

No. CA-06-008
Pascua Yaqui Tribe Court of Appeals

Pascua Yaqui Tribe, Plaintiff,

v.

Luis F. Varela, Defendant,

and

Concerning Nicholas A. Fontana, Chief Public Defender, Appellant.

ORDER

Appeal of a contempt order of the Pascua Yaqui Tribal Court in Case No. CR-05-265, the Honorable Anthony F. Little presiding.

Nicholas A. Fontana, Esq., Pascua Yaqui Tribe Office of the Public Defender, Tucson, Arizona, pro se.

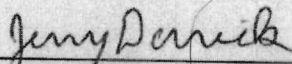
After reviewing the appellate record and hearing oral argument, we find as follows:

- 1). On January 19, 2006, the Pascua Yaqui Trial Court held the Appellant, Nicholas A. Fontana, Chief Public Defender of the Pascua Yaqui Tribe, in contempt and fined him \$100;
- 2). The Trial Court's order states generally and summarily that the Appellant "failed to timely and property [sic] make disclosures as required by Pascua Yaqui Code, Rule 501c(2), Chapter 2," but does not specify the items or item that the Appellant did not disclose; and
- 3). The Trial Court's contempt order does not contain findings of fact or conclusions of law that would help this Court determine the reasons for the contempt finding; and

4). Our review of the trial court's hearing transcript indicates that the item the Appellant allegedly did not disclose was a physician's expert witness report; however, no such report existed for the Appellant to disclose at the time of his alleged violation of Rule 501c(2).

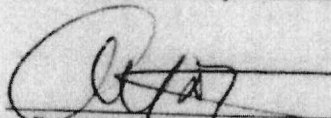
It is therefore ordered as follows: Because there was no expert witness report in existence to be disclosed to the Prosecutor at the time the Appellant allegedly did not comply with the rules of disclosure, he cannot be found in contempt under Rule 501c(2). Accordingly, the Trial Court's contempt finding and imposition of a \$100 fine are reversed and the contempt complaint against Nicholas A. Fontana, Chief Public Defender of the Pascua Yaqui Tribe, is hereby dismissed.

Filed this 21 day of September, 2007.



Jerry Derrick, Acting Chief Justice

Veronica Geronimo, Associate Justice



Raymond D. Austin
Associate Justice, Pro Tempore

STATEMENT OF FACTS

On September 4, 2005, the Pascua Yaqui Tribe filed a criminal complaint against Mr. Luis Varela. [Pascua Yaqui Trial Court Record, document 2, hereinafter "Record at 2."] The complaint charged Mr. Varela with one count of sexual abuse and one count of molestation of a child. [Id.]. Mr. Varela appeared before the trial court for his initial appearance on September 4, 2005. [Record at 3]. The court determined that probable cause existed and scheduled the matter for an arraignment. [Id.]. On September 7, 2005, Appellant Nicholas Fontana entered his notice of appearance on behalf of Mr. Varela. [Record at 5].

Mr. Varela was arraigned on September 14, 2005. [Record at 9]. The Tribe filed a notice of initial witness disclosure on September 14, 2005, and an amended notice of initial witness disclosure later the same day. [Record at 10-11]. On September 27, 2005, thirteen days after the arraignment, the Tribe filed a request for disclosure. [Record at 15]. The Appellant filed the defendant's notice of defenses and disclosure on September 30, 2005. [Record at 17]. The defense also filed a supplemental request for disclosure on September 30, 2005. [Record at 18]. The Tribe filed a response to Mr. Varela's request for supplemental disclosure on October 3, 2005. [Record at 20]. Mr. Varela filed a second request for supplemental disclosure on October 7, 2005. [Record at 30].

The parties appeared before the court on October 10, 2005, for the pretrial conference. [Record at 31]. The trial court ordered that the Tribe produce all remaining disclosure materials by October 28, 2005. [Id.]. The defense was ordered to disclose any expert it intended to call at trial no later than November 4, 2005. [Id.]. The matter was set for trial on November 29, 2005. [Id.].

On November 4, 2005, the Appellant disclosed the name, address, phone number, and curriculum vitae of his expert witness, Dr. Phillip Esplin. [Record at 98]. On November 8, 2005, the Tribe filed a motion to compel disclosure of defendant's witness statements; experts specific opinions and supporting authority relied upon. [Record at 46]. The Appellant filed a response to

the Tribe's motion on December 2, 2006, and an amended response on December 5, 2006. [Record at 51, 52].

On November 21, 2005, the trial court entered an order granting the defendant's motion to continue the jury trial. [Record at 50]. On December 21, 2005, the clerk of the court issued a notice of hearing scheduling the jury trial for January 19, 2006. [Record at 55-56].

The Tribe filed a motion to preclude the defendant's expert witness on December 21, 2005. [Record at 57]. The Appellant filed a response to the Tribe's motion to preclude on January 6, 2006. [Record at 59]. On January 18, 2006, one day prior to the scheduled jury trial, the Tribe filed a confidential notice of disclosure. [Record at 100]. As a result of the last minute disclosure, the trial court entered an ordering vacating and continuing the jury trial set for January 19, 2006. [Record at 70]. The trial court also issued an order denying the Tribe's motion to preclude the defendant's expert witness but finding the Appellant in contempt of court and imposing a sanction of one-hundred dollars (\$100.00) for the Appellant's alleged violation of the disclosure rules. [Record at 71].

On January 23, 2006, the Appellant filed his notice of appeal of the trial court's order finding him contempt. [Record at 72]. The Appellant also filed a motion to stay the execution of the financial sanction on January 23, 2006. [Record at 101].

STATEMENT OF ISSUES

1. Whether the trial court erred in finding the Appellant in contempt of court.
2. Whether the sanction imposed against the Appellant was appropriate.

ARGUMENT

I. THE TRIAL COURT ERRED IN FINDING THE APPELLANT IN CONTEMPT OF COURT.

A. Standard of Review.

The Pascua Yaqui Court of Appeals uses an abuse of discretion standard to review sanctions for failure to comply with discovery rules. *P.Y.T. v. Soto*, CA-06-010, at 9 (2007). This Court gives great deference to the trial court's findings, but may reverse a discretionary decision if it rests on a clearly erroneous fact. *Id.* The Court of Appeals also has the power to modify a sanction imposed by the trial court. *See PYT v. Molina*, CA-04-002 at 4 (2006). Questions of law are subject to de novo review on appeal. *Soto* at 9.

B. The Courts of the Pascua Yaqui Tribe have Inherent and Statutory Authority to Regulate the Conduct of Attorneys and Advocates.

There is no question that the trial court has inherent authority to regulate the conduct of attorneys appearing before the court. From the earliest times, it has been the courts, and only the courts, which have fixed the qualifications of attorneys and regulated the conduct of attorneys. As Sir William Blackstone observed, it is the rule of law that “[n]o man can practice as an attorney in any such courts, but such as is admitted and sworn of that particular court.” III Commentaries on the Laws of the English 3 (1765 – 1769). The United States Supreme Court recognized that “[m]embership in the bar is a privilege burdened with conditions.” *Theard v. U.S.*, 354 U.S. 278, 281 (1957). A court's control over the professional life of an attorney derives from the attorney's relation to the responsibilities of a court. *Id.*

A trial court judge is responsible not only for the legal aspects of litigation, but also for the orderly conduct of legal proceedings. Every court has the duty to ensure that its authority and dignity are respected so that it can administer justice without hindrance or

embarrassment. To regulate the conduct of parties and officers of the court, the court may employ the power of contempt of court. In *Pascua Yaqui Tribe v. Molina*, this Court expressly upheld the power of the tribal courts, both trial and appellate, to impose sanctions as necessary. *Molina* at 4. Other tribal courts have recognized that the courts have inherent power to punish for contempt. *John v. Herrick*, No. A-CV-23-85 (Navajo 03/03/1987), 1987.NANN.0000017 <http://www.versuslaw.com>; *In re Sekayumptewa* (Hopi 08/29/1997), 1997.NAHT.0000010 <http://www.versuslaw.com>; *In re Delos Santos*, 11 I.L.R. 6043 (Puyallup 1984); *Crow Creek Sioux Tribe v. Buum*, 10 I.L.R. 6031 (1983); *Sonnenberg v. Colville Tribal Court*, 5 C.C.A.R. 9 (Colville Confederated 02/12/1999), 1999.NACC.0000003 <http://www.versuslaw.com>; *Fort Peck Assiniboine and Sioux Tribes v. Pipe*, No. 49 (Fort Peck 08/04/1988), 1988.NAFP.0000004 <http://www.versuslaw.com>.

Not only do the courts of the Pascua Yaqui Tribe have the inherent power to govern the admission and conduct of attorneys and advocates, the courts of the Pascua Yaqui Tribe also have statutory to prescribe the conditions of attorneys' and advocates' certification to practice and to regulate the conduct of persons appearing before the Courts. 1 P.Y.T.C. § 1.26 (Appearance of Attorneys); 1 P.Y.T.C. § 1.3 (Powers of the Tribal Courts); 1 P.Y.T.C. § 1.2 (Duties of the Tribal Courts); 9 P.Y.T.C. Rule 504 (Sanctions); 3 P.Y.T.R.A.P. 31 (Sanctions).

C. The Trial Court Erred in Finding the Appellant in Contempt of Court.

The trial court's finding of contempt was based on the Appellant's alleged failure to comply with 9 P.Y.T.C. Rule 501(C)(2). [Record at 71]. Rule 501(C)(2) provides that:

Disclosures by defendant. Simultaneously with the notice of defenses submitted under Rule 501(B), the defendant shall make available to the prosecutor for examination and reproduction:

...

(2) The names and addresses of experts to be called by the defendant at trial, together with the results of physical examinations and of scientific tests, experiments or comparisons, including all written reports and statements, made by them in connection with the particular case.¹

The defendant in this case was arraigned on September 14, 2005. [Record at 9]. The arraignment date is important because it triggers the time limits for disclosure contained in the rules of criminal procedure. The rules provide that the Tribe is obligated to provide disclosure no later than ten days after the arraignment. 9 P.Y.T.C. Rule 500. A defendant is obligated to provide a written disclosure of defenses and witnesses within twenty days after the arraignment, or within ten days after the Tribe has made the disclosure required by the code, whichever is the longer time. 9 P.Y.T.C. Rule 501.

The Tribe filed its initial disclosure on September 14, 2005. [Record at 10]. As a result, the Appellant was required to file the defendant's notice of defenses and witnesses no later than October 5, 2005. The Appellant filed the defendant's notice of defenses and disclosure on September 30, 2005, well within the time limit requires by the rules of criminal procedure. [Record at 17]. The defendant's notice of defenses and disclosure did not include the name or address of an expert witness. [Id.]. Although the Tribe had provide initial disclosure materials, the Tribe's disclosure was far from complete as evidenced by the request for supplemental disclosure filed by the defendant on September 30, 2005. [Record at 18]. The lack of essential disclosure rendered it impossible for the defense to locate and retain an appropriate expert witness.

¹ The Pascua Yaqui Tribal Code was recodified in August of 2006. The former 9 PYTC Rule 501 can now be found at 3 P.Y.T.R.Crim.P. 39.

The trial court was well aware of the problems regarding the discovery process in this case. At the pretrial conference on October 10, 2005, the trial court entered orders intended to ensure that the discovery process would be concluded in an expeditious manner. The trial court expressly ordered that the Tribe provide all remaining disclosure materials by October 28, 2005. [Record at 31]. The Appellant was ordered to “disclose to the Tribe any expert it intends to produce at the trial of this matter no later than Friday, November 4, 2005.” [Id.]. On November 4, 2005, the Appellant disclosed the name, address, phone number, and curriculum vitae of his expert witness. [Record at 98].

On November 8, 2005, the Tribe filed a motion to compel disclosure of defendant’s witnesses’ statements; expert’s specific opinions and supporting authority relied upon. [Record at 46]. The motion alleged that the Appellant had failed to comply with the provisions of Title 9, Pascua Yaqui Judicial Titles and Codes, Rule 501. [Id.]. The Appellant filed a response to the Tribe’s motion December 2, 2005, and an amended response on December 5, 2006. [Record at 51-52]. Like the defense’s notice of disclosure, the responses contained the name and address of the defense’s expert witness. [Id.]. The responses also indicated that the defense expert had not prepared a written report or recorded statement, and that there were no reports or statements regarding physical examinations, scientific tests, experiments or comparisons. [Id.]. The amended response contained a copy of the expert’s fee schedule. [Record at 52]. The responses both indicated that the defense had requested a list of treatises, papers or studies upon which the expert relied upon for his opinion and that they would be disclosed to the Tribe upon receipt. [Record at 51-52].

On December 22, 2005, the Tribe filed a motion to preclude the defense’s expert witness which argued that the defense’s expert witness should be precluded due to the Appellant’s alleged failure to comply with Title 9, Pascua Yaqui Judicial Titles and Codes,

Rule 501. [Record at 57]. The Appellant filed a response to the Tribe's motion to preclude on January 6, 2006. [Record at 59]. On January 19, 2006, the trial court entered an order denying the Tribe's motion to preclude but finding the Appellant in contempt of court for the alleged failure to comply with Title 9, Pascua Yaqui Judicial Titles and Codes, Rule 501(C).

Rule 501(c)(2), Title 9, Chapter 2 of the Pascua Yaqui Judicial Titles and Codes provides that a defendant is required to disclose:

The names and addresses of experts to be called by the defendant at trial, together with the results of physical examinations and of scientific tests, experiments or comparisons, including all written reports and statements, made by them in connection with the particular case.

Contrary to the Tribe's assertion, the rule does not address the disclosure of "treatises and authorities the expert has relied upon."

The Appellant disclosed the defense's expert witness, as ordered by the trial court, on November 4, 2005. [Record at 98]. Although not required by the trial court's order or the discovery rules, the Appellant provided with the Tribe with the expert witness's vitae, which included a complete list of the twenty-five scientific publications, eight book chapters, and ten scientific papers he authored or co-authored. [Record at 98, 59 – Exhibit A]. The Appellant had previously disclosed that the expert had not conducted any physical examinations, scientific tests, experiments or comparisons in connection with this case, and that the expert had not prepared any written reports or statements. [Record at 51-52]. In reality, in providing the expert's vitae, list of publications, and fee schedule, the Appellant provided the Tribe with disclosure that was not required by Rule 501(C)(2). In addition, though not requested by the Tribe, nor required by the discovery rules, the Appellant made the expert witness available to the Tribe for a pre-trial interview. [Record at 59]. The Tribe

in fact conducted a pre-trial interview of the defense expert on January 27, 2006. [Record at 102, Exhibit A].

Neither the tribal code nor the opinions of this Court have set forth a legal definition of contempt of court. The Supreme Court of the Navajo Nation has held that contempt is “any act which is calculated to hinder, obstruct, or embarrass the court in the administration of justice.” *John*, ¶ 18, citing BLACK’S LAW DICTIONARY 288 (5th Ed. 1979). The Appellant did not disobey any order of the trial court. The question then becomes whether the Appellant hindered, obstructed, or embarrassed the trial court in the administration of justice. Although failing to comply with the discovery rules may certainly hinder or obstruct the administration of justice, there is no evidence to suggest that the Appellant did anything other than comply with the relevant disclosure requirements. In fact, by making the expert available for a pre-trial interview, the Appellant exceeded the requirements of the disclosure rules.

It is true that this Court gives great deference to the trial court’s findings, but this Court may reverse a discretionary decision if it rests on a clearly erroneous fact. *Soto* at 9. The trial court’s order finding the Appellant in contempt does not contain any specific, factual findings. [Record at 71]. A careful review of the record reflects that the Appellant complied with all court orders as well as the discovery provisions of the rules of criminal procedure and did not engage in conduct which hindered, obstructed, or embarrassed the trial court in the administration of justice.

II. THE SANCTION IMPOSED AGAINST THE APPELLANT WAS INAPPROPRIATE.

A. Standard of Review.

The Pascua Yaqui Court of Appeals uses an abuse of discretion standard to review sanctions for failure to comply with discovery rules. *Soto* at 9. The Court gives great

deference to the trial court's findings, but may reverse a discretionary decision if it rests on a clearly erroneous fact. *Id.* The Court of Appeals also has the power to modify a sanction imposed by the trial court. *See Molina* at 4. Questions of law are subject to de novo review on appeal. *Soto* at 9.

B. The Sanction Imposed Against the Appellant was Inappropriate.

The Pascua Yaqui Code provides that in the event an attorney is found guilty of contempt, the trial judge may levy a penalty for contempt not to exceed the sum of two-hundred dollars. 1 P.Y.T.C. § 1.26(d). Neither the tribal code or the opinions of this Court address the factors to be considered when a court imposes a sanction against an attorney or lay advocated.

The Appellant respectfully suggests that the Court considering the following factors when imposing or reviewing a contempt sanction:

1. the seriousness of the allegedly contumacious conduct;
2. whether the conduct hindered, obstructed, or embarrassed the court in the administration of justice;
3. whether the contemnor's conduct was intentional, willful, knowing, reckless, or grossly indifferent to the appropriate standards of conduct;
4. whether the contemnor has previously been held in contempt of court; and
5. whether the sanction can be harmonized with other sanctions imposed by the court for similar conduct.

The Court may also wish to consider factors such as the length of time the contemnor has been certified to practice in the courts of the Pascua Yaqui Tribe, remorse expressed by the contemnor, or other factors which may mitigate or aggravate the contemnor's conduct.

In applying these factors, the Appellant believes that the sanction imposed by the trial court was excessive. The alleged conduct did not hinder, obstruct, or otherwise

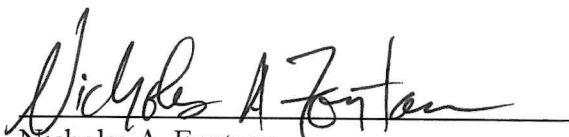
embarrass the trial court. The record reveals that the Appellant made every effort to comply with the orders and rules of the court. The Appellant has not previously been found in contempt of court. Finally, the Appellant notes that the Tribe failed to disclose material until the day before the jury trial, but was not held in contempt. [Record at 100]. In light of these facts, the imposition of a one-hundred dollar fine against the Appellant was excessive.

CONCLUSION

For all of the above and foregoing reasons, the Appellant respectfully moves this Court to enter an order reversing the trial court's order finding the Appellant in contempt of court. In the alternative, the Appellant respectfully requests that the Court enter an order suspending, vacating, or reducing the sanction imposed against the Appellant.

DATED this 23rd day of July, 2007.

PASCUA YAQUI PUBLIC DEFENDER



Nicholas A. Fontana
Chief Public Defender
Appellant

CERTIFICATE OF SERVICE

I hereby certify that the original and five (5) copies of the Appellant's Opening Brief were delivered this date to:

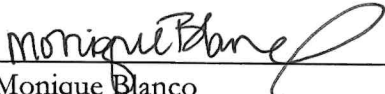
Clerk of the Court of Appeals
Pascua Yaqui Court of Appeals
7474 South Camino de Oeste
Tucson, AZ 85757

and that one (1) copy of the Opening Brief was delivered this date to:

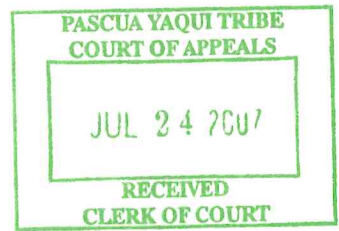
Ben Casey
Trial Court Solicitor
Pascua Yaqui Tribal Court
7474 South Camino de Oeste
Tucson, AZ 85757

DATED this 23 day of July, 2007.

PASCUA YAQUI PUBLIC DEFENDER



Monique Blanco
Legal Secretary



No. CA-06-008

Pascua Yaqui Court of Appeals

In the matter of Nicholas Fontana,

Order

Appeal of a contempt order of the Pascua Yaqui Tribal Court in Case No. CR-05-265, the Honorable Anthony F. Little presiding.

Nicholas A. Fontana, Esq., Pascua Yaqui Tribe Office of the Public Defender, Tucson, Arizona for the Appellant.

To: Ben Casey, Solicitor

The Court invites you to present arguments on behalf of Judge Melvin Stoof in the above captioned case. You will have 15 minutes to argue. The Court hearing begins at 2:30 p.m., Tuesday, July 24, 2007, at the Pascua Yaqui Tribe Court building.

So Ordered this 24 day of July 2007.

A handwritten signature in blue ink that reads "Jerry Derrick".

Acting Chief Justice

No. CA-06-008

Pascua Yaqui Tribe Court of Appeals

In the matter of Nicholas Fontana

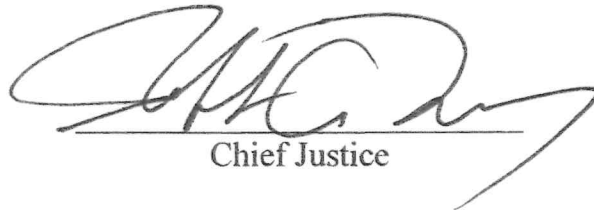
ORDER

Appellant's motion for extension of time to file its opening brief; Trial Court Case No. CR-05-256; the Honorable Melvin R. Stoof presiding.

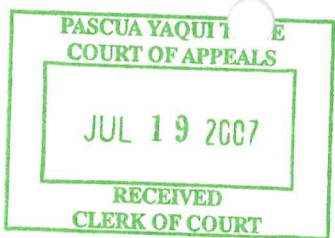
Mr. Nicholas Fontana, Esq., Pascua Yaqui Public Defender Office, Tucson, Arizona, Appellant.

The court has received and reviewed the Appellant's motion for extension of time to file pursuant to PYTRAP Rule 5(B). The Court finds good cause for granting the motion. The deadline for the Appellant to file its opening brief shall be extended until Monday, July 23, 2007.

So ORDERED this 19th day of July, 2007



Chief Justice



PASCUA YAQUI TRIBAL COURT
FILED DATE AND TIME

07 JUL 19 PM 2:43

DOCKET NO. CA-06-008

CLERK TS

1 Nicholas A. Fontana
2 State Bar No. 014429
3 OFFICE OF THE PUBLIC DEFENDER
4 7474 South Camino de Oeste
5 Tucson, AZ 85757

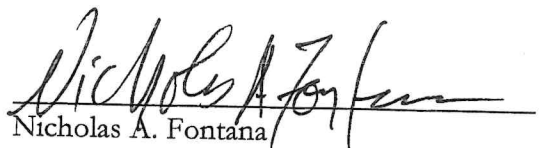
6 IN THE PASCUA YAQUI COURT OF APPEALS
7 IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

8 IN RE:) APPELLATE CASE NO. CA-06-008
9)
10 NICHOLAS FONTANA) PASCUA YAQUI TRIBAL COURT NO.:
11) CR-05-265
12) **MOTION TO EXTEND TIME FOR**
13) **FILING OPENING BRIEF**
14)
15)
16)
17)

18 COMES NOW the Appellant and respectfully moves this Court to extend the time for the
19 filing of his opening brief to Friday, July 20, 2007. Due to the voluminous nature of the record, the
20 Appellant requires additional time to complete his opening brief. No further extension will be
21 requested.

22 DATED this 19th day of July, 2006.

23 PASCUA YAQUI PUBLIC DEFENDER

24 
25 Nicholas A. Fontana
Chief Public Defender

CERTIFICATE OF SERVICE

ORIGINAL and five (5) copies of the foregoing delivered this 19th day of July, 2006, to:

Clerk of the Court of Appeals
Pascua Yaqui Court of Appeals
7474 S. Camino de Oeste
Tucson, AZ 85757

BY: Monique Blanco
Monique Blanco
Legal Secretary

No. CA-06-008
Pascua Yaqui Tribe Court of Appeals

Pascua Yaqui Tribe, Plaintiff,

v.

Luis F. Varela, Defendant,

and

Concerning Nicholas A. Fontana, Chief Public Defender, Appellant.

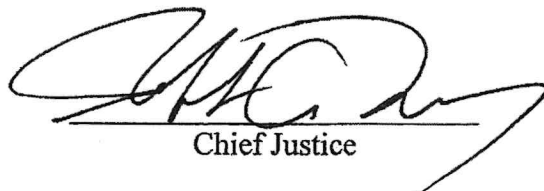
ORDER

Appeal of a contempt order of the Pascua Yaqui Tribal Court in Case No. CR-05-265, the Honorable Anthony F. Little presiding.

Nicholas A. Fontana, Esq., Pascua Yaqui Tribe Office of the Public Defender, Tucson, Arizona, for the Appellant.

The court reviewed this matter and finds that the case should be briefed and oral argument set. The Appellant Public Defender shall file his opening brief no later than July 19, 2007 and serve a copy on the trial court solicitor the same day it is filed with the court. The trial court solicitor may file either a response brief or a letter stating no brief will be filed no later than July 23, 2007. Oral argument will be heard on Tuesday, July 24, 2007, at the time of 3:30 pm, at the Pascua Yaqui Tribe court building. The Appellant shall have 15 minutes to argue to the court. The solicitor shall not present argument.

So ordered this 9th day of July, 2007.


Chief Justice

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the original and five (5) copies of the Notice of Appeal were delivered this date

3 to:

4 Clerk of the Court of Appeals
5 Pascua Yaqui Court of Appeals
6 7474 South Camino de Oeste
7 Tucson, AZ 85757

7 and that one copy of the Notice of Appeal was delivered this date to:

8 Pascua Yaqui Tribal Court
9 7474 South Camino de Oeste
10 Tucson, AZ 85757

11 and that one copy of the Notice of Appeal was delivered this date to:

12 Micah Schmit
13 Chief Prosecutor
14 Office of the Prosecutor of the Pascua Yaqui Tribe
15 7474 South Camino de Oeste
16 Tucson, AZ 85757

17 DATED this 23 day of January, 2006.

18 PASCUA YAQUI PUBLIC DEFENDER

19 
20 _____
21 Jessica Vega
22 Legal Secretary
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IN THE PASCUA YAQUI TRIBAL COURT

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

<p>PASCUA YAQUI TRIBE, Plaintiff,</p> <p>VARELA, LUIS F., Defendant</p>	<p>DOCKET NO. _____</p> <p>FILED _____</p> <p>05 JAN 23 AM 11:12</p>
	<p>Case Number: CR-05-265</p>
<p>ORDER</p>	

This matter having come on regularly before the court on the Pascua Yaqui Tribe's Motion to Preclude witness the Tribe being represented by Micah Schmit and the Defendant by Nicholas Fontana, and the court having heard argument and being fully advised in the premises, THE COURT FINDS the Tribe's motion to not be well taken and denies the Tribe's Motion to Preclude Witness but finds that the Defendant counsel has failed to timely and property make disclosures as required by Pascua Yaqui Code, Rule 501 c (2), Chapter 2, and thereby imposes a contempt fine of \$100.00 to be paid by Defendant' counsel to the court within ten (10) days of the entry of this order

IT IS ORDERED, ADJUDGED AND DECREED:

That the Tribe's Motion to Preclude Witness is denied and Defense Counsel shall pay \$100.00 to the Court within ten (10) days of the entry of this order.

SO ORDERED THIS 19th DAY OF January 2006.

A. J. Pittu
Judge, Pascua Yaqui Tribal Court

Cc:
Date: 01-19-06
 Tribe Defendant/Counsel
 Other _____
Clerk: JK

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