Q So is it a fair statement, Mr. Martinez, that, individually,
24 Paul Tafoya tried to help you?

25 A Yes.

1 Q Now, you have testified that one of your daughters was ill
2 and couldn't get assistance.

3 Did she require membership in the Santa Clara Pueblo
4 to get assistance?

5 I'm talking now about medical facilities, the health
6 facilities.

7 A No. There was -- the only way that she could get free
8 medical was, there was two solicitors that came from
9 Washington that helped us obtain her census number.

10 Q It was not a requirement of the BIA, though, Public
11 Health Service, that she be a Santa Clara member, was it?

12 A Would you repeat the question.

13 Q It was not necessary for her to be a member of the Santa
14 Clara Pueblo to get health and medical assistance?

15 A Well, we found out that in order to get a free schooling
16 and medical benefits, the child has to have a census
17 number and must be a member of a recognized tribe.

18 Q Are you sure that they have to be a member of a recognized
19 tribe?

20 A That's what they told us.

21 Q Let me ask you this: Does all your family now have census
22 numbers?

23 A Yes, they do.

24 Q Are they all entitled to medical and health and educational
25 benefits?

1 A Yes.

2 Q Are they members of a recognized tribe?

3 A No.

4 Q So that wouldn't be true, that that is necessary, would
5 it?

6 A Well, the way that we worked it out, it is true.

7 Q Isn't it true, Mr. Martinez, that BIA is the proper -- and
8 when I say "BIA," I am talking about the Bureau of Indian
9 Affairs, about every department, is a proper source for
10 certifying an Indian for health, education, medical
11 benefits?

12 MR. COLLINS: We object. That calls for a legal
13 conclusion, Your Honor. It is not competent for him to
14 answer.

15 THE COURT: He may testify as to his experience.

16 Q (By Mr. Prelo) Do you know -- who finally -- let me ask
17 it this way.

18 Who finally got, for you, for your family, the census
19 number?

20 A When the solicitors were in Washington, these solicitors
21 were there to meet with the All Pueblo Council, to explain
22 the Civil Rights Bill to them.

23 Francis Acoya set up the meeting for us, the meeting
24 with the solicitors after the regular meeting.

25 While we were waiting there, waiting, I was in the

1 place where they were having a meeting, and my wife was
2 sitting outside. She said that Paul Tafoya, Robert Naranjo,
3 Superintendent Bob Freeman, and Francis Acoya, she had a
4 meeting and decided that, outside, outside the meeting,
5 in a different room.

6 So while I was sitting in the meeting, Bob Freeman
7 approached me. He told me, he said, "Mr. Martinez, you'd
8 better go down to the Agency and get the census number
9 for your children."

10 So, but, I told him that, "I'm going to wait." I
11 said, we got -- I said, "We are scheduled to meet with the
12 solicitors after the meeting."

13 So in that way, I guess the BIA is the one, probably.
14 We don't know what happened. But that is the way we got
15 our census number.

16 Q The Santa Clara Pueblo Council didn't get your census
17 number, though, correct?

18 A Not the Council. The Council was not present.

19 Q It was the BIA that got it for you?

20 A We don't know.

21 Q When you asked to have your children enrolled, why were
22 you told that they could not be enrolled?

23 A We were told that there was too many outside Indians
24 getting married and, also, non-Indians getting married to
25 the Pueblo, so in those meetings, the subject is always

1 focused on the non-Indians, the women that are married to
2 non-Indians. They were afraid that, in time, that they
3 would take control of the Council and, also, their land.

4 Q And who told you that, Mr. Martinez?

5 A There was several Councilmans at these committees.

6 Q Do you know any of the names of any of the spokesmen
7 that said exactly what you stated?

8 A There was John Shiji, Lawrence Singer and several others,
9 but I don't remember.

10 Q And when was this that you were told this?

11 A We were told in practically all the meetings that we had
12 with the Council.

13 Q Were you ever told of the 1939 Ordinance prohibiting
14 enrolling of children?

15 A Yes, we were told that.

16 Q By whom?

17 A By the Council.

18 Q As I understand it now, all of your children are getting
19 medical benefits from the Federal Government, is that
20 correct?

21 A Yes, they are.

22 Q All of your children are of school age, are getting school
23 benefits?

24 A Yes, they do.

25 Q Do they get hot lunches at school?

- 1 A Yes, they do.
- 2 Q Do they get gym equipment for classes sometimes?
- 3 A Yes, they do, now.
- 4 Q Does your older daughter get a Federal grant to attend
5 college at the University of New Mexico?
- 6 A Yes, she did, after much difficulty, obtained a grant.
- 7 Q But she does have this now?
- 8 A Yes.
- 9 Q You stated, I believe, also, that you, personally, and
10 your family are entitled to all the benefits of the Pueblo,
11 is that correct?
- 12 A Yes.
- 13 Q That is, hunting, fishing, irrigation water, picnicking in
14 the Santa Clara Canyon?
- 15 A Yes.
- 16 Q Police protection?
- 17 A Yes.
- 18 Q The same as everybody else gets?
- 19 A Yes.
- 20 Q You stated, Mr. Martinez, that you went before the Council,
21 also, and asked to be naturalized.
- 22 Do you remember the exact date with reference to
23 naturalization only?
- 24 A I don't remember the exact date. That happened in 1965.
- 25 Q I'm sorry?

1 A That happened in 1965.

2 Q 1965. And I gather you were told that, ultimately, that
3 you could not be naturalized?

4 A No, we were never told that. They said they would try to
5 work on it, try to work out the problem.

6 Q The problem of naturalization or the problem of enrolling
7 your children?

8 A Naturalization, because if I was naturalized, I was told
9 the children would come in automatically.

10 Q All right, sir. But you were assured that they'd work on
11 the problem of enrollment as opposed to the problem of
12 naturalization?

13 A No. They said naturalization.

14 Q Let me ask you this, Mr. Martinez: Do you know of anyone
15 that has been naturalized to the Santa Clara Pueblo in the
16 last -- since you have been there?

17 A No, not after I got married.

18 Q And that was in 1941?

19 A Yes.

20 Q To the best of your knowledge, no one has been naturalized
21 from that point forward?

22 A No, no.

23 Q When you married Mrs. Martinez, I think you testified that
24 the reason you stayed at Santa Clara was because her mother
25 was ill, quite ill?

1 A She wasn't quite ill. She was all right, but she was
2 paralyzed. She had difficulty in walking and, also, she
3 had one arm that was partially paralyzed.

4 Q And that was the main reason you stayed at Santa Clara?

5 A Yes, because there was nobody to take care of her.

6 Q Normally, would you have taken Mrs. Martinez to the Navajo
7 country?

8 A I don't know. At that time, I was young. What I could
9 have decided, I couldn't know. I wouldn't know.

10 Q Going back to your school problem, didn't Mr. or Governor
11 Tafoya at one time actually go with your family to the
12 Espanola schools and iron out a problem you had?

13 A Yes, he did.

14 Q He, personally, did that, didn't he?

15 A Yes, he did.

16 Q Do you know of your own knowledge, Mr. Martinez, whether
17 or not the Santa Clara Pueblo Council has been working on
18 a membership, on what we will call the membership problem?

19 A I don't think they ever really worked on it.

20 Q You don't think they have?

21 A No, I don't think they have.

22 Q Did you state, Mr. Martinez, that on one occasion, you
23 went to see the Governor, Juan Chavarria?

24 A Yes.

25 Q That was in 1971?

- 1 A Yes.
- 2 Q And could you be mistaken as to that date?
- 3 A I could be mistaken. The following year that Paul served,
4 the second term, or --
- 5 Q So if I told you that Governor Chavarria wasn't Governor
6 in '71, you wouldn't disagree with that?
- 7 A Whatever it was, when he was the Governor.
- 8 MR. PRELO: Could I have a moment, Your Honor?
- 9 THE COURT: Yes.
- 10 Q (By Mr. Prelo) Mr. Martinez, you presently live on the
11 Pueblo, is that correct?
- 12 A Yes.
- 13 Q And your children, how many of your children still reside
14 on the Pueblo?
- 15 A All of them, all except one is in school in Denver and
16 one living in Albuquerque. He's working there.
- 17 Q And all of your children, I gather, without exception,
18 are given all of the privileges and rights we have been
19 talking about?
- 20 A All except being membership -- being in the membership.
- 21 Q Being enrolled, what we call an enrolled member?
- 22 A Yes.
- 23 Q Have some of your children actually worked for the Pueblo?
- 24 A None of them are working for the Pueblo now.
- 25 Q Have they worked for CAP?

1 A Just during the summer.

2 Q Just during the summer on the Pueblo?

3 A That's been several years back. But since then, they
4 haven't worked on any program.

5 MR. PRELO: I have no further questions.

6 THE COURT: Redirect?

7 MR. TARADASH: We have just a few questions, Your
8 Honor.

9 THE COURT: All right. Redirect.

10 REDIRECT EXAMINATION

11 BY MR. TARADASH:

12 Q Mr. Martinez, you were asked whether your children had
13 to be from -- rather, you were asked whether your children
14 had to be members of an Indian tribe in order to receive
15 their census numbers and you were talking, in particular,
16 about the time in 1968 when you were trying to get answers
17 for your daughter who was ill.

18 Were you told that your children had to be from an
19 Indian tribe?

20 A I heard that we were told -- when we attempted to get
21 college grants or this, just school and hospitalization,
22 we were told that.

23 Q Who was it that told you that, do you remember?

24 A It was Commissioner Lincoln. He was one of them in
25 Albuquerque. He said something to do with college grants.

1 Q Who did he work with at that time?

2 A He was working under Miss Brenton.

3 Q Was that with the Pueblo or the BIA or --

4 A No. That's for the BIA. And, also, the time we made a
5 trip in to Gallup, it was a Mr. Young that we talked to.
6 He told us the same thing. I think the child has to have
7 a census number to be eligible to get Federal benefits.

8 Q Was he also with the BIA?

9 A Yes.

10 Q Mr. Martinez, you stated that neither you nor your children
11 are members of the Santa Clara Pueblo, but you also stated
12 that they enjoy all the privileges of the Pueblo with the
13 exception of not being members.

14 As non-members, can you own a piece of land at the
15 Pueblo?

16 A No.

17 Q Can you run cattle at the Pueblo?

18 A No.

19 Q Can you vote in Pueblo elections?

20 A No.

21 Q And as a non-member, can you hold office in the Pueblo
22 Government?

23 A No.

24 Q Do you know if the Santa Clara Pueblo leases any of their
25 land to people who are not even residing on the Pueblo and

1 they are not members of the Pueblo?

2 A Yes.

3 Q What purpose do they lease the land for, do you know?

4 A Since some of them have stores on these leases,

5 Q And do they lease land for any other purposes, like for
6 farming or running cattle or anything like that?

7 A Yes, they do.

8 Q For what other purpose?

9 A They use it for grazing and that's only the east section,
10 east part of the Pueblo.

11 Q But you, as a non-member, are not allowed, is that correct
12 to run your own cattle?

13 A I wouldn't know. I don't have no cattle.

14 Q My question is, though, as a non-member, you stated that
15 you are not a member, if you wanted to run your own cattle
16 could you do so as a member?

17 A I wouldn't know.

18 MR. TARADASH: No further questions, Your Honor.

19 THE COURT: You may step down, Mr. Martinez.

20 (Witness excused.)

21 MR. COLLINS: Plaintiffs call Mrs. Julia Martinez
22 to the stand.

23 (Witness sworn by Court Clerk.)

24 JULIA MARTINEZ,

25 having been first duly sworn according to law, upon her oath