

Nos. CA-06-002; CA-06-012; CA-06-016;
CA-06-017; CA-06-018

Pascua Yaqui Tribe Court of Appeals

Pascua Yaqui Tribe, Plaintiff/Appellant,

v.

Juvenile F.E.,
Juvenile R.A.,
Juvenile L.S.,
Juvenile J.M.
Defendants/Appellees.

ORDER

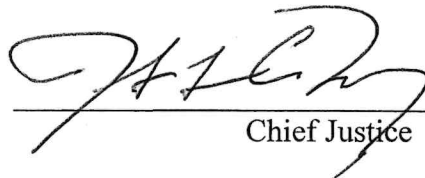
Appeal from decisions of the Pascua Yaqui Tribal Court in trial court docket Nos. JD-06-006; JD-06-066; JD-06-069; JD-06-071; and JD-06-087.

Yancy A. Jencsok, Esq., Office of the Prosecutor, Pascua Yaqui Tribe, Tucson, Arizona, for the Plaintiff/Appellant.

The Chief Justice reviewed the Appellant's motion for consolidation of the above named and numbered cases and finds that all the cases concern the same basic facts and issues which would justify consolidation in the interests of judicial economy. The motion calls for a procedural order which the Chief Justice can act on pursuant to PYTRAP 6(C) (2005).

It is therefore ORDERED that the motion to consolidate is granted.

Filed this 26 day of April, 2007.



Chief Justice

Pascua Yaqui Tribe
Office of the Prosecutor
7474 S. Camino de Oeste
Tucson, AZ 85746
(520) 879-6251

06 AUG 18 AM 9:57
CKET NO. CA-06-017
JK YJ

Yancy A. Jencsok
Deputy Prosecutor

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

PASCUA YAQUI TRIBE,)
 Petitioner/Appellant,)
)
vs.)
)
STANTON, Luna,)
 Minor/Appellee.)

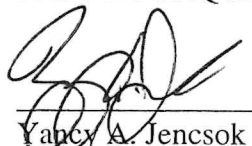
)

Trial Court Case No. JD-06-071
Appeals Court Case No.
NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that the Pascua Yaqui Tribe appeals from the order of the trial court dated July 21, 2006. A copy of the order is attached. The trial court *sua sponte* dismissed the case with prejudice. The reason given for the dismissal was that the complaint had been filed more than ten days after the date of the offense. In this case, the minor was never taken into custody. It is the Tribe's position that when a minor is not taken into custody, the deadline to file a complaint is one year after the offense, as set forth in 1 PYTC §1.28. The case should not have been dismissed. The Tribe requests oral argument before a three justice panel.

RESPECTFULLY SUBMITTED this 18th day of August, 2006.

OFFICE OF THE PROSECUTOR
PASCUA YAQUI TRIBE.



Yancy A. Jencsok
Deputy Prosecutor

ORIGINAL 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 Social Services

Guardian of Luna Stanton

Lydia Stanton

Mother of Luna Stanton

On August 18, 2006 by: *HL*

1 The court has consistently interpreted section 3.9 of the juvenile code to require the
2 Tribe to file a juvenile offender petition within 72 hours of an alleged offense, if a minor is in
3 custody, and within 10 days if a minor is not in custody. Such an interpretation is consistent
4 with the juvenile code which provides that "when a child who has been taken into custody is
5 not released, a detention hearing shall be held within seventy-two (72) hours, inclusive of
6 holidays and weekends of the child's initial detention pursuant to this code (Section 3.1 et
7 seq.). This is to bring the child before the court in a prompt and timely manner. In contrast,
8 the code permits longer time frames for calculating times in adult criminal cases, as shown in
9 the adult criminal procedure code section which provides:


10 Whenever a rule, tribal law, or any order of the court requires that an action be taken
11 within a certain amount of days, the day of the event from which the time runs shall
12 not be counted but the last day shall be counted unless it is a Saturday, Sunday, or
13 tribal holiday. When the last day is a Saturday, Sunday or tribal holiday, the deadline
14 shall be the first work day following the day that is not counted. When the time limit
15 is less than seven days, Saturdays, Sundays and tribal holidays shall not be counted at
16 all. PYTC Crim. R. Proc. R. 102(A).

17 The contrast of the rule for adults and minors makes clear the Tribal legislatures intent to
18 expedite juvenile proceedings to ensure juveniles are brought in a timely fashion and with
19 greater priority.

20 The officer filed his affidavit with the Pascua Yauqi Records Division, as evidenced by
21 their file stamp showing the document was received on "June 01, 2006." The presenting
22 officer for the Tribe would have had "within" 10 days of the alleged incident to have filed a
23 juvenile offender petition from the date the child was not in custody under Juvenile Code
24 section 3.9(B)(4), the juvenile offender should have been filed no later than June 5, 2006 at
25 9:55 p.m.. The presenting officer did not file the petition until June 23, 2006, at 4:54 p.m., 18
26 ½ days past the time it should have been filed, as was mandated by the Juvenile Code. Due to
27 the untimely filing of the petition, the court lacks subject matter jurisdiction over the juvenile
28 proceeding.

IT IS ORDERED that based on lack of a timely filed pleading, the juvenile offender
petition is dismissed with prejudice to re-filing.

SO ORDERED THIS 21ST DAY OF JULY, 2006.



JUDGE, PASCUA YAQUI JUVENILE COURT

Date: 07-21-06

Tribe Minor/Parent
Clerk 