
Santa Clara Pueblo v. Martinez (1978) Trial
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29: Plaintiffs Rest-Defendant's Motion to Dismiss

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

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1 THE COURT: You may step down.

2 (Witness excused.)

3 MR. COLLINS: Your Honor, we have no further witnesses.
4 I had meant to mention before we began the testimony, I
5 do not think it matters, but one unresolved issue that the
6 Complaint alleges is that both, each of the two plaintiffs,
7 represent a class.

8 There has been no proceeding to establish the class
9 because the evidence would be the same evidence as we are
10 hearing today, and that is why we hadn't established such
11 a proceeding before.

12 We are not asking for a ruling on that now, but I
13 wanted to call the Court's attention to the fact that that
14 is a pending issue.

15 MR. PRELO: If the Court please, we would, of course,
16 object to any such thing that was denied in our Answer,
17 and a proper way to establish a class action, proper notice
18 has to be given and so forth.

19 THE COURT: You gentlemen will both have an opportunity
20 to present this question later.

21 MR. COLLINS: I am not trying to argue it, really,
22 Your Honor. It is really to present the fact that it is
23 still at issue.

24 Plaintiffs rest, Your Honor.

25 THE COURT: All right. If you will, go ahead, Mr.

1 Prelo.

2 MR. PRELO: If the Court please, at this time, I
3 would like to move in behalf of Paul Tafoya, individually,
4 that his name be stricken as a defendant; that a judgment
5 be entered in his behalf, and as grounds would state that
6 there has been absolutely no evidence that he has done
7 anything, personally, but try to help the plaintiffs.

8 He has gone out of his way to help them. Each and
9 every one of them testified that he has done nothing to
10 hinder them, nothing to deny them equal protection, nothing
11 that would at all give us reason to keep him in the case.

12 Another reason that I would raise is this. With the
13 upcoming election in the Pueblo, in the event that he is
14 still in the case, individually, the new Governor would,
15 of necessity, have to be substituted if this case is either
16 appealed or continuing down the road, and I think it only
17 proper at this time, since there is no evidence to keep
18 him in the case, individually, that he should be dismissed,
19 individually.

20 Further, the 1968 Civil Rights Act provides that
21 no tribe shall deny equal protection. It is applicable
22 only to a tribe, to a body, not an individual person; so
23 we move that his name, the complaint as to Governor Paul
24 Tafoya, individually, be dismissed at this time.

25 THE COURT: It will be denied subject to renewal, Mr.

1 Prelo.

2 If you will, go ahead with your case.

3 MR. PRELO: Your Honor, in view of the hour, could we
4 ask -- well, maybe in view of the hour, we can go ahead.

5 THE COURT: Yes. We can go ahead with some testimony.

6 MR. GRODNER: Your Honor, I'd like to get my brief
7 opening statement in before the presentation of our case.

8 The defendants intend to prove that the Ordinance in
9 question here does not violate any of the rights of the
10 plaintiffs. It is merely, this Ordinance is merely a
11 written codification of preexisting membership rules that
12 have governed the membership practices of this Pueblo for
13 a long period of time.

14 The defendants will introduce evidence by the elders
15 of the tribe, by the Governor of the tribe and by an
16 expert in the field of anthropology that membership in the
17 Santa Clara Pueblo is very closely inter-related, integrated
18 with the religious practices of the Pueblo and, furthermore,
19 that the Santa Clara Pueblo is a patrilineal society.

20 These experts and witnesses would testify that
21 children are customarily taught their religious traditions,
22 customs, practices, and ideology of the male parent and
23 that a necessary result that would follow by allowing
24 children similarly situated to the plaintiffs to be allowed
25 as members of the tribe would cause a serious disruption

1 in the cultural and religious heritage that is so vital
2 to the tribe's very existence and that serves to hold this
3 tribe together through its surroundings and alienating
4 American society.

5 We intend to prove that the Pueblo has a compounding
6 interest in denying membership to children where the father
7 is not a member of the Santa Clara Pueblo and that this
8 interest is very existant in survival of the Pueblo.

9 THE COURT: All right.

10 MR. PRELO: We call Governor Paul Tafoya.

11 (Witness sworn by Court Clerk.)

12 PAUL TAFOYA,

13 having been first duly sworn according to law, upon his oath
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MR. PRELO:

17 Q State your name, please.

18 A My name is Paul Tafoya.

19 Q What is your address?

20 A My Post Office number is Box 580, Espanola, New Mexico.

21 This is the Santa Clara Pueblo mailing address.

22 Q What is your present occupation?

23 A I'm the Governor of the Santa Clara Pueblo Tribe.

24 Q And have you previously held this office?

25 A Yes, I have.