

Pascua Yaqui Tribe Court of Appeals

No. CA-04-001

Re: No. CV-03-112

Lorenzo Romero, Plaintiff/Appellee

Yolanda Romero, Respondent/Appellant

The file is missing the final opinion. Final opinion rules in favor of Appellant regarding division of retirement plan.

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, AZ 85732
(520) 991-7060
Attorney for Respondent/Appellant



PASCUA YAQUI TRIBE COURT OF APPEALS

ROMERO, LORENZO L.,) Appeal Case No. CA-04-001
 Plaintiff/Appellee,))
) Trial Case No. CV-03-112
vs.))
) **DOMESTIC RELATIONS ORDER**
ROMERO, YOLANDA M.,))
 Respondent/Appellant.))

))

This Order is intended to be a qualified domestic relations order ("QDRO"), as defined in Section 206(d) of the Employee Retirement Income Security Act of 1974 ("ERISA") and Section 414(p) of the Internal Revenue Code of 1986 ("Code"). This QDRO is granted in accordance with 5 PYTC § 2-80, which relates to marital property rights, child support, and/or spousal support between spouses and former spouses in matrimonial actions.

SECTION 1 - DEFINITIONS

- (a) "Participant" shall hereafter mean Lorenzo Romero. The Participant's last known address is P.O. Box 141, Marana, AZ 85653. The Participant has a date of birth of 8/10/1953 and a Social Security Number of xxx-xx-8845.
- (b) "Alternate Payee" shall hereafter mean Yolanda Romero. The Alternate Payee's last known address is 5121 W. Neokae, Tucson, AZ 85757. The Alternate Payee has a date of birth of 11/8/1953 and a Social Security Number of xx-xx-5010. The Alternate Payee is the former spouse of the Participant.
- (c) "Beneficiary" shall hereafter mean such person named by the Alternate Payee on the applicable designation form.
- (d) "Account Balance" shall hereafter mean the vested portion of the amount held by the Plan in the Participant's account as of the date specified in Section 3.
- (e) "Plan Administrator" shall hereafter mean ASARCO LLC.

- (f) "Plan" shall hereafter mean the 401(k) Savings Plan for Eligible Hourly-Rated Employees of ASARCO LLC, or, Savings Plan of ASARCO LLC and Participating Subsidiaries. Further, any successor plan to the Plan shall also be subject to the terms of this Order.
- (g) "Trustee" shall hereafter mean the Vanguard Fiduciary Trust Company or any successor trustee duly appointed by the Plan Administrator.
- (h) "Legal Representative" shall hereafter mean such person who has been named as the legal guardian for the Alternate Payee and to whom the Alternate Payee's benefit shall be directed.

SECTION 2 - DATE OF MARRIAGE

The Participant and the Alternate Payee were married on April 27, 1985, and their marriage was dissolved on October 30, 2003. The Petition for Dissolution of Marriage was served on Alternate Payee on July 24, 2003.

SECTION 3 - AMOUNT OF BENEFIT TO BE PAID TO THE ALTERNATE PAYEE

Alternate Payee's interest in the Plan shall be the lesser of the available balance in the Plan on the date of distribution or 50% of the Participant's Account Balance as of 7/24/2003, excluding the value of any outstanding loan balance as of 7/24/2003. Such interest of the Alternate Payee shall be subject to investment earnings and losses subsequent to 7/24/2003 and the Plan Administrator shall calculate such investment earnings and losses.

SECTION 4 - LOANS

The Participant's remaining Account Balance shall contain the entire loan account, if any, including any repayments or defaults, and shall remain as the Participant's separate property with responsibility for all loan repayments resting with the Participant.

SECTION 5 - FORM AND TIMING OF PAYMENT TO ALTERNATE PAYEE

The Alternate Payee may elect to receive a lump sum payment from the Plan as soon as administratively feasible after the order is determined to be a Qualified Domestic Relations Order ("QDRO") and the Alternate Payee completes any forms required by the Plan Administrator, or she may elect from among the other payment options under the Plan.

SECTION 6 - DEATH OF PARTICIPANT

The Alternate Payee's entitlement to any distribution of benefits from the Plan pursuant to this Order shall not be affected in any manner by the Participant's death.

SECTION 7 - DEATH OF ALTERNATE PAYEE

In the event the Alternate Payee dies prior to receipt of distribution from the Plan, the Alternate Payee's benefits shall be distributed to the Alternate Payee's designated Beneficiary. Should there be no Beneficiary on record, the benefits shall be distributed to the estate of the Alternate Payee.

SECTION 8 - MISCELLANEOUS

- (a) A separate account shall be established for the benefits due the Alternate Payee.
- (b) The Alternate Payee, if a former spouse, shall not be treated as the surviving spouse of the Participant for any purposes under the Plan.
- (c) The Alternate Payee's interest awarded pursuant to this Order shall be the sole and exclusive property of the Alternate Payee, excluding any contributions made by the Participant subsequent to the assignment date specified in Section 3 of the Order.
- (d) The Participant's remaining interest in the Plan shall be the sole and exclusive property of the Participant.
- (e) This Order does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided for under the Plan.
- (f) This Order does not require the Plan to provide benefits to the Alternate Payee, which are required to be paid to another alternate payee under another Order previously determined to be a qualified domestic relations order.
- (g) This Order does not provide increased benefits to the Alternate Payee that are not otherwise available under the Plan.
- (h) The spousal Alternate Payee is required to report any retirement benefits received pursuant to this Order on all appropriate income tax returns.
- (i) Should the Participant receive any retirement benefits under the Plan, which are rightfully

owed to the Alternate Payee, the Participant is designated as constructive trustee and must pay such retirement benefits to the Alternate Payee within three days after receipt.

- (j) This Order shall be governed by the rules of the Plan and, in the event of a conflict between the documents, the terms of the Plan shall prevail.
- (k) This Order shall become effective immediately and shall remain in effect until further Order of this Court.
- (l) The Participant shall have the responsibility to serve a copy of this Order on the Plan Administrator.

SECTION 9 - RESERVATION OF JURISDICTION

This Court reserves jurisdiction to amend this Order for the purpose of establishing or maintaining its qualification as a QDRO, so long as the amendment does not require the Plan to provide any type or form of benefit not otherwise available under the Plan.

IT IS SO ORDERED:

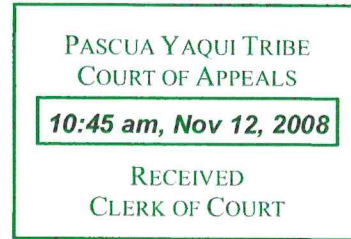
Date: 01-26-10


JUDGE

The certified Order should be forwarded to the below address for approval:

Attn: QDRO Determination Services, L25
The Vanguard Group
PO Box 2900
Valley Forge, PA 19482-2900

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, AZ 85732
(520) 991-7060



IN THE PASCUA YAQUI TRIBE COURT OF APPEALS
IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

ROMERO, LORENZO L.,	)	Appeal Case No. CA-04-001
Plaintiff/Appellee,)	
	)	Trial Case No. CV-03-112
vs.)	
	)	APPELLANT'S MOTION RE DECISION
ROMERO, YOLANDA M.,)	
Respondent/Appellant.)	
_____)	

Appellant moves the court to make a decision on the available record, or in the alternative, to make a ruling on the legal issues presented, and then remand to the trial court for further findings of fact. The grounds for this motion are as follows:

1. On March 9, 2007 the court issued a briefing schedule order which indicated that a transcript of the trial would be prepared. Unfortunately, the quality of the tape recording of the trial was of such poor quality that a transcript could not be completed.
2. On July 9, 2007 the court then directed the parties to prepare a joint stipulation of facts. The parties have been unable to reach agreement on a stipulation of facts.
3. It is the Appellant's contention that the statement of facts contained in Appellant's opening brief is an accurate and fair recitation of the relevant facts presented at trial. Although not an ideal situation, Appellant believes that the court can make a decision based on the record as it exists and the briefs and arguments of the parties.
4. The Appellant therefore asks that the court review this case based on the available record available and issue an appropriate decision. In the alternative, Appellant asks that the court decide the questions of law presented, and then remand the case to the trial court for appropriate findings of fact.

RESPECTFULLY SUBMITTED this 11th day of November, 2008.

Yancy A. Jencsok

Yancy A. Jencsok
Attorney for Respondent/Appellant

Copy emailed November 11, 2008, to:

Lourdes Lopez
lourdessalomonlopez@yahoo.com

By *YAJ*

CA - 04 - 001

In the Pascua Yaqui Court of Appeals

Lorenzo Romero/Appellant

v.

Yolanda Romero/Appellee

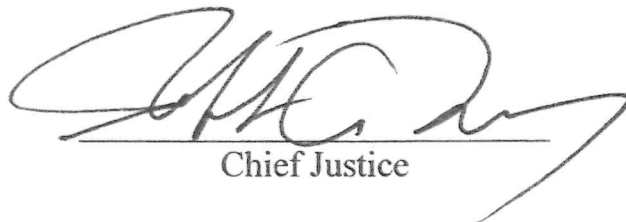
Order

Appellant's motion for 4th extension; Trial Court Case No. JD-07-057; the Honorable Melvin R. Stoof presiding.

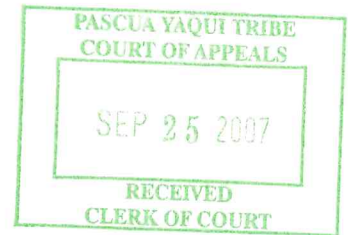
Mr. Jencsok, Esq., Pascua Yaqui Prosecutor Office, Tucson, Arizona, for Appellant.
Lourdes Lopez, 318 S. Convent Avenue, Tucson, Arizona, 85701, for Appellee.

The court reviewed the Appellant's motion for an extension of time to file the stipulated statement of facts and the court finds good cause for the motion. Accordingly, the Appellant shall file be granted an additional extension and file the stipulated statement of facts no later than October 25, 2007..

So Ordered this 25th day of September, 2007.


Chief Justice

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, AZ 85732
(520) 991-7060




IN THE PASCUA YAQUI TRIBE COURT OF APPEALS

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

ROMERO, LORENZO L.,	)	Appeal Case No. CA-04-001
Plaintiff/Appellee,)	
	)	Trial Case No. CV-03-112
vs.)	
	)	APPELLANT'S MOTION FOR
ROMERO, YOLANDA M.,	)	FOURTH EXTENSION
Respondent/Appellant.)	
_____)	

The Appellant motions the court for a fourth extension of time to file the stipulated statement of facts, pursuant to 3 PYTRAP Rule 5(B). The current deadline is September 25, 2007. Clerk of Court William Kniep has had a partial transcript prepared. Counsel wishes to review the transcript before completing the draft statement of facts. Also, counsel for Appellee will need time to review the transcript and compare it to the draft statement of facts before the statement of facts can be submitted to the court. Therefore, the Appellant asks for an additional three to four week extension. Counsel for Appellee, Lourdes Lopez, has been contacted and does not object to this motion.

RESPECTFULLY SUBMITTED this 25th day of September, 2007.



Yancy A. Jencsok
Attorney for Appellant

Copy mailed September 25, 2007 to:

Lourdes Lopez, Esq.
318 S. Convent Avenue
Tucson, AZ 85701

By _____


No. CA-04-001
Pascua Yaqui Tribe Court of Appeals

Lorenzo Romero, Plaintiff/Appellee,

v.

Yolanda M. Romero, Defendant/Appellant.

ORDER

Yancy A. Jencsok, Esq., Jencsok Law Office, Tucson, Arizona, for the Appellant.

Lourdes Salomon Lopez, Esq., Law Office of Lourdes Salomon Lopez, P.C., for the Appellee.

The Court held a status conference in this matter on July 24, 2007. The Court advised the attorneys for the parties that this case has not proceeded because a transcript of the trial is not available. The cassette tapes containing the testimony are of poor quality and mostly inaudible which has prevented the court clerk from preparing a transcript. The attorneys advised the Court that they will draft a stipulation of facts and evidence of the trial court proceedings and file it with the Court. The parties asked for time to complete the stipulation and the Court agreed to give them three weeks from the date of the status conference. After the parties have filed their stipulation, they will then file a proposed briefing schedule.

According, it is ORDERED as follows:

- 1) The parties shall file their PYTRAP Rule 9(D) agreed statement on or before Monday, November 12, 2007;
- 2) The parties shall file their agreed proposed briefing schedule on or before Monday, November 12, 2007; and
- 3) The parties are encouraged to settle all or some of the issues that have been presented on appeal.

So ORDERED this 21 day of September, 2007.

Chief Justice

Jerry D. Orwick

Associate Justice

Raymond D. Austin

Associate Justice

CA - 04 - 001

In the Pascua Yaqui Court of Appeals

Lorenzo Romero/Appellant

v.

Yolanda Romero/Appellee

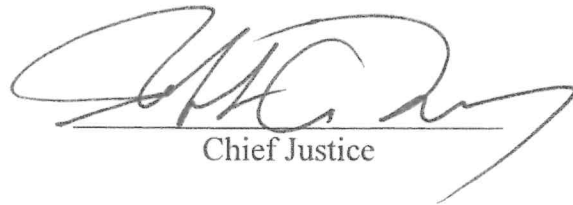
Order

Appellant's motion for extension of time to file the stipulated statement of facts; Trial Court Case No. JD-07-057; the Honorable Melvin R. Stoof presiding.

Mr. Jencsok, Esq., Pascua Yaqui Prosecutor Office, Tucson, Arizona, for Appellant.
Lourdes Lopez, 318 S. Convent Avenue, Tucson, Arizona, 85701, for Appellee.

The court reviewed the Appellant's motion for an extension of time to file the stipulated statement of facts and the court finds good cause for the motion. Accordingly, the Appellant shall be granted a 14 day extension and file the stipulated statement of facts on September 25th, 2007.

So Ordered this 13th day of September, 2007.


Chief Justice

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, AZ 85732
(520) 991-7060



PASCUA YAQUI TRIBAL COURT
FILED DATE AND TIME

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IN THE PASCUA YAQUI TRIBE COURT OF APPEALS

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

ROMERO, LORENZO L.,	)	Appeal Case No. CA-04-001
Plaintiff/Appellee,)	
	)	Trial Case No. CV-03-112
vs.)	
	)	APPELLANT'S MOTION FOR
ROMERO, YOLANDA M.,	)	THIRD EXTENSION
Respondent/Appellant.)	
_____)	

The Appellant motions the court for a third extension of time to file the stipulated statement of facts, pursuant to 3 PYTRAP Rule 5(B). The current deadline is September 11, 2007. Counsel is still preparing a draft statement of facts based on his notes and memory. Once the draft is completed, it will be reviewed by Counsel for Appellee. The Appellant asks for an additional 14 day extension, so that the stipulated statement of facts would be due to the court on September 25, 2007. Counsel for Appellee, Lourdes Lopez, has been contacted and does not object to this motion.

RESPECTFULLY SUBMITTED this 11th day of September, 2007.

Yancy A. Jencsok
Attorney for Appellant

Copy mailed September 11, 2007 to:

Lourdes Lopez, Esq.
318 S. Convent Avenue
Tucson, AZ 85701

By

CA - 04 - 001

In the Pascua Yaqui Court of Appeals

Lorenzo Romero/Appellant

v.

Yolanda Romero/Appellee

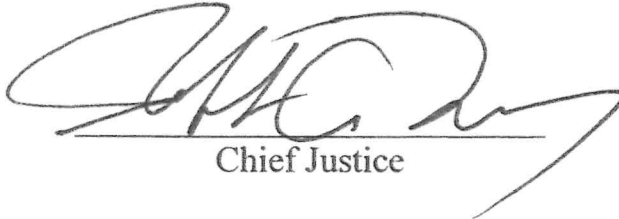
Order

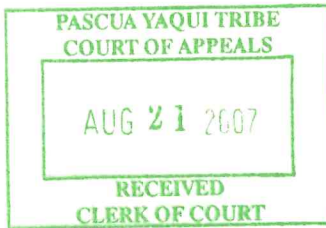
Appellant's motion for extension of time to file the stipulated ; Trial Court Case No. JD-07-057; the Honorable Melvin R. Stoof presiding.

Mr. Jencsok, Esq., Pascua Yaqui Prosecutor Office, Tucson, Arizona, for Appellant.
Lourdes Lopez, 318 S. Convent Avenue, Tucson, Arizona, 85701, for Appellee.

The court reviewed the Appellant's motion for an extension of time to file the stipulated statement of facts and the court finds good cause for the motion. Accordingly, the Appellant shall be granted a 21 day extension and file the stipulated statement of facts on September 11, 2007.

So Ordered this 31st day of August, 2007.


Chief Justice



PASCUA YAQUI TRIBAL COURT
FILED DATE AND TIME

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CLERK TS

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, AZ 85732
(520) 991-7060

IN THE PASCUA YAQUI TRIBE COURT OF APPEALS

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

ROMERO, LORENZO L.,	)	Appeal Case No. CA-04-001
Plaintiff/Appellee,)	
	)	Trial Case No. CV-03-112
vs.)	
	)	APPELLANT'S MOTION FOR
ROMERO, YOLANDA M.,	)	SECOND EXTENSION
Respondent/Appellant.)	
_____)	

The Appellant motions the court for a second extension of time to file the stipulated statement of facts, pursuant to 3 PYTRAP Rule 5(B). The current deadline is August 21, 2007. Counsel is still preparing a draft statement of facts based on his notes and memory. Once the draft is completed, it will be reviewed by Counsel for Appellee. The Appellant asks for an additional 14 day extension, so that the stipulated statement of facts would be due to the court on September 4, 2007. Counsel for Appellee, Lourdes Lopez, has been contacted and does not object to this motion.

RESPECTFULLY SUBMITTED this 21st day of August, 2007.

Yancy A. Jencsok
Attorney for Appellant

Copy mailed August 21, 2007 to:

Lourdes Lopez, Esq.
318 S. Convent Avenue
Tucson, AZ 85701

By

CA - 04 - 001

In the Pascua Yaqui Court of Appeals

Lorenzo Romero/Appellant

v.

Yolanda Romero/Appellee

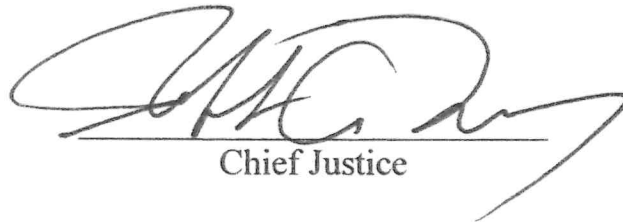
Order

Appellant's motion for extension of time to file the stipulated ; Trial Court Case No. JD-07-057; the Honorable Melvin R. Stoof presiding.

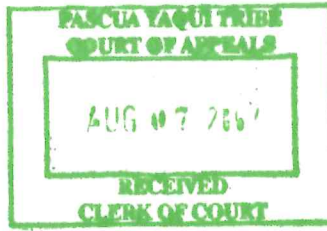
Mr. Jencsok, Esq., Pascua Yaqui Prosecutor Office, Tucson, Arizona, for Appellant.
Lourdes Lopez, 318 S. Convent Avenue, Tucson, Arizona, 85701, for Appellee.

The court reviewed the Appellant's motion for an extension of time to file the stipulated statement of facts and the court finds good cause for the motion. Accordingly, the Appellant shall file be granted a 14 day extension and file the stipulated statement of facts on August 21, 2007..

So Ordered this 7th day of August, 2007.


Chief Justice

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, AZ 85732
(520) 991-7060



PASCUA YAQUI TRIBAL COURT
FILED DATE AND TIME

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IN THE PASCUA YAQUI TRIBE COURT OF APPEALS

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

ROMERO, LORENZO L.,	)	Appeal Case No. CA-04-001
Plaintiff/Appellee,)	
	)	Trial Case No. CV-03-112
vs.)	
	)	APPELLANT'S MOTION FOR EXTENSION
ROMERO, YOLANDA M.,)	
Respondent/Appellant.)	
_____)	

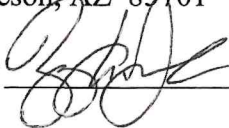
The Appellant motions the court for an extension of time to file the stipulated statement of facts, pursuant to 3 PYTRAP Rule 5(B). The current deadline is August 7, 2007. Counsel is still preparing a draft statement of facts based on his notes and memory. Once the draft is completed, it will be reviewed by Counsel for Appellee. The Appellant asks for a 14 day extension, so that the stipulated statement of facts would be due to the court on August 21, 2007. Counsel for Appellee, Lourdes Lopez, has been contacted and does not object to this motion.

RESPECTFULLY SUBMITTED this 7th day of August, 2007.

Yancy A. Jencsok
Attorney for Appellant

Copy mailed August 7, 2007 to:

Lourdes Lopez, Esq.
318 S. Convent Avenue
Tucson, AZ 85701

By 

No. CA-04-001
Pascua Yaqui Tribe Court of Appeals

Lorenzo Romero, Plaintiff/Appellee,

v.

Yolanda M. Romero, Respondent/Appellant.

ORDER

Yancy A. Jencsok, Esq., Jencsok Law Office, Tucson, Arizona, for the Appellant.

Lourdes Salomon Lopez, Esq., Law Office of Lourdes Salomon Lopez, P.C., for the Appellee.

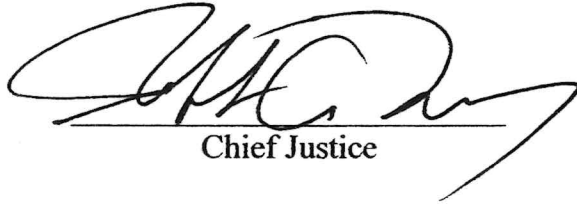
The court reviewed this matter and finds that the transcriber is having a difficult time transcribing the trial court hearing tapes because of poor quality, tapes are recorded at speed that is outdated, and most of the testimony is inaudible. The court believes that the best approach would be to have the parties file an agreed statement of evidence with this court in lieu of a transcript. See PYTRAP Rule 9D which will apply to this case.

The parties shall meet as soon possible and draft an agreed statement pursuant to Rule 9D. The agreed statement shall be filed with this court no later than July 24, 2007. After the agreed statement is filed, the appellant shall file a supplemental brief with this court no later than August 6, 2007. The appellee shall file a supplemental response brief no later than August 20, 2007. No further briefing will be allowed and the case shall be decided on the record.

In the alternative, in the interest of speedy resolution of this case, the parties may agree on a settlement such as giving the defendant credit for time served in jail (if any) and dismissal of the charges and appeal or other options.

The parties shall report to the court on the progress of the agreed statement, the prospect of settlement, and any other matters on Tuesday, July 24, 2006, at the time of 1:00 pm, at the Pascua Yaqui court building. Each side shall be allowed 15 minutes maximum to address the court.

So ORDERED this 9th day of July, 2007.



Chief Justice

No. CA-04-001
Pascua Yaqui Tribe Court of Appeals

Lorenzo Romero, Plaintiff/Appellee,

v.

Yolanda M. Romero, Respondent/Appellant.

ORDER

Yancy A. Jencsok, Esq., Jencsok Law Office, Tucson, Arizona, for the Appellant.
Lourdes Salomon Lopez, Esq., Law Office of Lourdes Salomon Lopez, P.C., for the Appellee.

The Chief Justice reviewed the Appellant's April 7, 2007 motion for extension of the deadline to file an amended brief and finds that the motion should be granted.

The Appellant's motion is granted. The Appellant shall file her amended brief within 15 after she receives a copy of the trial court transcript.

So ORDERED this 17 day of April 2007.



Chief Justice

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, AZ 85732
(520) 991-7060

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IN THE PASCUA YAQUI TRIBE COURT OF APPEALS

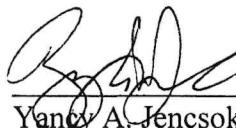
IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

ROMERO, LORENZO L.,	)	Appeal Case No. CA-04-001
Plaintiff/Appellee,)	
	)	Trial Case No. CV-03-112
vs.)	
	)	APPELLANT'S MOTION FOR EXTENSION
ROMERO, YOLANDA M.,)	
Respondent/Appellant.)	
_____)	

Appellant moves the court for an extension of the deadline to file an amended brief. The grounds for this motion are as follows:

1. In its order of March 9, 2007, the court indicated that a transcript would be prepared and copies mailed to the parties by March 30, 2007, and that Appellant would have 15 days from receipt to file an optional amended brief. Appellant has not received a copy of the transcript.
2. Counsel for Appellant is leaving for Australia on this date and will not be returning until April 25, 2007. Appellant requests an extension to file an amended brief until May 10, 2007, or 15 days after receipt of the transcript, whichever is later.
3. Lourdes Lopez, counsel for Appellee, has been contacted regarding this motion and she does not object to an extension.

RESPECTFULLY SUBMITTED this 7th day of April, 2007.

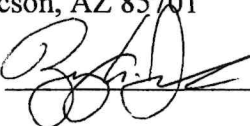


Yancy A. Jencsok
Attorney for Respondent/Appellant

Copy mailed April 7, 2007, to:

Lourdes Lopez, Esq.
318 S. Convent Avenue
Tucson, AZ 85701

By _____



IN THE PASCUA YAQUI COURT OF APPEALS

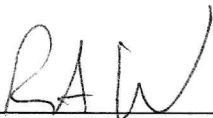
_____	)	Case No: CA-04-001
LORENZO ROMERO,)	
)	
Plaintiff/Appellee,)	
)	
v.	)	<u>ORDER</u>
)	
YOLANDA ROMERO,)	
)	
Respondent/Appellant)	
_____)	

Yancy Jencsok, Esq., Jencsok Law Office, Tucson, AZ, for the Appellant.

Lourdes Salomon Lopez, Esq., Law Office of Lourdes Salomon Lopez, P.C., for the Appellee.

Upon notification during oral arguments that Appellee's counsel did not have access to the trial court file or record, the Court concluded that briefs should be amended pending the location of the record. The Court staff was able to locate the trial court file and the original recordings of the trial court proceedings. The file will be available to parties' access through the trial court. Transcripts are being prepared, and will be mailed to parties on or before March 30st, 2007. Upon receipt of the transcript, Appellant will have 15 days to file an optional amended brief. Appellee will then have 15 days to file an amended brief in response.

So ORDERED this 9 day of March, 2007.



Chief Justice

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, AZ 85732
(520) 991-7060

03/13/2018 10:40
CA 04-001
M

IN THE PASCUA YAQUI TRIBE COURT OF APPEALS

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

ROMERO, LORENZO L.,	)	Appeal Case No. CA-04-001
Plaintiff/Appellee,)	
	)	Trial Case No. CV-03-112
vs.)	
	)	APPELLANT'S REPLY BRIEF
ROMERO, YOLANDA M.,)	
Respondent/Appellant.)	
_____)	

Appellant replies to *Appellee's Brief on Appeal* as follows:

ARGUMENT

Appellee cites Appellate Rule 1.17 as authority for his request that the appeal be dismissed. Rule 1.17 requires the clerk of the appellate court to prepare a transcript of the trial court proceedings. Appellee correctly points out that a transcript has not been prepared. Appellee then jumps to the conclusion that the appeal must be dismissed because a transcript was not prepared. That conclusion is unsupported by law or by logic. The Appellate Rules do not provide for dismissal of an appeal based on a failing on the part of the court clerk. Furthermore, it would be illogical and unjust to punish the appellant for something that the clerk did, or did not, do.

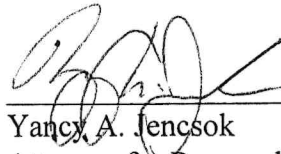
There are options other than the drastic one that Appellee proposes. The Appellee could obtain a recording of the trial court proceedings.¹ Alternatively, the court could direct the clerk to prepare a transcript.

¹ Audio recordings of trial court proceedings are easily obtained from the clerk's office. This is a common practice in Tribal Court appeals.

CONCLUSION

Appellee's request to dismiss the appeal should be denied as it is not supported by the Appellate Rules or by logic. A more appropriate remedy would be for the court to direct the clerk to prepare a transcript and record and transmit same to the parties and the court.

RESPECTFULLY SUBMITTED this 9th day of November, 2006.



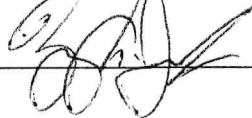
Yancy A. Jencsok
Attorney for Respondent/Appellant

Copy mailed November 9, 2006, to:

Lordes Lopez, Esq.
317 S. Convent Avenue
Tucson, AZ 85701

Yolanda Romero
5121 W. Neokae
Tucson, AZ 85757


By



1 **The Law Office of Lourdes Salomón**
2 **Lopez, P.C.**

3 317 South Convent Avenue
4 Tucson, Arizona 85701
 Telephone: (520) 623-8989
 Facsimile: (520) 623-5558

5 LOURDES SALOMÓN LOPEZ - SB No. 018479 - PCC No. 65334
6 ATTORNEY FOR PLAINTIFF/APPELLEE

05 OCT 31 PM 12:56
DOCKET NO. CA-04-001
CLERK 

7 **IN THE PASCUA YAQUI TRIBE COURT OF APPEALS**

8 **IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION**

9 ROMERO, LORENZO,
10 Plaintiff/Appellee,

 Appeal Case No. CA-04-001
 Trial Case No. CV-03-112

11 Vs.

APPELLEE'S BRIEF ON APPEAL

12 ROMERO, YOLANDA M.,
 Respondent/Appellant.

13 **COMES NOW, LORENZO ROMERO**, Plaintiff/Appellee, by and through counsel
14 undersigned, pursuant to 11 PYRAP Rule 6 and files his Response to Appellant's Appeal.

15 **STATEMENT OF FACTS**

16 Appellee cannot adequately address the issues in Appellee's Brief as no record has been
17 provided to Appellee other than Respondent's Exhibit 2, which was not admitted. Without a record
18 of the proceedings, Appellee cannot address Appellant's assertions of what evidence was presented,
19 what evidence was admitted or the testimony of witnesses.

20 11 PYRAP 1.17 states in relevant part that "...the Clerk of the Court of Appeals shall prepare
21 a transcript of the trial court proceedings from which the appeal is being taken. The party may waive
22 production of such transcript....Upon completion of the transcript the Clerk shall submit a copy of the
23 transcript to the parties to the case and the justices of the Court of Appeals."

24 Appellee did not waive the production of the trial transcript and one has never been provided
25 to Appellee. Without a transcript of the proceedings, Appellee cannot adequately address Appellant's
26 arguments of the trial court's findings. For example, on Page 3 of Appellant's Brief, Appellant states
27 that Martha Gradillas of the PYT Housing Department testified that the house was in Ms. Romero's
28 name alone. There is no transcript of the proceedings to support Appellant's assertion that Martha

1 Gradillas testified much less what her testimony consisted of.

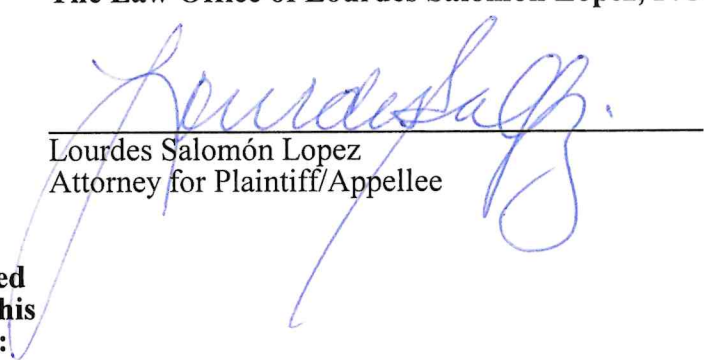
2 Again without a complete record of the case on appeal, Appellant cannot make blanket
3 statements about the evidence that was introduced before the trial court. Without a transcript of the
4 proceedings, Appellee cannot address the issues addressed in Appellant's Brief on Appeal. Appellee
5 cannot cite to any evidence or any arguments that were raised before the trial court. Because no
6 transcript has been provided, Appellant's Appeal should be denied.

7 **CONCLUSION**

8 Appellant has failed to provide a record on appeal to support her appeal. Appellee cannot
9 adequately address any of the issues presented on appeal because a record has not been provided. Due
10 to Appellant's failure to provide a record in support of her appeal, Appellant's appeal should be
11 denied.

12 **Respectfully requested** this 31st day of October, 2006.

13 **The Law Office of Lourdes Salomón Lopez, P.C.**

14 
15 _____
16 Lourdes Salomón Lopez
17 Attorney for Plaintiff/Appellee

18 **ORIGINAL of the foregoing filed**
19 **and a COPY mailed/delivered this**
20 **31st day of October, 2006, to :**

21 Yancy A. Jencsok
22 Jencsok Law Office
23 P.O. Box 12968
24 Tucson, Arizona 85732
25 Attorney for Respondent/Appellant
26
27
28

1 **The Law Office of Lourdes Salomón**
2 **Lopez, P.C.**

3 317 South Convent Avenue
4 Tucson, Arizona 85701
 Telephone: (520) 623-8989
 Facsimile: (520) 623-5558

5 LOURDES SALOMÓN LOPEZ - SB No. 018479 - PCC No. 65334
 ATTORNEY FOR PLAINTIFF/APPELLEE

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7 **IN THE PASCUA YAQUI TRIBE COURT OF APPEALS**

8 **IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION**

9 ROMERO, LORENZO,
 Plaintiff/Appellee,

 Appeal Case No. CA-04-001
 Trial Case No. CV-03-112

10 Vs.

11 **STIPULATION TO EXTEND DEADLINE**
12 **FOR FILING APPELLEE BRIEF**

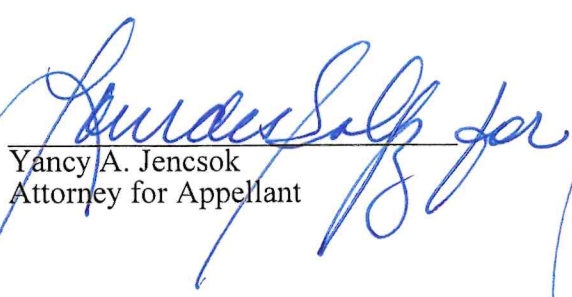
11 ROMERO, YOLANDA M.,
12 Respondent/Appellant.

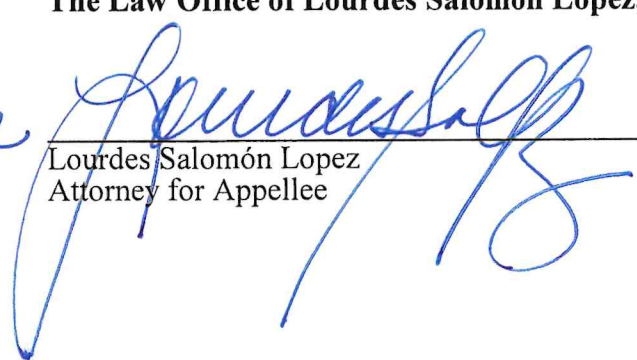
13 THE PARTIES DO HEREBY STIPULATE TO THE FOLLOWING:

14 The Appellee shall file his Response Brief on or before October 31, 2006. The Appellant shall file
15 either her reply brief or notice stating no reply brief will be filed on or before November 10, 2006.

18 **DATED** this 3rd day of October, 2006.

19 **The Law Office of Lourdes Salomón Lopez, P.C.**

20 
21 _____
22 Yancy A. Jencsok
 Attorney for Appellant

20 
21 _____
22 Lourdes Salomón Lopez
 Attorney for Appellee

24 **ORIGINAL** of the foregoing filed
25 **and a COPY** mailed/delivered this
 3rd day of October, 2006, to :

26 Yancy A. Jencsok
27 Jencsok Law Office
28 P.O. Box 12968
 Tucson, Arizona 85732
 Attorney for Appellant

be filed on or before October 13, 2006. The parties shall append any relevant portions of the trial court record to their briefs.

So ORDERED this 21 day of Sept 2006.


Chief Justice

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**The Law Office of Lourdes Salomón
Lopez, P.C.**

317 South Convent Avenue
Tucson, Arizona 85701
Telephone: (520) 623-8989
Facsimile: (520) 623-5558

LOURDES SALOMÓN LOPEZ - SB No. 018479 - PCC No. 65334
ATTORNEY FOR PLAINTIFF/APPELLEE

PASCUA YAQUI TRIB. CT.
FILED DATE 5/8/06
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DOCKET NO. CA-04-04
CLERK *SL*

**IN THE PASCUA YAQUI TRIBE COURT OF APPEALS
IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION**

ROMERO, LORENZO,
Plaintiff/Appellee,

Vs.

ROMERO, YOLANDA M.,
Respondent/Appellant.

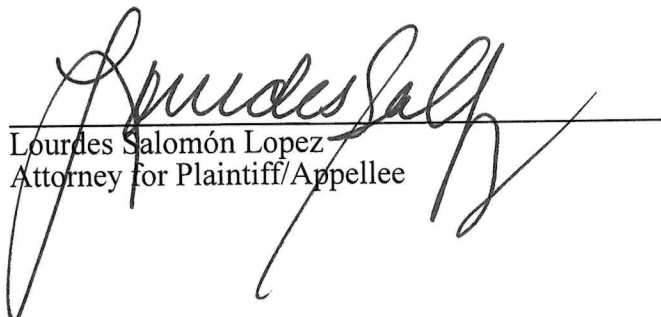
Appeal Case No.
Trial Case No. CV-03-112

REQUEST FOR BRIEFING SCHEDULE

COMES NOW, LORENZO ROMERO, Plaintiff/Appellee, by and through counsel undersigned, pursuant to PYTRAP Rule 6 and requests a schedule and deadline for the filing of Appellee's Brief in the above-captioned matter for the following reason: Counsel undersigned has contacted the Appeals Clerk to request a deadline for the filing of Appellee's Brief, with no success. To date, no deadline has been set. Undersigned counsel requests a scheduling order for all deadlines.

Respectfully requested this 5th day of May, 2006.

The Law Office of Lourdes Salomón Lopez, P.C.



Lourdes Salomón Lopez
Attorney for Plaintiff/Appellee

**ORIGINAL of the foregoing filed
and a COPY mailed/delivered this
5th day of May, 2006, to :**

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, Arizona 85732
Attorney for Respondent/Appellant

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**The Law Office of Lourdes Salomón
Lopez, P.C.**

317 South Convent Avenue
Tucson, Arizona 85701
Telephone: (520) 623-8989
Facsimile: (520) 623-5558

LOURDES SALOMÓN LOPEZ - SB No. 018479 - PCC No. 65334
ATTORNEY FOR PLAINTIFF/APPELLEE

**IN THE PASCUA YAQUI TRIBE COURT OF APPEALS
IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION**

ROMERO, LORENZO,
Plaintiff/Appellee,

Appeal Case No.
Trial Case No. CV-03-112

Vs.

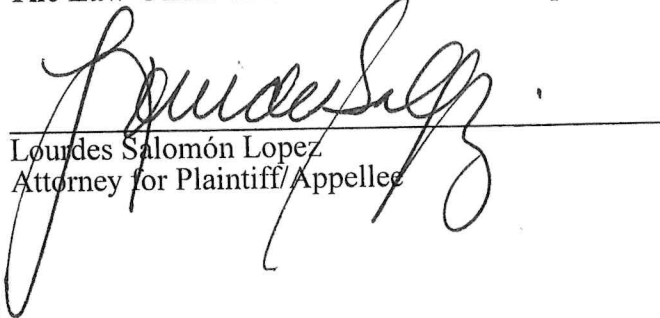
NOTICE OF APPEARANCE

ROMERO, YOLANDA M.,
Respondent/Appellant.

COMES NOW Lourdes Salomón Lopez, of **The Law Office of Lourdes Salomón Lopez, P.C.**, 317 S. Convent Avenue, Tucson, Arizona 85701 and hereby enters a notice of appearance on behalf of **LORENZO ROMERO**, Plaintiff/Appellee, in the above-captioned matter.

DATED this 5th day of May, 2006.

The Law Office of Lourdes Salomón Lopez, P.C.



Lourdes Salomón Lopez
Attorney for Plaintiff/Appellee

ORIGINAL of the foregoing filed
and a **COPY** mailed/delivered this
5th day of May, 2006, to :

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, Arizona 85732
Attorney for Respondent/Appellant

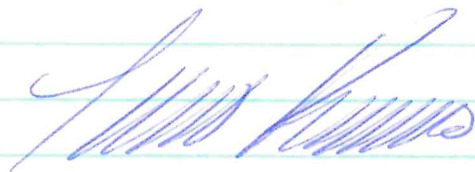
Brief of Appeal 3-24-06
No CV-03-112

In the matter of Yohanda
Romero vs. Lorenzo Romero

AT this time I Lorenzo
Romero am requesting that
the Appellate Court grant
a continuance in this matter.

I have not been able to obtain
counsel. Because Trini Armenta
my counsel at the time of my
dissolution of marriage is no
longer licensed to practice in
Tribal Court. I am asking the
court grant me 45 days to
obtain counsel to represent
me in this matter.

Thank - you



CLERK
DOCKET NO. CA00400

06 MAR 24 PM 3:46

PSQUA YAOJI TRIBAL COURT
FILED DATE AND TIME

Yancy A. Jencsok
Jencsok Law Office
P.O. Box 12968
Tucson, AZ 85732
318-0041
318-0042 fax

PASCUA YAQUI TRIBAL COURT
FILED DATE AND TIME

06 MAR -3 PM 12:00

DOCKET NO. CA-04-001

CLERK

IN THE APPELLATE COURT OF THE YAQUI NATION

ROMERO, LORENZO L.,	)	Appeal Case No.
Plaintiff/Appellee,)	
	)	Trial Case No. CV-03-112
vs.)	
	)	APPELLANT'S BRIEF ON APPEAL
ROMERO, YOLANDA M.,)	
Respondent/Appellant.)	
_____)	

JURISDICTION

Appellant filed a timely appeal of a Pascua Yaqui Tribal Court Order. The Appellate Court has jurisdiction pursuant to 11 P.Y.T.C. §1.12.

STATEMENT OF FACTS

The parties are former husband and wife. This appeal arises out of the parties' dissolution of marriage action. The parties lived on the Pascua Yaqui Reservation during their marriage and Respondent/Appellant is an enrolled member of the Pascua Yaqui Tribe. The Plaintiff/Appellee is a non Indian. The parties have two minor children together, both of whom are enrolled members of the Pascua Yaqui Tribe.

The parties were married on April 27, 1985 in Tucson, Arizona. The parties separated on or about February 1, 2002. Plaintiff/Appellee filed a Petition for Dissolution of Marriage on June 30, 2003. Respondent/Appellant filed a Response on September 24, 2003 after being granted an extension by the trial court. The parties reached a stipulation regarding the custody and visitation of the children. All other issues were contested.

The issue of dissolution of marriage was bifurcated from all other issues. A decree granting a dissolution of marriage was granted on October 30, 2003. No other issues were

addressed in that decree.

The final evidentiary hearing took place in two segments on March 18, 2004 and May 20, 2004. The court issued a final decree on June 2, 2004. Respondent/Appellant filed her Notice of Appeal on June 16, 2004.

FINDINGS/CONCLUSION APPEALED FROM

Appellant appeals from the Order of the Pascua Yaqui Tribal Court issued on June 2, 2004. That Order divided the parties' property and debt, awarded child support, and awarded the dependency exemptions for the minor children. The Order did not contain detailed findings of fact.

ARGUMENT

A. The Order incorrectly states that the parties stipulated to a division of household property.

The trial court's order awarded the parties "[t]he household property stipulated to by the parties." In fact, the parties did not stipulate to a division of household property. Each party submitted a written list to the court indicating the party's preferred division of property. However, the parties did not agree on either list or make any verbal agreement on the record. At this point, the parties have already divided the household property to their satisfaction and the most appropriate outcome would be to simply award each party the household property in his or her possession.

B. Plaintiff/Appellee's ASARCO 401(k) was not divided equitably pursuant to 1 P.Y.T.C. §10.8.

Plaintiff/Appellee ("Mr. Romero") had a 401(k) plan through his employment with ASARCO mines. The amount of the 401(k) was \$69,980.93. The 401(k) had an outstanding loan in the amount of \$17,855.10. The net value of the 401(k) was \$52,125.83. There was no dispute that the 401(k) was community property. Ms. Romero asked that she be awarded half of the net value 401(k). The 401(k) was awarded to Mr. Romero in its entirety.

The only other property of significant value was a house in Ms. Romero's name that she

acquired during the parties' marriage. The house was awarded to Ms. Romero. Although there was some dispute as to the value of the house, it was roughly equal to the amount of the 401(k). Therefore, it appears that the trial court judge took the house into account when dividing the parties' property. As is discussed more fully below, the house was Ms. Romero's sole and separate property and should not have been taken into account when dividing the parties' community property.

The house in question is located at 5121 West Neokae on the Pascua Yaqui Reservation. Real property on the Reservation can only be "owned" by enrolled members of the Tribe.¹ Martha Gradillas of the PYT Housing Department testified that the house was in Ms. Romero's name alone. And Exhibit 7 indicates that the house was deeded to Ms. Romero in May 2000 as "a married woman, as her sole and separate property."

There was no claim by Mr. Romero that he had an ownership interest in the house. Indeed, Mr. Romero admitted that he was aware during the marriage that the house could only belong to Ms. Romero. However, Mr. Romero claimed a right to have his contributions to the house or the value of the house included in the division of the community property. The Court's Order of June 2, 2004 states that "[t]he Plaintiff's request for reimbursement for the cost of home improvements is denied." Although the Court did not specifically address other contributions by Mr. Romero, or the value of the house, given the division of the ASARCO 401(k), the logical conclusion is that the Court did take one or both of these things into consideration.

As to the contributions to the house, it is Ms. Romero's contention that (1) any contributions made by Mr. Romero were in the nature of a gift, and (2) the contributions were minimal and were offset by the advantages received by Mr. Romero. The contributions to the house should be considered to have been a gift because they were made with full knowledge that the house could only belong to Ms. Romero and Mr. Romero could have no ownership interest.

Any contributions made by Mr. Romero to the house were minimal by the very fact that

¹ Strictly speaking, land on the Reservation cannot be privately owned. It always remains property of the Tribe and cannot be granted to individuals. Constitution of the Pascua Yaqui Tribe, Article XIII. However, tribal land can be assigned to tribal members for their private use. *Id.*

the payments on the house themselves were minimal. Ms. Gradillas of the PYT Housing Department testified that Ms. Romero purchased the house under a federally subsidized program. Ms. Romero was to make payments on the house based on her family household income. Mr. Romero's income was included in the calculation of the household income.

Ms. Gradillas and Ms. Romero testified that the amount of the payments on the house fluctuated from year to year. The documentation provided to the court indicated that the highest amount ever paid was \$384 per month and lowest amount was \$65 per month.² Ms. Gradillas and Ms. Romero testified that there were also periods when the payment was \$0 per month.

Ms. Gradillas further testified that the total amount paid by Ms. Romero on the house was \$13,772.79. Respondent's Exhibit 2, the exhibit that Ms. Gradillas based her testimony on, was not admitted. However, her testimony was not stricken. Also, it is Appellant's contention that Respondent's Exhibit 2 was properly authenticated and should have been admitted pursuant to P.Y.T.C. Rules of Evidence, Rule 7.0. Ms. Gradillas testified that Exhibit 2, a "Payoff Statement," was a document generated by the Housing Department's "HDS System" from payment ledger cards entered into the system. She testified that although the payment ledger cards were no longer in the file, they were "all there at one time." Ms. Gradillas testified that the Payoff Statement was an authentic document from the Housing Department and that it was a standard document kept in a file. She displayed her knowledge of the Payoff Statement by explaining various parts of the document. The court did not admit the exhibit into evidence because Ms. Gradillas did not prepare the Payoff Statement herself, but that is not a requirement under the Rules of Evidence. Respondent's Exhibit 2 should have been admitted into evidence by the trial court. A copy of the Exhibit is attached for the Court's reference.

Mr. Romero testified that the amount paid on the house was much higher than \$13,772.79. However, the only documentation that he presented was a bank book showing one payment of \$156.50 in January (no year indicated) which was not offered into evidence.

² The documented payments are: \$73 per month as of November 24, 1987, Exhibit 3; \$263 per month (down from \$384 per month) as of March 1, 1997, Exhibit 4; \$65 per month (down from \$277 per month) as of March 1, 1998, Exhibit 5; and \$182 per month as of June 29, 1998 Exhibit 6.

Mr. Romero also received a benefit out of proportion to any contribution he may have made. He lived in the home until the parties separated. Had he been paying market rate for housing in the form of rent, he undoubtedly would have paid far more than \$13,722.79 over that same period. Also, if we analogize the payments on the house to mortgage payments, the amount paid in does not equate to the amount paid on the principal. A mortgage payment consists of principle and interest and the amount of interest paid over time is usually more than the principle.

Mr. Romero also argued that the value of the house should be considered when dividing the community property. He testified that he thought the house was worth \$125,000. He presented no basis for this amount other than his own personal opinion. He did not testify that he had any special expertise regarding valuing houses, and he did not present an appraisal or other estimate of the house's value. In fact, it would be extremely difficult to place a value on the house. The house cannot be sold on the open market. Therefore, it would be difficult even for an experienced appraiser or real estate agent to properly value the house. Lastly, Ms. Gradillas testified that she had never heard of anyone actually selling a house on the reservation during her many years with the PYT Housing Department.

For these reasons, the house should be taken completely out of the equation when dividing the community property. We then look to the court's division of the ASARCO 401(k) to determine whether it was an equitable division.

In dissolution of marriage proceedings, "community property" is divided "equitably." 1 P.Y.T.C. § 10.8. The Tribal Code does not define community property and there is no case law on this subject. *Black's Law Dictionary* (7th ed.) defines community property as "[p]roperty owned in common by husband and wife as a result of its having been acquired during the marriage by means other than an inheritance or gift to one spouse, each spouse holding a one-half interest in the property." The ASARCO 401(k) fits within this definition of community property as it was acquired during the marriage by Mr. Romero in connection with his employment during the marriage.

The Tribal Code also does not define "equitably." In *Black's, Id.*, equitable and equity are variously defined as just, fair, impartial, etc. Equitable division in the context of family law is defined as "[t]he division of marital property by a court in a divorce proceeding, under

statutory guidelines that provide for a fair, but not necessarily equal, allocation of the property between the spouses.” *Id.* Arizona’s property division statute contains a sentence identical to the Tribal Code § 10.8.³ Since the Arizona statute contains language identical to the Tribal Code’s, Arizona case law can be illustrative on this point. The Arizona Supreme Court has held that their statute “requires a substantially equal distribution of community assets in the absence of a compelling reason to the contrary.” *Kelly v. Kelly*, 9 P.3d 1046, 1048 (Ariz. 2000).

Whether the court applied a strict one half formula, or some other method to divide the 401(k), Ms. Romero should have been awarded a substantial portion of the 401(k). Instead, she was awarded nothing.

C. The tax exemptions were not awarded equitably pursuant to 1 P.Y.T.C. §§10.8 and 10.10.

Division of dependency exemptions for tax purposes is not specifically addressed in the Tribal Code. In this case, the court awarded Mr. Romero the exemptions for 2004, alternating with Ms. Romero for subsequent years. Ms. Romero had asked at trial that she be awarded the exemptions for all years. (The parties were awarded joint legal custody with Ms. Romero having sole physical custody pursuant to the parties’ stipulation).

The parties’ children are Zenobia, born 10/7/1988, and Yvette, born 9/1/1987. Zenobia will turn 18 in 2006, and Yvette will turn 18 in 2005. Thus, we are addressing five exemptions from 2004 until child support ends completely.

Ms. Romero feels that it would be fair for her to receive the exemptions because when the parties were together and filed jointly, the refunds were withheld to pay Mr. Romero’s child support arrears. In his testimony, Mr. Romero admitted that joint refunds had been withheld to pay for his child support arrears for a son from a previous relationship.

It can also be argued that the Tribal Court has no authority to award the exemptions at all. The federal Internal Revenue Code presumes that the custodial parent will normally be entitled to claim the dependency exemption. I.R.C. § 152(e)(1). The only exception applicable to this case

³ The statute states that the court shall “divide the community, joint tenancy and other property held in common equitably, though not necessarily in kind, without regard to marital misconduct.” A.R.S. § 25-318.

is when the custodial parent signs a form releasing the exemption(s) to the non custodial parent. § 152(e)(2). There are numerous federal tax court decisions indicating that state courts cannot award dependency exemptions.⁴

Some jurisdictions do not address this issue at all. In jurisdictions where the dependency exemption is specifically addressed as part of the child support determination, rather than awarding the exemption to the non custodial parent, the custodial parent is ordered to execute IRS form 8332 in order to release the exemption to the non custodial parent.⁵

D. The award of the child support did not take into account the factors set forth in 1 P.Y.T.C. §10.10 and the Order did not set a start date for child support or address retroactive support or arrears.

The start date of the child support has been addressed by a subsequent order of the trial court. In an order dated August 26, 2004, the court indicated that the child support obligation started June 2004. Ms. Romero therefore withdraws her appeal on this issue. Ms. Romero also withdraws her appeal of the amount of child support.

E. Spousal Maintenance is not Addressed.

The Order makes no mention of spousal maintenance. Ms. Romero did not request current maintenance; however, she did request that the court reserve the issue of maintenance and she presented evidence and testimony in support of this request. She requested that maintenance be reserved for two reasons. (1) She acknowledged that Mr. Romero would probably not be able to pay maintenance on top of the child support he was ordered to pay. (2) She expects that she

⁴ *Brissett v. Commissioner*, T.C. Memo 2003-310. *Prince v. Commissioner*, T.C. Memo 2003-247. *Boltinghouse v. Commissioner*, T.C. Memo 2003-134. *Loffer v. Commissioner*, 2002-298. *Hughes v. Commissioner*, T.C. Memo 2000-143. *Miller v. Commissioner*, 114 T.C. 184.

⁵ For example, when allocating a dependency exemption, Arizona requires that “the custodial parent ... execute the necessary Internal Revenue Service forms to transfer the exemptions.” A.R.S. § 25-320(27). Also see the Indiana Child Support Guidelines which state that “Judges and practitioners should be aware that under current law the court cannot award an exemption to a parent, but the court may order a parent to release or sign over the exemption for one or more of the children to the other parent pursuant to I.R.C. s 152(e).” Guideline 6.

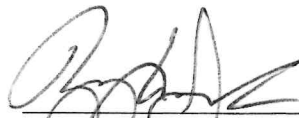
will not be able to meet her expenses once child support ends.

All the other factors in 1 P.Y.T.C. §10.9 are present. Ms. Romero lacks sufficient property to provide for her reasonable needs. She was not awarded any portion of the 401(k). She has a history of working at low paying jobs versus Mr. Romero's history of much higher earnings. Her gross income at the time of trial was \$1,587.73 per month, less than half of Mr. Romero's gross income of \$3,394.73 per month. The parties had a 19 year-long marriage. Ms. Romero testified that she had not graduated from highschool and that she was not able to read and write. She testified that her daughters had to read documents for her and that she was not even able fill out a job application without someone to read it for her.

CONCLUSIONS

The court should award each party the household goods in his or her possession. The court should reapportion the community property by giving Ms. Romero one half of the ASARCO 401(k). The court should award Ms. Romero the dependency exemptions for tax year 2004 and subsequent years. The court should reserve maintenance.

RESPECTFULLY SUBMITTED this 3rd day of March, 2006.



Yancy A. Jencsok
Attorney for Respondent/Appellant

Copy of the foregoing mailed March 3, 2006, to:

Lorenzo L. Romero
P.O. Box 141
Marana, AZ 85653

Yolanda Romero
5121 W. Neokae
Tucson, AZ 85757

by  _____

Yancy A. Jencsok
Pascua Yaqui Legal Services
7474 S. Camino de Oeste
Tucson, AZ 85746
879-5750
879-5752 fax

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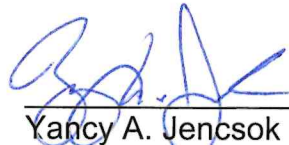
IN THE APPELLATE COURT OF THE YAQUI NATION

ROMERO, LORENZO L.,)	Appeal Case No.
Plaintiff/Appellee,)	
	)	Trial Case No. CV-03-112
vs.)	
	)	NOTICE OF APPEAL
ROMERO, YOLANDA M.,)	
Respondent/Appellant.)	
_____)	

1. Notice is hereby given that the above named Respondent/Appellant appeals to the Appellate Court of the Yaqui Nation from the following parts of the Order entered by Judge Cornelia Cruz on June 2, 2004: division of household property; division of Lorenzo Romero's ASARCO 401(k); allocation of the tax exemptions for the minor children; child support; spousal maintenance.
2. The Appellant believes the trial court was in error because: the Order incorrectly states that the parties stipulated to a division of household property; Lorenzo Romero's ASARCO 401(k) was not divided equitably pursuant to 1 P.Y.T.C. §10.8; the tax exemptions were not allocated equitably pursuant to 1 P.Y.T.C. §§10.8 and 10.10; the award of the child support did not take into account the factors set forth in 1 P.Y.T.C. §10.10 and the Order did not set a start date for child support or address retroactive support or arrears; Respondent requested a reservation of maintenance but the Order makes no mention of spousal maintenance.

3. The Appellant requests a one-Justice appellate proceeding.
4. The Appellant requests oral arguments.

Respectfully submitted this 16th day of June, 2004.



Yancy A. Jencsok
Attorney for Respondent/Appellant

Copy of the foregoing mailed this 16th day of June, 2004, to:

Trini Armenta
422 E. 9th Street
Tucson, AZ 85705

Yolanda Romero
5121 W. Neokae
Tucson, AZ 85746

By

