

No. CA-16-005

Pascua Yaqui Court of Appeals

Pascua Yaqui Tribe, Appellant,

vs.

Jaime Lopez, Appellee,

Appeal of a Tribal Court Order in Case No. CR-17-060, the Honorable Melvin Stoof presiding.

Oscar J. Flores, Office of the Prosecutor of the Pascua Yaqui Tribe, 7777 Camino Huivisim, Tucson, AZ for the Appellant.

Sara Dent, Pascua Yaqui Public Defender, 4725 W. Tetakusim, #B, Tucson AZ 85757 for the Appellee.

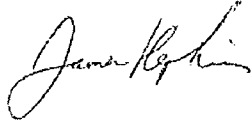
Alfred Urbina, Attorney General, Office of the Attorney General, 7777 Camino Huivisim, Building C, Tucson AZ for the Tribe.

OPINION

On December 27, 2016, Appellant filed a notice of appeal with this Court appealing the Tribal Court judge's dismissal of CR-17-060 without prejudice based on a lack of subject matter jurisdiction. The Tribal Court Judge's ruling stated that the case was dismissed for lack of subject matter jurisdiction "because one of the Tribe's licensed attorney prosecutors did not appear to prosecute a VAWA case, as required under federal law, 25 U.S.C. § 1304." Appellant also appealed the Tribal Court Judge's "denial of a one hour continuance in order for the assigned lay advocate to arrange for a licensed attorney to cover the hearing."

This Court finds that the circumstances regarding this VAWA case satisfy the Defendant's request for a licensed attorney. A concomitant issue in this case and the basis for this Court's decision is the Tribal Court Judge's denial of Appellant's request for a one hour continuance to arrange for a licensed attorney. Though the defendant is not in custody, the judgement of the learned Tribal Court Judge is reversed on the basis of the denial for Appellant's request for a one hour continuance; the case is remanded to the Tribal Court for further proceedings.

So **ORDERED** this 6th day of February 2017.

A handwritten signature in cursive script, appearing to read "James Hopkins".

Chief Justice James Hopkins