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Santa Clara Pueblo v. Martinez (1978) Trial  
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U.S. District Court for the District of New Mexico

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DIRECT EXAMINATION

BY MR. COLLINS:

Q Mr. Gutierrez, would you state your name for the record, please, sir?

A Patrick Gutierrez.

Q And where do you live and how old are you?

A 70.

Q Where is your home, sir?

A Santa Clara Pueblo.

Q Are you a member of the Pueblo?

A Yes, sir.

Q Have you ever held office in the Pueblo?

A Yes.

Q Have you been Governor of the Pueblo?

A Yes, for a while.

Q About how many times?

A About five times.

Q Do you have a daughter by the name of Barbara?

A Yes.

Q And is Barbara married?

A Yes.

Q Does she have children?

A Yes.

Q Does she have a daughter named Anita Mae?

A What?

- 1 Q Does she have a daughter named Anita Mae?
- 2 A Yes.
- 3 Q Is her husband a member of the Santa Clara Pueblo?
- 4 A No, sir.
- 5 Q Is he Indian?
- 6 A No.
- 7 Q Is Anita Mae enrolled in the Pueblo?
- 8 A Yes, sir.
- 9 Q Why is that, sir?
- 10 A Why?
- 11 Q Yes.
- 12 A Because she was born before her mother was married.
- 13 Q She was born before the marriage; is that right?
- 14 A Yes.
- 15 Q Now, do you recall being asked about these matters in
- 16 your deposition a few months ago?
- 17 A Yes.
- 18 Q At that time your attorney introduced this girl's birth
- 19 certificate into evidence. Do you remember that?
- 20 A Yes, sir.
- 21 Q Is that the birth certificate that was introduced into
- 22 evidence (indicating)?
- 23 A That's right.
- 24 Q And a marriage certificate was introduced as well; is that
- 25 right?

1 A The marriage license and the birth certificate.

2 Q Oh, they are both on here?

3 A Yes, should be both of them.

4 Q I see what you mean, yes.

5 MR. PRELO: If the Court please, while he is doing  
6 that, I would like to lodge an objection in that it was  
7 stipulated by counsel that this matter would not be gone  
8 into because it was understood that the child was born out  
9 of wedlock and that was stipulated, as I understood it,  
10 and if I am correct then for the record I would like to  
11 state that this was our understanding. We do not have the  
12 original birth certificates with us or anything of that  
13 nature, as we were led to believe that this would not be  
14 made an issue in this case.

15 MR. COLLINS: Is there any problem with this copy?  
16 I don't think there is. I'm not contesting the accuracy  
17 of the information on here, I just think this is relevant  
18 evidence.

19 MR. PRELO: For the record, I was told that we would  
20 not go into this facet of the case at all.

21 MR. TARADASH: Could I respond to that, Your Honor?

22 THE COURT: Yes. I think that you have a --

23 MR. TARADASH: At the time we reached this agreement,  
24 what I had understood the agreement to be is that we were  
25 not going to go into the issue of whether illegitimate

1 children were taken into the Pueblo, and it's my  
2 understanding that the reason we are going into this  
3 now is not the same, in that we are seeking to establish  
4 this for other reasons.

5 MR. COLLINS: That's right, Your Honor.

6 MR. PRELO: If the Court please, as I understand it,  
7 and I discussed this with Mr. Taradash, in their original  
8 Complaint they alleged that relatives of the Governors,  
9 et cetera, received preferential treatment. I was told  
10 that this allegation was dropped and it would not be  
11 made a part of this case.

12 MR. COLLINS: Your Honor, their witnesses testified  
13 extensively on this very question, and, besides, the  
14 relevance of this has nothing to do with that question.  
15 The relevance has to do with the membership policy that's  
16 at issue here today. I think that will become apparent  
17 in a moment. I'm not going to ask him any more questions  
18 about ---

19 THE COURT: I'll let you go ahead, Mr. Collins.  
20 This is what results from one attorney trying the case  
21 and the other attorney preparing it and entering into  
22 negotiations and things of that kind. It's a lot better  
23 for one counsel to handle it all the way through.

24 I can understand that there might be some problem  
25 involved here insofar as Mr. Gutierrez is concerned. He

1 doesn't appreciate having this matter gone into. As I  
2 have understood what has gone before here, this confirms  
3 the testimony that has been brought out previously.

4 MR. COLLINS: That's not the point of offering it,  
5 Your Honor, that's what I am -- you know, I don't want to  
6 talk about this --

7 THE COURT: What is the purpose, Mr. Collins?

8 MR. COLLINS: I think one more question will show it,  
9 Your Honor.

10 THE COURT: All right, sir. Go ahead.

11 Q (By Mr. Collins) Mr. Gutierrez, that birth certificate  
12 has a place on it that says father of child, does it not?  
13 Does the birth certificate give the name of a man as the  
14 father of the child, sir?

15 A After she was married, she adopted --

16 Q But that's the birth certificate made at the time of  
17 birth, is it not?

18 A Yes.

19 Q And it gives the name of the father, is that right?

20 A Yes.

21 Q Is that the man who is her husband at the present time,  
22 the same man that's on that birth certificate?

23 A His name here?

24 Q Yes.

25 A Yes.

1 Q Thank you.

2 MR. COLLINS: Your Honor, we offer this in evidence  
3 for the point that --

4 THE COURT: Let me see it, Mr. Collins.

5 Gentlemen, I might call your attention to the fact  
6 that this has been the situation within the State of New  
7 Mexico over a period of time where a child was born out  
8 of wedlock and was subsequently adopted by someone else,  
9 to make the birth certificate appear as having been  
10 effective as the date of birth, so that the child, insofar  
11 as the record was concerned, was a legitimate issue. I'd  
12 like to call that to the attention of both of you. I  
13 think you should recognize that fact and understand it.

14 MR. COLLINS: Is the Court --

15 THE COURT: Without anything appearing on the birth  
16 certificate to reflect anything to the contrary.

17 MR. COLLINS: Is the item admitted or not?

18 THE COURT: I'm going to admit it, but I'm certainly  
19 going to view it with caution.

20 MR. COLLINS: I understand, Your Honor, and I think  
21 that's proper, I'm not questioning that.

22 (Whereupon, Plaintiff's Exhibit Number 3 was offered  
23 and admitted into evidence.)

24 Q (By Mr. Collins) Mr. Gutierrez, do you have a son named  
25 Danny?

1 A Yes, sir.

2 Q What last name does he use? Is it Danny Gutierrez?

3 A Right.

4 Q And where does he live, sir?

5 A He's working in California.

6 Q And is his wife a member of the Santa Clara Pueblo?

7 A No.

8 Q Does he have any children?

9 A One.

10 Q And is that child a member of the Pueblo?

11 A Yes.

12 Q Sir, what was your understanding of the reasons why the  
13 Ordinance of 1939 was passed?

14 A Which one?

15 Q Well, there has been a lot of talk the last two days  
16 about the Membership Ordinance of 1939.

17 A Why it was passed?

18 Q Yes.

19 A Well, for the reason that was at the time the Council  
20 thought the matter over and felt that there were too many  
21 people coming in due to the fact that we haven't gotten  
22 enough money to support all the people. For that reason,  
23 we had to draw a line.

24 Q And what is your understanding of the reasons why the  
25 Constitution was adopted in 1935?

1 A Well, the Constitution was adopted for the best interest  
2 of the Pueblo and the people. For example, to look into  
3 any interests, common welfare, of every individual, that  
4 is 18 years old, has the right to vote, and that's about  
5 all I wanted to point out.

6 Q Well, when the Constitution was adopted, did that change  
7 things just a little bit or a great deal? Was that a big  
8 change or a small change, in your opinion?

9 A This new deal?

10 Q The Constitution of 1935.

11 A Yes.

12 Q Which one, sir?

13 A The Constitution.

14 Q Was that a major change or just a little change?

15 A It was a major change.

16 Q Were you on the Tribal Council in 1939?

17 A Yes, sir.

18 Q Is your signature on the Ordinance of 1939?

19 A Yes.

20 Q Thank you.

21 MR. COLLINS: No further questions.

22 CROSS-EXAMINATION

23 BY MR. PRELO:

24 Q Mr. Gutierrez, did Barbara live in your home when she had  
25 Anita Mae?