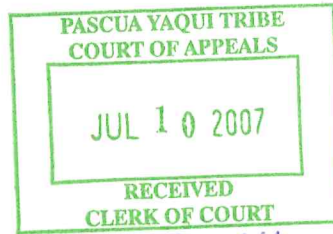


JOHN CROW
ATTORNEY AT LAW
Sun Station PO Box 42288
Tucson, Arizona 85733
(520) 465 4740
(520) 323-2649 FAX
Arizona State Bar No: 017981



Attorney for Respondent

**IN THE PASCUA YAQUI TRIBE COURT OF APPEALS
IN AND FOR THE PASCUA YAQUI NATION**

AUSTACIA A. MADRIL
Plaintiff

File No CV 07 - 062

VS

**NOTICE OF APPEAL AND ARGU-
MENT**

FRANCISCO A. MADRIL
Respondent.

COMES NOW Francisco A. Madril ("Respondent"), by and through his undersigned counsel, a member of the Pascua Yaqui Bar , who hereby submits notice of appeal to the Pascua Yaqui Tribe Court of Appeals of a Final Decree of Legal Separation, granted by the Pascua Yaqui Tribal Court June 14th 2007. Title 3 Part II Chapter 2-3

Respondent's appeals solely the award by the Court in paragraph 6 (number supplied as unnumbered in the Final Decree) which reads: "The plaintiff has requested spousal support in the amount of \$800.00 per month, and she should be awarded that amount." In its decree, Item Number 4 orders spousal support. Copy of the Final Decree attached herewith.

Respondent's income is solely derived as compensation from the Federal Government for disability from wounds sustained by Respondent in the Vietnam War and from illness induced by "Agent Orange," a chemical agent used in the Vietnam conflict with collateral damage to U.S. troops,

1 Benefits from the Veteran's Administration are controlled by Federal statutes. The rele-
2 vant language is found in 38 United States Code 5112(b)(2). The effective date of a reduction
3 or discontinuance of compensation, dependency and indemnity compensation or pension. . .
4 (2) by reason of marriage, annulment, divorce or death of dependent of a payee shall be the last
5 day of the month in which marriage, annulment, divorce or death occurs;" Under federal and
6 state income taxation policy, the award is not subject to income tax by either jurisdiction.

7 Respondent is deemed 80 percent disabled by the Veteran's Administration and does
8 not have any income other than the Government's compensation for his disabilities arising out
9 of the conflict.

10 38 Code of Federal Regulations, Ch1 para 4.1 (Edition of 7.1.06) asserts:

11 "The percentage ratings represent as far as can be practicably be determined the average
12 impairment in earning capacity resulting from such diseases and injuries and their residual con-
13 ditions in civil occupations."

14 In light of his disabilities and emerging further medical problems, Respondent does not
15 expect to rejoin the work force in the future.

16 CONCLUSION

17 Respondent's income is determined and fixed by federal law and policy. It is a pension
18 for men and women wounded in armed conflict as a member of the United States military.

19 Respondent does not appeal those parts of the decision of the Court awarding other dis-
20 tributions of assets and liabilities in the Final Decree of Legal Separation to Plaintiff in the
21 Courts.

22 . An award may be made for children of a marriage between a veteran and spouse in
23 the Code and Regulations but no children are part of this litigation.

24 Respondent does appeal and only appeals the award of support of a former spouse as
25 that is not recognized under Federal law and Federal policy

26 The award of spousal support from compensation for wounds sustained by Respondent
27 in battle or collateral damage from defoliants is *ultra vires*.

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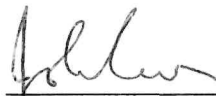
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Respondent deems a transcript of the proceedings to not be necessary.

Pursuant to Title 3 Part III Chapter 3-3, Section 30, Pascua Yaqui Tribal Code, Respondent moves the Court of Appeals stay enforcement of this contested judgment until after the appeal has been decided.

RESPECTFULLY SUBMITTED this 10th day of July 2007.



John Crow
Attorney for Respondent

Attached: Copy of Final Decree of Legal Separation, dated June 14 2007
Original and five copies to be presented the Pascua Yaqui Tribe Court of Appeals July 10 2007
Copy furnished Pascua Yaqui Tribal Court, Title 3 Part II, pursuant to Chapter 2-3 Rule 7(D)

CERTIFICATE OF SERVICE

I, John Crow, hereby certify that a copy of the foregoing document was sent on this 10th day of July 2007 to:

Austacia A. Madril
%Pascua Yaqui Tribal Court
7474 S. Camino de Oeste
Tucson AZ 85757 (by safe hand)



John Crow

1 IN THE PASCUA YAQUI TRIBAL COURT

2 IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

3 In Re: the Marriage of:)
4 Austacia A. Madril,) Case No. CV-07-062
Plaintiff,)
5 Vs.)
6 Francisco A. Madril,) FINAL DECREE OF
Respondent.) LEGAL SEPARATION
7 _____)

8 The court held a hearing on the Plaintiff's Motion for Default Judgment on the Petition
9 For Legal Separation on the 14th day of June, 2007. The Plaintiff, Austacia A. Madril, and the
10 Respondent, Francisco A. Madril, were both served with notice to appear, the plaintiff
appeared, but the respondent failed to appear, and he is wholly in default.

11 The petitioner had filed a motion for default judgment on May 17, 2007, the court
12 entered a temporary order, such motion for default was served on the respondent, he filed a
13 motion to continue and an answer to the petition, and his attorney, John Crow, entered a
14 demurrer to item Number 4 in the petition related to spousal support. The plaintiff objected to
15 the continuance. The court had set the matter for a default hearing on June 14, 2007, and it
was to entertain any and all motions to the court, including motions to continue the case.
Neither the respondent nor his attorney appeared and they are wholly in default.

16 Based on the respondent's failure to appear for the default hearing, the court shall
17 grant the plaintiff's motion for default and makes its previous decree of May 17, 2007 a
18 permanent decree. After review of the pleadings and after hearing testimony from the
plaintiff, the Court finds, as follows:

19 It has jurisdiction over the parties and subject matter in that both the Plaintiff and
20 respondent are enrolled members of the Pascua Yaqui Tribe, and both were domiciliaries and
21 residents of the Pascua Yaqui Reservation for at least six months, at the time the petition for
dissolution of marriage was commenced. The Plaintiff and Respondent have resided within
the exterior boundaries of the Pascua Yaqui Indian Reservation for the past 90 days.

22 The parties were married in the Eloy, AZ. on October 8, 1999, the parties separated in
23 March 2007, and there no children born of the marriage, and no other child is expected.

24 The plaintiff has requested spousal support in the amount of \$800.00 per month, and
25 she should be awarded that amount.

26 The community property between the parties should be divided as follows: to the
27 petitioner, Ford Tempo and 3 door Ford Van, and to the respondent, a 1966 Chevy Pick Up
and 1980 Grand Prix, and each should keep all property now in his or her possession.
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There are cash assets which accrued during the marriage, as follows: Sun State Savings Account No. 56320062, and the respondent should be ordered to pay one half of the balance as of March 9, 2007 of \$11,638.37 to the plaintiff.


There are community debts to be paid: the respondent should be ordered to pay MCI Communications bill, \$348.72, Alltel Communication, \$630.63, Arizona City Sanitation Service, \$46.00, Arizona Water, \$37.44. Any other debts incurred by either party since the date of separation shall be assumed by the party incurring the debt.

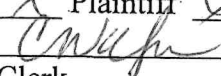
The Court is satisfied that the marriage is irretrievably broken, and that there are no reasonable prospects for reconciliation; that the Court should grant the petition for legal separation.

IT IS ORDERED, ADJUDGED, AND DECREED THAT, BY DEFAULT:

1. The parties shall be legally separated.
2. The Plaintiff is awarded the following property: Ford Tempo and 3 door Ford Van, all furniture and household goods, personal property and clothing now in her possession
3. The Respondent is awarded the following property: a 1966 Chevy Pick Up and 1980 Grand Prix, all furniture and household goods, personal property and clothing now in his possession.
4. The respondent shall pay the plaintiff spousal support of \$800.00 per month.
5. The respondent shall pay to the plaintiff one half of the value of his Sun State Savings Account No. 56320062, whose balance as of March 9, 2007 was \$11,638.37
6. Any debt incurred since the date of separation, March 9, 2007, shall be paid by the party who incurred the debt.
7. The Respondent shall assume the following debts: MCI Communications bill, \$348.72, Alltel Communication, \$630.63, Arizona City Sanitation Service, \$46.00, Arizona Water, \$37.44.

SO ORDERED, ADJUDGED AND DECREED THIS 14th DAY OF JUNE, 2007.


Associate Judge, Pascua Yaqui Tribal Court

CC: Date 06.15.07
 Plaintiff Respondent Counsel

Clerk