

No. CA-06-014

Pascua Yaqui Tribe Court of Appeals

Pascua Yaqui Tribe, Plaintiff/Appellee,

v.

Reynaldo Canez, Jr., Defendant/Appellant.

ORDER

Conference on Petition for Trial de Novo, the Honorable Jerry Derrick, Associate Justice, presiding.

Petition for trial de novo before the Court of Appeals, Trial Court docket No. TR-06-007, the Honorable Melvin R. Stoof presiding.

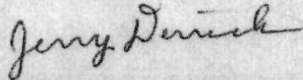
Nicholas A. Fontana, Esq., Pascua Yaqui Public Defender Office, Tucson, Arizona, for the Defendant/Appellant; and Yancy A. Jencsok, Esq., Pascua Yaqui Tribe Office of the Prosecutor, Tucson, Arizona, for the Plaintiff/Appellee.

This matter came before the Pascua Yaqui Tribe Court of Appeals for a pretrial hearing on a Petition for Trial de Novo. Present and ready to proceed were Michah Schmit, Chief Prosecutor, as counsel for Appellee, and Nicholas A. Fontana, Chief Public Defender, as counsel for Appellant.

Based on discussions with the parties' attorneys, the Court enters the following order: Mr. Fontana shall file a motion that will be due on or by November 2, 2007. Mr. Jencsok shall file a response to the motion on or by November 21, 2007. Mr. Fontana may file a reply to the response within five days of service. Each side shall serve a copy of all pleadings on the other side on the same day of filing with the Court. The parties shall address whether there is an "adequate remedy" to treat this matter as a regular appeal within the meaning of Rule 27 of the Pascua Yaqui Tribe Rules of Appellate Procedure. If a trail de

novo is required, the parties shall address whether it should be a bench or jury trial and whether all criminal charges that were filed in the trial court should be reinstated for the trial de novo. Furthermore, the parties shall address the issue of key witness availability for the trial de novo; see *Tracy v. Superior Court*, 168 Ariz. 23, 810 P.2d 1030 (Ariz. 1991), for guidance on this issue. If a key witness is not available for trial de novo, then what remedies are available to the parties? Following briefing on these issues, the matter shall be set for a motion hearing after November 30, 2007.

So Ordered this 21 day of September, 2007



Honorable Jerry Derrick
Judge assigned to Trial de Novo Petition

07 MAY 29 PM 2:45

DOCKET NO. CA-06-014

CLERK UK

1 Pascua Yaqui Public Defender
7474 S. Camino de Oeste
2 Tucson, Arizona 85757

3 Nicholas A. Fontana
4 State Bar No. 014429

5 COUNSEL FOR: Defendant/Appellant

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

9 PASCUA YAQUI TRIBE,

10 Appellee,

11 vs.

12 CANEZ, REYNALDO, JR.,

13 Appellant.

) Appellate Case No: CA-06-014

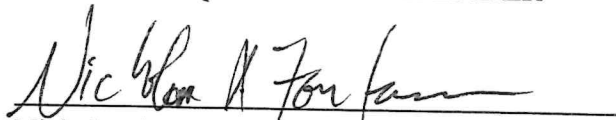
) Tribal Court No.: TR-06-007

) **APPELLANT'S REPONSE TO TRIBE'S
MOTION FOR CONTINUANCE OF TRIAL
DE NOVO**

14
15 COMES NOW Appellant Reynaldo Canez, Jr., through counsel, and respectfully gives notice that
16 he objects to the Tribe's Motion for Continuance of *trial de novo*. There is no evidence to support the
17 Appellee's assertion that it needs additional time to subpoena witnesses and prepare for trial. Given the fact
18 that the Appellant filed his request for a *trial de novo* ten-months ago, at a minimum, the Court should require
19 that Appellee give the Court evidence of its efforts to subpoena witnesses and prepare for trial.

20 RESPECTFULLY SUBMITTED this 27th day of May, 2007.

21
22 PASCUA YAQUI PUBLIC DEFENDER

23 

24 Nicholas A. Fontana
25 Chief Public Defender

26 ///

27 ///

28 //

1 CERTIFICATE OF SERVICE

2 I hereby certify that the original and five (5) copies of the Appellant's Response to Tribe's Motion
3 for Continuance of *trial de novo* were delivered this date to:

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

7 and that one copy of the Appellant's Response to Tribe's Motion for Continuance of *trial de novo* was
8 delivered this date to:

9 Yancy Jencsok
10 Deputy Prosecutor
Office of the Prosecutor of the Pascua Yaqui Tribe
11 7474 South Camino de Oeste
Tucson, AZ 85757

12 DATED this 29 day of May, 2007.

14 PASCUA YAQUI PUBLIC DEFENDER

15 Monique Blanco
16 Monique Blanco
17 Legal Secretary

PASCUA YAQUI TRIBAL COURT
800 N. W. 10th St.
Tucson, AZ 85724

07 MAY 29 PM 2:46

DOCKET NO. CA-06-014

CLERK Wk

1 Pascua Yaqui Public Defender
7474 S. Camino de Oeste
2 Tucson, Arizona 85757

3 Nicholas A. Fontana
4 State Bar No. 014429

5 COUNSEL FOR: Defendant/Appellant

6 IN THE PASCUA YAQUI TRIBE COURT OF APPEALS
7 IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION
8

9 PASCUA YAQUI TRIBE,

10 Appellee,

11 vs.

12 CANEZ, REYNALDO, JR.,

13 Appellant.
14

) Appellate Case No: CA-06-014

) Tribal Court No.: TR-06-007

) **APPELLANT'S REPOSE TO TRIBE'S
MOTION FOR PRE-HEARING
CONFERENCE**

15 COMES NOW Appellant Reynaldo Canez, Jr., through counsel, and respectfully responds to the
16 Appellee's Motion for Pre-Hearing Conference as follows:

17 1. The Appellant filed his request for *trial de novo* on July 31, 2006. The Court issued an order
18 setting the *trial de novo* for May 25, 2007. On May 18, 2007, the Appellee filed a motion to continue the *trial*
19 *de novo* alleging that it needed additional time to prepare for trial and subpoena witnesses. Without giving
20 the Appellee an opportunity to respond, the Court granted the Appellant's motion to continue and set the
21 *trial de novo* for a currently unknown date in the future.

22 2. The Appellant agrees that 3 PYTRAP 27(C) requires the Chief Justice told hold a conference
23 prior to the *trial de novo*. Such a conference would afford the Appellee to inform the Court that its only
24 witness, Thomas Schenek, is no longer an employee of the Pascua Yaqui Tribe as well as give the parties the
25 opportunity to litigate pre-trial motions.

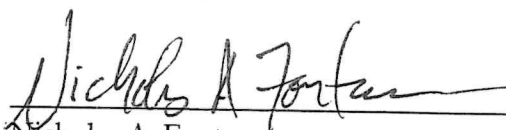
26 3. The Appellant agrees that the standard pretrial procedures of disclosure, pretrial motions,
27 subpoenas, etc. should be followed by the Court of Appeals.
28

1 4. The Court must decline the Appellee's invitation to deprive the Appellant of his constitutional
2 right to a *trial de novo*. The Constitution of the Pascua Yaqui Tribe explicitly states that "appellate review
3 shall not include *trial de novo* in any civil matter but *trial de novo* shall be provided in any criminal matter upon
4 the request of any defendant." Constitution of the Pascua Yaqui Tribe, Article 8, § 5. Appellant has
5 requested a *trial de novo*. The Appellant has complied with all time requirements. The Appellee's suggestion
6 that the Appellant may not be entitled to a *trial de novo* ignores the plain language of the Constitution. The
7 Appellant is not required in to provide the Court of Appeals or the Appellee with a "justification" for
8 asserting his constitutional right to a *trial de novo*.

9 5. The Appellee's contention that there are no limits on *trials de novo* before the Pascua Yaqui Court
10 of Appeals is patently absurd. If a defendant is convicted by the Pascua Yaqui Tribal Court, the defendant
11 may either appeal the conviction to the Pascua Yaqui Court of Appeals or request a *trial de novo* before the
12 Pascua Yaqui Court of Appeals. If the defendant is convicted after a *trial de novo* in the Court of Appeals,
13 the defendant's only relief would be to file a writ of habeas corpus in a court of the United States. Art. 1, §
14 2, Const. Pascua Yaqui Tribe; 25 U.S.C. § 1303. There is absolutely nothing in laws of the Pascua Yaqui
15 Tribe to suggest that defendants in criminal cases are entitled to *trials de novo ad nauseam*.

16 RESPECTFULLY SUBMITTED this 27th day of May, 2007.

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18
19 PASCUA YAQUI PUBLIC DEFENDER

20 
21 _____
22 Nicholas A. Fontana
23 Chief Public Defender

24 ///
25 ///
26 ///
27 ///
28 ///

1
2 CERTIFICATE OF SERVICE

3 I hereby certify that the original and five (5) copies of the Appellant's Response to Tribe's Motion
4 for Pre-Hearing Conference were delivered this date to:

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

8 and that one copy of the Appellant's Response to Tribe's Motion for Pre-Hearing Conference was delivered
9 this date to:

10 Yancy Jencsok
11 Deputy Prosecutor
12 Office of the Prosecutor of the Pascua Yaqui Tribe
13 7474 South Camino de Oeste
Tucson, AZ 85757

14 DATED this 29 day of May, 2007.

15 PASCUA YAQUI PUBLIC DEFENDER

16 Monique Blanco
17 Monique Blanco
18 Legal Secretary

No. CA-06-014

Pascua Yaqui Tribe Court of Appeals

Pascua Yaqui Tribe, Plaintiff/Appellee,

v.

Reynaldo Canez, Jr., Defendant/Appellant.

ORDER

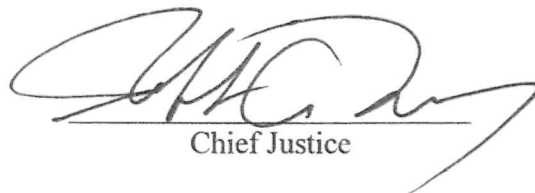
Petition for continuance of trial de novo before the Court of Appeals; Trial Court docket No. TR-06-007, the Honorable Melvin R. Stoof presiding.

Mr. Nicholas A. Fontana, Esq., Pascua Yaqui Public Defender Office, Tucson, Arizona, for the Defendant/Appellant; and Yancy A. Jencsok, Esq., Pascua Yaqui Tribe Office of the Prosecutor, Tucson, Arizona, for the Plaintiff/Appellee.

The Court has received and reviewed the Tribe's motion for continuance of trial de novo, which had been scheduled by prior order for May 25, 2007. The Court finds good cause for granting the motion in that the Tribe needs time to contact its witnesses.

It is ordered that the trial de novo set for May 25, 2007 is postponed until a new date can be arranged between the parties and the Court.

So ORDERED this 23rd day of May, 2007.



Chief Justice

Pascua Yaqui Tribe
Office of the Prosecutor
7474 S. Camino de Oeste
Tucson, AZ 85757
(520) 879-6251

Yancy A. Jencsok
Deputy Prosecutor

PASCUA YAQUI TRIBAL COURT
FILED DATE AND TIME

07 MAY 18 PM 4:30

DOCKET NO. _____

CLERK _____

IN THE PASCUA YAQUI COURT OF APPEALS

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

PASCUA YAQUI TRIBE,)	Trial Court Case No.: TR-06-007
Plaintiff/Appellee,)	
)	Appeals Court Case No.: CA-06-014
vs.)	
)	TRIBE'S MOTION FOR CONTINUANCE
CANEZ, Jr., Reynaldo,)	OF TRIAL DE NOVO
Defendant/Appellant.)	
_____)	

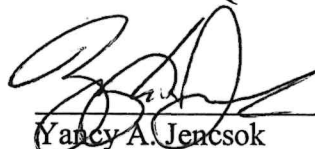
The tribe, pursuant to 3 PYTRAP Rules 3 and 27, motions the court to continue the *trial de novo*. The grounds for this motion are as follows:

1. The Court has scheduled this matter for a *trial de novo* on May 25, 2007 at 2:30 p.m.
2. The tribe received written notice of the *trial de novo* on or about May 14, 2007.
3. The tribe requires additional time to subpoena witnesses and prepare for trial.

WHEREFORE, the tribe requests that the *trial de novo* be continued.

RESPECTFULLY SUBMITTED this 18th day of May, 2007.

OFFICE OF THE PROSECUTOR
PASCUA YAQUI TRIBE.



Yancy A. Jencsok
Deputy Prosecutor

ORIGINAL and 5 copies delivered to:

Clerk of the Court
Pascua Yaqui Tribe Court of Appeals

Copy ~~delivered~~/mailed to:

Clerk of the Court
Pascua Yaqui Tribal Court

Public Defender
Pascua Yaqui Tribe

On May 18, 2007 by:

A handwritten signature in black ink, appearing to be "P. J. K.", written over a horizontal line.

No. CA-06-014

Pascua Yaqui Tribe Court of Appeals

Pascua Yaqui Tribe, Plaintiff/Appellee,

v.

Reynaldo Canez, Jr., Defendant/Appellant.

ORDER

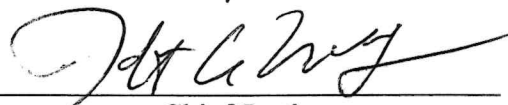
Petition for trial de novo before the Court of Appeals, Trial Court docket No. TR-06-007, the Honorable Melvin R. Stoof presiding.

M. June Harris, Esq., Pascua Yaqui Public Defender Office, Tucson, Arizona, for the Defendant/Appellant; and Yancy A. Jencsok, Esq., Pascua Yaqui Tribe Office of the Prosecutor, Tucson, Arizona, for the Plaintiff/Appellee.

The Court reviewed the defendant's petition for trial de novo and his "notice of speedy trial time limits" and finds as follows: 1) The defendant did not show that he suffered any prejudice due to this Court's failure to timely decide his petition for trial de novo; and 2) The petition for trial de novo should be granted.

It is ordered that this Court treats the defendant's notice that he may have been denied a speedy trial before this Court as a motion for dismissal of the criminal charges and hereby denies the motion. It is further ordered that the defendant's petition for trial de novo shall be granted. The trial de novo shall be held on the _____ day of _____, 2007, at the time of _____, at the Pascua Yaqui Tribe court building. This notice shall be served on counsels for the plaintiff and the defendant.

So Ordered this 14th day of May, 2007.



Chief Justice

Pascua Yaqui Tribe
Office of the Prosecutor
7474 S. Camino de Oeste
Tucson, AZ 85757
(520) 879-6251

Yancy A. Jencsok
Deputy Prosecutor

06 DEC 13 AM 9:07
DOCKET NO. _____
CLERK _____

IN THE PASCUA YAQUI COURT OF APPEALS

IN AND FOR THE PASCUA YAQUI RESERVATION

PASCUA YAQUI TRIBE,)	Trial Court Case No.: TR-06-007
Plaintiff/Appellee,)	
)	Appeals Court Case No.: CA-06-014
vs.)	
)	TRIBE'S RESPONSE TO NOTICE
CANEZ, Jr., Reynaldo,)	OF SPEEDY TRIAL LIMITS
Defendant/Appellant.)	
_____)	

Appellee Pascua Yaqui Tribe responds to Appellant's Notice of Speedy Trial Time Limits as follows:

ARGUMENT

The Constitution of the Pascua Yaqui Tribe grants defendants in criminal cases the right to a trial *de novo*. Article 8, Section 5. Rule 27 of the Pascua Yaqui Tribe Rules of Appellate Procedure sets out the procedures for the defendant to request a trial *de novo*, and for the court to review that request.

Appellant has cited to the speedy trial time limitations in the Pascua Yaqui Rules of Criminal Procedure and asserts that these time limits apply when a petition for trial *de novo* has been filed. Appellant provides no authority, or legal argumentation, in support of this position.

Appellant first cites to 3 PYTRAP Rule 6. This rule addresses motions made to the Appellate Court. However, Appellant titled his pleading "notice" rather than "motion." In addition, Appellant has not made any request to the court. In other words, he has not made an "application for an order or other relief," which is the description of a motion in the appellate rules. Rule 6(a). Rule 6 is therefore irrelevant to this matter.

Appellant next cites to 3 PYTRAP Rule 27(c). Rule 27 does indeed address petitions for trial *de novo*. But there is no mention of speedy trial limits in subsection (c), or anywhere else in the rule. The only time limit addressed in the rule is the initial time limit for filing a petition.

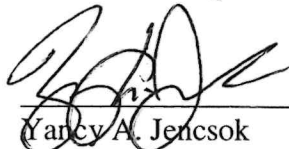
Finally, Appellant cites to 3 PYT R.Crim.P. Rules 33 and 34 (formerly Rules 401 and 402 of the Pascua Yaqui Rules of Criminal Procedure). These particular rules; however, address speedy trial limits for the lower court. Consequently, they do not support Appellant's argument either. The 150 day time limit which Appellant references is found only in these lower court rules. See Rule 33(A). The references in subsection (A) and elsewhere in Rule 33 are to trial level proceedings.¹ Nowhere in Rule 33 is trial *de novo* mentioned.²

CONCLUSION

Neither the Constitution, nor the Code set forth speedy trial limits to be applied to a trial *de novo*. The speedy trial limits that are contained in the Code are specific to trial level proceedings. Therefore, Appellant's Notice asserting that December 28, 2006 is the latest day that the trial *de novo* may occur, is without foundation.

RESPECTFULLY SUBMITTED this 13th day of December, 2006.

OFFICE OF THE PROSECUTOR
PASCUA YAQUI TRIBE.



Yancy A. Jencsok
Deputy Prosecutor

¹ Rule 33(A), trial to be held within 150 days *from arrest or service of summons or notice to appear*. Rule 33(B), when defendant in custody, trial to be held within 120 days *from initial appearance, or 90 days of the arraignment*. Rule 33(C), when defendant released from custody, trial to be held within 120 days of *initial appearance, or 90 days of the arraignment*. Rule 33(D), when there has been a mistrial, trial to be held within 60 days of order from court of appeals.

² Rule 34 (formerly Rule 402) sets forth the remedy when speedy trial limits are violated. It does not contain any time limits itself. (But, like Rule 33, it contains no mention of trial *de novo*).

ORIGINAL and 5 copies delivered to:

Clerk of the Court
Pascua Yaqui Tribe Court of Appeals

Copy delivered/mailed to:

Clerk of the Court
Pascua Yaqui Tribal Court

Pascua Yaqui Public Defender
7474 S. Camino de Oeste
Tucson, AZ 85757

On December 13th, 2006 by: YR

1 Pascua Yaqui Public Defender
2 7474 S. Camino de Oeste
3 Tucson, Arizona 85757

4 M. June Harris, SBN 018387

5 COUNSEL FOR: Defendant/Appellant

06 SEP 29 AM 11:02

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

8 PASCUA YAQUI TRIBE,

9 Plaintiff/Appellee,

10 vs.

11 . CANEZ, REYNALDO, JR.,

12 Defendant/Appellant.
13

) Appellate Case No: CA-06-014


) Tribal Court No.: TR-06-007

) NOTICE OF SPEEDY TRIAL TIME
LIMITS

14
15 COMES NOW the Defendant Reynaldo Canez, Jr., through undersigned counsel, to give
16 notice to the Court pursuant to Rules 6 and 27(c), Pascua Yaqui Tribe Rules of Appellate Procedure,
17 and Rules 401 and 402 of the Pascua Yaqui Rules of Criminal Procedure, that according to Counsel's
18 calculation, the last day for which this matter may be set for trial is December 28, 2006, which falls
19 on a Thursday. December 28, 2006 is the 150th day from Mr. Canez's filing of the Petition for Trial
20 de Novo.

21
22 RESPECTFULLY SUBMITTED this 29th day of September, 2006.

23
24 PASCUA YAQUI PUBLIC DEFENDER

25
26 
27 M. June Harris
28 Deputy Public Defender

1 CERTIFICATE OF SERVICE

2 I hereby certify that the original and five (5) copies of the Notice of Speedy Trial Time Limits
3 were delivered this date to:

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

8 and that one copy of the Notice of Speedy Trial Time Limits was delivered this date to:

9 Micah Schmit
10 Chief Prosecutor
11 Office of the Prosecutor of the Pascua Yaqui Tribe
12 7474 South Camino de Oeste
13 Tucson, AZ 85757

14 DATED this 29th day of September, 2006.

15 PASCUA YAQUI PUBLIC DEFENDER

16 

17 _____
18 Anselma Torres
19 Office Manager
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1 Pascua Yaqui Public Defender
2 7474 S. Camino de Oeste
3 Tucson, Arizona 85757

4 M. June Harris, SBN 018387

5 COUNSEL FOR: Defendant/Appellant

RECEIVED
JUL 21 PM 3:00
CA-06-014
mu

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

8 PASCUA YAQUI TRIBE,
9 Plaintiff/Appellee,

10 vs.

11 . CANEZ, REYNALDO, JR.,
12 Defendant/Appellant.
13

) Appellate Case No: CA-06-014
) Tribal Court No.: TR-06-007
) **PETITION FOR TRIAL DE NOVO**

14 Pursuant to Rules 27(A), Pascua Yaqui Tribe Rules of Appellate Procedure, counsel for the
15 above named Appellant, Reynaldo Canez, Jr., respectfully files his Petition for Trial de Novo. Mr.
16 Canez was convicted on July 13, 2006 of driving under the influence; driving on a suspended,
17 revoked, or cancelled license; and failure to stop. A copy of the Court's Order is attached hereto.
18


19 Counsel for Mr. Canez is:
20 M. June Harris
21 Pascua Yaqui Public Defender's Office
22 7474 South Camino de Oeste
23 Tucson, Arizona 85757

24 Mr. Canez further requests, pursuant to the Indian Civil Rights Acts, 25 U.S.C.A. §1302(10),
25 a trial by jury.
26
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28

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///
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DATED this 31st day of July, 2006.

PASCUA YAQUI PUBLIC DEFENDER



M. June Harris
Deputy Public Defender

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1 CERTIFICATE OF SERVICE

2 I hereby certify that the original and five (5) copies of the Petition for Trial de Novo were
3 delivered this date to:

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

8 and that one copy of the Petition for Trial de Novo was delivered this date to:


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

12 and that one copy of the Petition for Trial de Novo was delivered this date to:

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

18 DATED this 31st day of July, 2006.

19 PASCUA YAQUI PUBLIC DEFENDER

20 

21 Anselma Torres
22 Office Manager
23
24
25
26
27
28

1 IN THE PASCUA YAQUI TRIBAL COURT

2 IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

3 PASCUA YAQUI TRIBE,)
4 PLAINTIFF,)
5 vs.)
6 CANEZ, JR., REYNALDO,)
7 DEFENDANT.)

CASE NO. TR-06-007
JUDGMENT AND
ORDER SETTING SENTENCING
HEARING

8 The defendant, Reynaldo Canez, Jr. appeared for a bench trial, on July 13, 2006, and
9 he was represented by legal counsel, M. June Harris. Appearing for the Tribe was Micah
Schmit and Yancy Jencsok, and officer Thomas Schenek

10 The court held a trial, heard testimony, reviewed documentary evidence, and it
11 should deny the defendant's motion for directed verdict, because the Tribe has proven that
12 the defendant is guilty beyond a reasonable doubt to Count One, Driving Under the
13 Influence, Count Two, Driving on a Suspended, Revoked, or Canceled License, and Count
14 Three, Failure to Stop.

15 The Tribe's Exhibit One, a certificate of Indian blood and tribal enrollment
16 department record, and the Tribe's Exhibit Two, MVD records related to the defendant's
17 driving history, were admitted into evidence, without objection.

18 As to all of the counts, the court finds the Tribe has met its burden of beyond a
19 reasonable doubt in that the court finds that the officer made a valid traffic stop, based on his
20 observations of the defendant whom he had seen prior to the incident, that the defendant
21 appeared to the officer to be driving with his eyes almost shut, the officer saw the defendant
22 straddling the white line of the roadway, the defendant was driving 10-15 miles per hour
23 under the posted limit, and he failed to stop after the officer had turned on his flashing lights
24 and had sounded his siren.

25 The officer, whose testimony the court find credible, testified that the defendant had
26 blood shot eyes, had the odor of intoxicating beverages on his breath, and that the defendant
27 admitted to have two drinks in the evening, two Bud Lights, before he drove, and the
28 defendant admitted to the officer that doing so was against his better judgment. The officer
stated the defendant admitting to drinking alcoholic beverages, he underwent several field
sobriety tests and stated the defendant did not successfully complete the one leg stand, and
heel to toe test, and he observed 4 cues which supported that the defendant may be impaired
to the slightest degree while operating the motor vehicle. The officer upon further
investigation discovered that the defendant was operating his vehicle while his driver's
license was suspended, revoked, or cancelled.

The court should set the matter for a sentencing hearing, and the defendant does not
object to his release on prior conditions of release.

