

IN THE PASCUA YAQUI COURT OF APPEALS

ADAM LEAL, SR.,)	Case No.: No. CA-03-007
Respondent/Appellant)	
v.)	ORDER
ROSE LEAL,)	
Petitioner/Appellee)	

Adam Leal, Appellant pro se, Tucson, Arizona.
Rose Leal, Appellee pro se, Tucson, Arizona.

The record shows that on September 22, 2003, the Tribal Court denied the Appellant's motion to quash an Order of Protection that been entered against him. The Appellant contested the Tribal Court's jurisdiction by claiming that the incident resulting in the order had happened off the Pascua Yaqui Tribe Reservation. The Appellant also attached a note admitting that he is an enrolled member of the Tribe, but his wife and children are not enrolled members. The Tribal Court found jurisdiction to issue the protection order because the Appellant is an enrolled member of the Tribe and is employed and resides on the Pascua Yaqui Tribe Reservation. *Leal v. Leal*, No. CV-03-114, Final Order (Sept. 22, 2003).

On September 29, 2003, the Appellant filed a notice of appeal with this Court and raised the same argument about the incident having taken place off the Pascua Yaqui Tribe Reservation: "The incident took place in City of Tucson[,] not on Reservation." Notice of Appeal. The Appellant

relies on a document entitled “Pascua Yaqui Tribal Court Filing Fee Scheduled [sic],” to argue that it contains the three factors that the trial court must find before asserting jurisdiction to issue a domestic violence protection order. The language that allegedly gives the three factors state as follows: “*Preliminary Injunction or Temporary Restraining Order (one party must be enrolled with PYT, reside on reservation, the incident must have taken place on reservation) [and] *Order of Protection (one party must be enrolled with PYT, reside on reservation and incident must have taken place on reservation” Filing Fee Schedule (effective June 1, 2003).

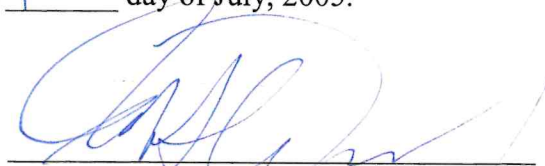
We deny and dismiss the Appellant’s notice of appeal because the Tribal Court has jurisdiction to issue the protection order. The language found in the Filing Fee Schedule (quoted above) is not the law. The laws that apply to the Appellant in this case state that the Tribal Court has jurisdiction when “at least one of the parties is a member of the Pascua Yaqui Tribe ... or when the parties consent to the jurisdiction of the Court.” 1 PYTC § 9.1(A) (Jurisdiction). The Appellant admitted that he is an enrolled member of the Pascua Yaqui Tribe, and although his spouse is not an enrolled member, she consented to the Tribal Court’s jurisdiction by filing the petition for a protection order against him. This section is enough to give the Tribal Court its jurisdiction to issue a protection order against the Appellant.

Moreover, subsection B has a list of factors that the Tribal Court can use to obtain personal jurisdiction over a party, but the list is not exclusive. 1 PYTC § 9.1(B) (Personal Jurisdiction). Included on the list are the three factors the Appellant relies on: “1. Presence, domicile or residence on the Reservation. 2. Membership in the Tribe. ... 8. Engaging in an act on the Reservation.” Also on the list are “3. Consent, ... including marriage to a tribal member” and “4. Appearance in Tribal Court” 1 PYTC § 9.1(B). Any factor, or a combination of factors listed at subsection B, gives

the Tribal Court personal jurisdiction, and in this case, factors 3 and 4 give the Tribal Court jurisdiction over the parties to this action.

Accordingly, we rule that the Tribal Court has jurisdiction over this action and over the parties. The protection order and any orders entered by the Tribal Court in this case are valid and enforceable. The notice of appeal is therefore denied and dismissed.

So ORDERED this 14 day of July, 2005.



Chief Justice

IN THE APPELLATE COURT OF THE YAQUI NATION

Appellant or Petitioner, Adam Leal JR

Vs.

Rose Leal
Appellee or Respondent.

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No. CA-03-007

SEP 23 PM 4:13

SECRET NO. CA-03-007

FILE CMW

NOTICE OF APPEAL

1. If the appeal is from the entire judgment:


~~"Notice is hereby given that the above named Adam Leal JR appeals to the Appellate Court of the Yaqui Nation from the judgment entered in this action by PASCUA YAQUI TRIBAL COURT on the 4th day of September 20 03"~~
(Name of the court or agency)

2. If the appeal is from part of the judgment:

"Notice is hereby given that the above named Adam Leal JR appeals to the Appellate Court of the Yaqui Nation from the following part of the judgment entered by the PASCUA YAQUI TRIBAL COURT on the 22nd day of September (Name of the court or agency)

20 03 (Specify the part of the judgment appealed from here.)

Permanate Restraining Order to Be quashed
According to Tribal Law Incident must take
Place on Tribe (Reservation) one Party must be
A Tribe Member & Reside on Reservation.
The Incident took Place in City
of Tucson not on Reservation


Name of the Attorney or Party taking appeal
if not represented by Attorney

THE PASCUA YAQUI TRIBAL COURT

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

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Leal Rose)
Plaintiff) No. CV-03-114
VS.)
Leal Adam)
Respondent) ORDER
_____)

The Respondent filed a written statement with the Court requesting that the Order of Protection issued in this matter be quashed as the incident took place outside the boundaries of the Pascua Yaqui Indian Reservation.

The Court finds that the Court will deny the defendant's request as the Plaintiff was employed within the boundaries of the Pascua Yaqui Indian Reservation when this matter was initiated and in that that the Respondent is an enrolled member of the Pascua Yaqui Tribe and resides within the exterior boundaries of the Pascua Yaqui Indian Reservation.

IT IS ORDERED THAT the Respondent's motion is denied and the Permanent Injunction Order shall remain in full force and effect. .

SO ORDERED THIS 22nd DAY OF September, 2003 .

Cornelia J. G.
Judge, Pascua Yaqui Tribal Court

Date: 9-22-03
 Plaintiff/Petitioner Respondent/Defendant _____ Other
CMW
Clerk

CV-03-114

Your Honor

I ~~was~~ would like to have
the order of protection to be
squashed because of the incident
did not happen on the reservation
and happened in Midvale
my wife & kids are not Tribe
members I am the sole tribe
member in this case & I have
included some literature on the
situation

Thank you.

Adam Levi Jr

FILED
SEP 13 PM 3:27
CLERK
COURT NO. CV-03-114
BY CM

PASCUA YAQUI TRIBAL COURT

FILING FEE SCHEDULED

EFFECTIVE AS OF JUNE 1, 2003 ALL CIVIL FILING FEE HAVE CHANGED

The following civil petitions are **\$25.00**

- ◆ **CHANGE OF NAME** (adult and/or minor must be enrolled and living on reservation)
- ◆ **GUARDIANSHIP** (adult and/or minor must be enrolled and living on reservation)
- ◆ **CIVIL COMPLAINT** (one party must be enrolled with PYT, working/living on reservation and transaction must have taken place on reservation)
- ◆ **CHILD CUSTODY** (child and one party must live on reservation)
- ◆ **PATERNITY** (one party must live or work on the reservation)
- ◆ **PATERNITY AND CHILD SUPPORT** (one party must live/work on the reservation)
- ◆ **CHILD SUPPORT** (paternity must have been established and one party must live/work on reservation)
- ◆ **VISITATION**
- ◆ **APPOINTMENT OF PERSONAL REPRESENTATION** (one party must live/work on reservation)
- ◆ **ENFORCEMENT OF FOREIGN JUDGMENT** (one party must live/work on reservation)
- ◆ **INTESTACY AND DISTRIBUTE ASSETS** (party must be enrolled with PYT)
- ◆

The following civil petitions are **\$75.00**

- ◆ **LEGAL SEPARATION** (one party must live on reservation and enrolled with PYT)
- ◆ **DISSOLUTION OF MARRIAGE** (one party must live on reservation and enrolled with PYT)
- ◆ **TERMINATION OF PARENTAL RIGHTS AND ADOPTION** (child/ren must live on reservation and be enrolled with PYT. Petitioner or respondent must also be enrolled and living on the PY reservation).

SERVICE FEES ARE \$5.00 FOR SERVICE ON THE PASCUA YAQUI RESERVATION ONLY AND \$20.00 FOR SERVICE OUTSIDE THE RESERVATION. (Must be paid when filing petition)

There is no fee assessed if case is active for the following modification of divorce decree, modification of visitation, child custody, enforcement of child support, garnishment of wages.

Motion to reopen a closed case is \$20.00.

There is no fee for the following petitions:

- ◆ **PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER** (one party must be enrolled with PYT, reside on reservation, the incident must have taken place on reservation)
- ◆ **ORDER OF PROTECTION** (one party must be enrolled with PYT, reside on reservation and incident must have taken place on reservation - order of protections are for **anyone living in the same household** i.e. husband-wife, boyfriend-girlfriend, brother-sister)

CIVIL JURY FEES IS \$100.00