

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

**AMIDOOOLI PACHECO,**  
*Petitioner*

**vs.**

**BILLY MASSINGILL, WARDEN**  
Regional Correctional Center

**GEORGE ZOLEY, CHIEF EXECUTIVE OFFICER**  
Geo Group, Inc  
**&**  
**PUEBLO OF KEWA**  
(Formerly known as the Pueblo of Santo Domingo)  
*Respondents*

**PETITION FOR WRIT OF HABEAS CORPUS**  
**FOR RELIEF FROM A TRIBAL COURT CONVICTION**  
**PURSUANT TO 25 U. S. C. §1303**

**COMES NOW** the Petitioner, AmiDooli Pacheco, by and through his counsel of record, Barbara L. Creel, Supervising Attorney, and Sherrie L. Harris, Clinical Law Student, at the Southwest Indian Law Clinic, University of New Mexico School of Law Clinical Law Programs and petitions this court for a Writ of Habeas Corpus pursuant to 25 U.S.C. § 1302-1303. The writ should issue based upon the following:

**FACTUAL AND PROCEDURAL BACKGROUND**

1. Petitioner AmiDooli Pacheco (“Mr. Pacheco”) is an enrolled member of the Pueblo of Kewa (formerly the Pueblo of Santo Domingo) (“Indian Tribe”), a federally recognized Indian Tribe in New Mexico. See Fed. Reg. 74, 40221 (August 11, 2009).
2. Mr. Pacheco resided within the exterior boundaries of the Pueblo of Kewa Reservation in New Mexico during all times relevant to this case.

3. On September 1, 2009, at approximately 11:00 P.M., Kewa Tribal Officials entered Mr. Pacheco's home without consent while he was sleeping.

4. The same night, after the illegal entry, Kewa Tribal Officials searched Mr. Pacheco's home without his consent. Mr. Pacheco was detained in the kitchen area of his home, while the Tribal Officials entered his bedroom and searched through his dresser drawers.

5. During the illegal search, Tribal Officials allegedly discovered contraband, and immediately placed Mr. Pacheco under arrest. Tribal Officials took him into the custody of the Indian Tribe, and transported him to the Sandoval County Jail, in Bernalillo, New Mexico that same night. He remained at the Sandoval County Jail without notice of the charges or an opportunity to be heard until the Indian Tribe held its first hearing three days later.

6. On September 4, 2009, Mr. Pacheco was brought before the Indian Tribal Government Court. He was not given the opportunity to secure counsel at his own expense or request a trial on any charges. Mr. Pacheco pled guilty to five counts arising out of the illegal search. All charges arose from a single incident within the Indian Tribe's boundaries.

7. On September 4, 2009, The Tribe sentenced Mr. Pacheco to two years of incarceration, and ordered him to pay \$605.00 in fines and court costs. The Indian Tribe issued sentence and ordered him to be held at an off reservation jail not owned or operated by the Indian Tribe.

8. The Indian Tribe took Mr. Pacheco into custody immediately after sentencing on September 4, based upon the illegal search, arrest and detention on September 1, 2009. He was incarcerated at the Sandoval County Jail, and later transferred to the Regional Correctional Center ("RCC"), a private jail in Albuquerque, New Mexico pursuant to the Tribal Court judgment and sentence, where he remains today.

9. Without any tribal right to appeal or relief, on December 14, 2009, Mr. Pacheco filed a *pro se* Request for Right to Appeal and a Violation of Rights to the United States Department of the Interior Board of Indian Appeals.

10. On December 29, 2009, the Department of the Interior Board of Indian Appeals docketed then dismissed Mr. Pacheco's appeal. A copy of the denial and dismissal is attached as Petitioner's Exhibit A.

11. On March 8, 2010, Mr. Pacheco obtained counsel through the Southwest Indian Law Clinic, Clinical Law Program at the University of New Mexico School of Law.

12. On April 6, 2010, Counsel for Mr. Pacheco requested copies of Mr. Pacheco's Tribal Court documents, specifically requesting copies pertaining to the conviction and sentence, and the order of detention from the Indian Tribe.

13. On April 26, 2010, Counsel for Mr. Pacheco again requested copies of the Tribal Court documents, this time addressing the request to the Governor of the Pueblo, Tony Tortalita. In addition, the letter requested a meeting to discuss a tribal remedy to resolve Mr. Pacheco's illegal detention and requested a response date of May 4, 2010.

14. The Pueblo of Kewa did not respond to Counsel's requests, nor did they provide any information pertaining to Mr. Pacheco's case, or identify any available tribal remedies.

15. Unable to obtain the underlying court documents from the Indian Tribe, on June 26, 2010, Mr. Pacheco requested for copies of the order of detention or other original jail commitment papers from the RCC. A copy of the Detainee Communication Form is attached as Exhibit B.

16. On June 20, 2010, the Regional Correctional Center denied the request and declined to provide any documents. Instead, the RCC directed Mr. Pacheco to obtain these documents directly from the Kewa Pueblo Tribal Court. The RCC response is attached as Exhibit C.

17. On or about July 15, 2010, Counsel for Mr. Pacheco visited the Pueblo of Kewa and Governor Tortalita to learn more about procedures specific to the Kewa Pueblo Tribal Court. A second meeting to discuss specific cases was scheduled for July 19, 2010.

18. On July 15, 2010, Counsel for Mr. Pacheco attempted to file an Entry of Appearance and a Motion to Reconsider Sentence with the Kewa Pueblo Tribal Court. The entry of appearance was denied by Wilson Quintana, a Kewa Tribal Court Clerk. A copy of the proposed entry is attached as Exhibit D.

19. On July 19, 2010, the scheduled meeting with the government officials or Kewa Tribal Court was cancelled by the Indian Tribe.

20. As of the date of filing, the Counsel for Mr. Pacheco has not received any of the requested documents, nor received a response from the Pueblo of Kewa denying his request or identifying any available process or tribal remedy. Mr. Pacheco has exhausted all appropriate tribal remedies and this Petition for Writ of Habeas Corpus ("Petition"), follows pursuant to 25 U.S.C. § 1303. Based on the above, this Court has jurisdiction to hear this Petition and venue is proper in the Federal District Court of New Mexico, as Mr. Pacheco remains in custody pursuant to the Pueblo of Kewa Tribal Court's order and is currently incarcerated in New Mexico. The underlying arrest, detention, and sentence are illegal and in violation of the Indian Civil Rights Act. Mr. Pacheco is entitled to immediate habeas corpus relief based on the following violations.

**I. THE INDIAN TRIBE VIOLATED MR. PACHECO'S RIGHT TO BE SECURE IN HIS HOUSE, PAPERS, AND EFFECTS, AS WELL AS HIS RIGHT AGAINST UNREASONABLE SEARCH AND SEIZURE UNDER THE INDIAN CIVIL RIGHTS ACT (ICRA) 25 U.S.C. §1302(2)**

Concise Statement of Facts in support of Claim I

The Indian Tribe, in exercising its powers of self-government, entered Mr. Pacheco's residence without his permission or consent, and without a valid warrant to conduct an illegal search of his home. When the Kewa Tribal Officials entered his home, again without consent, it was at approximately 11:00 P.M., and Mr. Pacheco was asleep in bed. Mr. Pacheco was awakened and thought there was an intruder in his home. He went to the front of the residence, and Tribal Officials were standing inside. While being questioned by one of the Tribal Officials in his kitchen, the other Tribal Officials went and searched through his dresser drawers and personal belongings in the bedroom. The Indian Tribe has not attempted to provide or establish the basis for probable cause to conduct a search of the home. By entering into the home without consent, a valid warrant or a showing of probable cause, the incursion made by the Tribe into a private residence at a late hour was unreasonable and unjust, and in violation of his right to be free from unreasonable search and seizure under ICRA.

**II. THE INDIAN TRIBE VIOLATED MR. PACHECO'S RIGHT TO COUNSEL GUARANTEED UNDER THE INDIAN CIVIL RIGHTS ACT (ICRA) 25 U.S.C. §1302(6).**

Concise Statement of Facts in support of Claim II

The Indian Tribe, in exercising its powers of self-government, denied Mr. Pacheco the right to counsel. The Indian Civil Rights Act provides that a defendant may have the assistance of counsel at his own expense at criminal proceedings. 25 U.S.C. § 1302(6). At the time of arrest on September 1, 2009, Mr. Pacheco was not advised of his right to obtain counsel, nor was he afforded sufficient opportunity to obtain counsel. Tribal Officials gave no notice of how long he

would be in custody or the date of his next proceeding. He had no opportunity to request for an attorney while in jail between the arrest and the plea hearing. Instead, Mr. Pacheco was ushered into *pro se* representation in violation of the Indian Civil Rights Act. At the September 4, 2009, hearing and sentencing, he was not allowed to retain counsel at his own expense. Furthermore, Mr. Pacheco was again denied the assistance of counsel on July 15, 2010, when the entry of appearance by the UNM Clinical Law Program was denied.

### **III. THE INDIAN TRIBE VIOLATED MR. PACHECO'S RIGHT TO A JURY TRIAL UNDER THE INDIAN CIVIL RIGHTS ACT WHEN IT FAILED TO PROVIDE HIM WITH A JURY TRIAL**

#### Concise Statement of Facts in support of Claim III

The Indian Tribe failed to inform Mr. Pacheco of his right to request a jury trial. The Indian Tribe's failure to appoint competent counsel or allow him to obtain counsel prevented him from exercising his statutory right to request a jury trial under the ICRA pursuant to 25 U.S.C. § 1302(10). The Indian Tribe denied Mr. Pacheco due process of law under the ICRA by failing to provide him with a jury trial or at a minimum advise him, as a *pro se* defendant, of his right to request one.

### **IV. THE INDIAN TRIBE DEPRIVED MR. PACHECO OF HIS LIBERTY WITHOUT DUE PROCESS OF LAW AS REQUIRED UNDER THE INDIAN CIVIL RIGHTS ACT (ICRA) 25 U.S.C. §1302(8).**

#### Concise Statement of Facts in support of Claim IV

The Indian Tribe, in exercising its powers of self-government, has denied due process of law when it failed to notify Mr. Pacheco of the charges he faced, nor of the maximum penalties for a violation of the law. The Kewa Pueblo Tribal Court failed to provide pertinent information with regard to the actual sentence imposed on Mr. Pacheco, or any right to review or appeal. Once Mr. Pacheco secured his own counsel, the Indian Tribe denied Mr. Pacheco the right to be

represented in any tribal proceeding when it failed to recognize or allow counsel to enter an appearance or otherwise inform Mr. Pacheco of the rules that would allow proper representation in tribal proceedings. As set forth in the facts above, the Indian Tribe has denied Mr. Pacheco the opportunity to obtain copies of any record of his conviction. The Indian Tribe has refused all attempts to obtain this information, and Mr. Pacheco is being detained at the word of the Kewa Pueblo Tribal Court Officials. A Tribe may elect to provide greater protections than those offered by ICRA, but not less. Unless a Tribe offers to provide greater protection, the Indian Civil Rights Act provides the minimum, and sometimes the only protections guaranteed to defendants appearing in tribal courts. As a result of these violations, Mr. Pacheco has been denied access to a fair hearing and has been deprived of his liberty without due process of law.

**V. THE INDIAN TRIBE VIOLATED MR. PACHECO'S DUE PROCESS RIGHTS UNDER THE ICRA WHEN IT IMPOSED A PENALTY IN EXCESS OF THE STATUTORY MAXIMUM UNDER THE INDIAN CIVIL RIGHTS ACT (ICRA) 25 U.S.C. §1302(7).**

Concise Statement of Facts in support of Claim V

The Indian Civil Rights Act imposes a sentencing limit for Indian Tribes. Under 25 U.S.C. §1302(7), an Indian Tribe may *in no event* impose a sentence greater than one year imprisonment and/or a \$5000.00 fine. In this instance, the Pueblo of Kewa sentenced Mr. Pacheco to two years in jail in direct violation of ICRA's statutory limit. All charges arose from a single incident within the Indian Tribe's boundaries on or about September 1, 2009. Therefore the Tribe must conform to the one year sentencing limitation imposed by ICRA. Mr. Pacheco has served the maximum statutory sentence as of September 1, 2010, the Tribe continues to deprive him of his liberty and Mr. Pacheco is entitled to immediate relief.

**VI. MR. PACHECO'S RIGHTS AS A UNITED STATES CITIZEN ARE VIOLATED BY CONTINUED INCARCERATION IN A PRIVATE JAIL FACILITY PURSUANT TO A CONTRACT PAID FOR BY FEDERAL FUNDS WHEN THE DETENTION IS ILLEGAL AND CONTRARY TO THE UNITED STATES CONSTITUTION AND THE INDIAN CIVIL RIGHTS ACT.**

Concise Statement of Facts in support of Claim VI

Mr. Pacheco is a U.S. citizen and a Veteran of the Armed Forces, having served in the United States Marine Corps. He is entitled to constitutional protections afforded to all Americans. His current incarceration, whether or not in violation of the ICRA violates his right to due process and his right to a fair hearing. Mr. Pacheco is being illegally detained by the Tribe, and since the contract that the Indian Tribe has with the private jail facility is paid for by the federal government, the detention must be lawful and not in violation of the United States Constitution.

**CONCLUSION**

**WHEREFORE**, Mr. Pacheco respectfully requests that this Court: (1) issue the writ of habeas corpus commanding Respondents to release Mr. Pacheco from their custody immediately; or in the alternative, (2) hold an expedited evidentiary hearing to inquire as to the legality of the detention, and (3) grant any other further relief that this Court deems just and proper.

Respectfully Submitted,

*/s/ Barbara Creel*

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Barbara Creel  
*Attorney for Petitioner AmiDooli Pacheco*  
Southwest Indian Law Clinic  
University of New Mexico School of Law  
MSC11-6070  
1 University of New Mexico  
Albuquerque, NM 87131-0001

*/s/ Sherrie L. Harris*

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Sherrie L. Harris  
*Clinical Law Student for Petitioner*



## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of September, 2010, I filed the foregoing electronically through the CM/ECF system, and that on such date I served the foregoing on the following non-CM/ECF Participants in the manner indicated:

Via first class mail addressed as follows:

George Zoley, Chief Executive Officer  
Geo Group, Inc.  
Regional Correctional Center  
415 Roma Ave. NW  
Albuquerque, NM 87031

Billy Massingill, Warden  
Regional Correctional Center  
415 Roma Ave. NW  
Albuquerque, NM 87031

Pueblo of Kewa  
P.O. Box 99  
Santo Domingo, NM 87052

Electronically filed  
/s/Barbara Creel  
Attorney for Petitioner

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |  | PTF                        | DEF                        |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

PETITIONER PACHECO'S PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT TO 25 U.S.C.1303

EXHIBIT A

UNITED STATES DEPARTMENT OF THE INTERIOR,  
INTERIOR BOARD OF INDIAN APPEALS,  
ORDER DOCKETING AND DISMISSING APPEAL



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
801 NORTH QUINCY STREET  
SUITE 300  
ARLINGTON, VA 22203

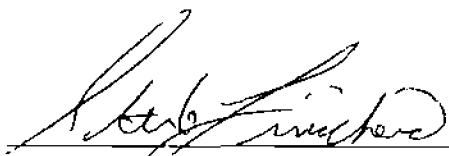
AMIDOOOLI J. PACHECO,	)	Order Docketing and
Appellant,	)	Dismissing Appeal
	)	
v.	)	
	)	Docket No. IBIA 10-033
GOVERNOR, SANTO DOMINGO	)	
PUEBLO,	)	
Appellee.	)	December 29, 2009

On December 14, 2009, the Board of Indian Appeals received a "Request for Right to Appeal and Violation of Rights" from Amidooli J. Pacheco (Appellant), in which Appellant contends that he has been sentenced to a correctional center by the Governor of the Santo Domingo Pueblo, in violation of Appellant's civil rights and liberties. Appellant seeks to appeal the Governor's decision.

We docket this appeal but dismiss it because the Board is not a court of general jurisdiction and does not have jurisdiction over actions of tribal officials. See *In re Ute Tribal Water Compact*, 50 IBIA 250 (2009), and cases cited therein. Thus, whether Appellant is seeking directly to appeal a tribal conviction or sentence, or seeking a writ of habeas corpus, the Board lacks jurisdiction. See *Tissidimit v. Shoshone-Bannock Tribes*, 32 IBIA 15 (1998). Only a tribal court (or other tribal forum) or a Federal court has authority to grant Appellant the relief he seeks. *Id.*

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board docket this appeal but dismisses it for lack of jurisdiction.

I concur:

  
Steven K. Linscheid  
Chief Administrative Judge

  
Debora G. Luther  
Administrative Judge

PETITIONER PACHECO'S PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT TO 25 U.S.C.1303

EXHIBIT B

MR. PACHECO'S DETAINEE COMMUNICATION FORM  
REQUESTING COPIES OF HIS TRIBAL COMMITMENT  
ORDERS FROM THE KEWA PUEBLO TRIBAL COURT

Regional Correctional Center

## DETAINEE COMMUNICATION FORM

NAME Amidooli Pacheco DATE 6.26.10D# 09100903 HOUSING UNIT 3 F5

All Inmate Communication Requests are to be submitted to the Case Manager. Forms are to be printed, legible, and complete. The detainee's Name, D# and housing unit are required. The Completed form should be deposited in the detainee Mailboxes located in detainee housing. The Case manager will review all requests for completeness and routing.

Route to: (check one)

☐ Programs Director    ☐ Property Officer    ☐ Recreation Officer    ☐ Chaplain  
☐ Commissary    ☐ Business Office    ☐ Health Services    ☐ Disciplinary Officer  
☐ Library (Book request by title)    ☒ Case manager

Specify Request (print legibly)

- o I would like to call my lawyer  
(505) 277-5265 dale dale
- o I would like to see my original jail  
commitment papers from Kiowa tribal  
courts.

Thank you.

Detainee Signature: Amidooli Pacheco Date Submitted: 6.26.10

PETITIONER PACHECO'S PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT TO 25 U.S.C.1303

EXHIBIT C

RESPONSE RECEIVED FROM THE REGIONAL  
CORRECTIONAL CENTER REGARDING  
MR. PACHECO'S REQUEST FOR COPIES OF  
COMMITMENT ORDERS FROM  
THE KEWA PUEBLO TRIBAL COURT



Regional Correctional Center

## DETAINEE COMMUNICATION FORM

NAME Amidooli Pacheco DATE 6.26.10D# 09100903 HOUSING UNIT: 3 F5

All Inmate Communication Requests are to be submitted to the Case Manager. Forms are to be printed, legible, and complete. The detainee's Name, D# and housing unit are required. The Completed form should be deposited in the detainee Mailboxes located in detainee housing. The Case manager will review all requests for completeness and routing.

Route to (check one)

☐ Programs Director    ☐ Property Officer    ☐ Recreation Officer    ☐ Chaplain  
☐ Commissary    ☐ Business Office    ☐ Health Services    ☐ Disciplinary Officer  
☐ Library (Book request by title)    ☒ Case manager

Specify Request (print legibly)

- o I would like to call my lawyer  
(505) 277-5265 adaleal
- o I would like to see my original jail  
commitment papers from Kewa tribal  
courts.

Thank you.

 Detainee Signature: Amidooli Pacheco Date Submitted: 6.26.10

A Response is due to the Inmate within five (5) working days of Receipt.

Date Received: **RECEIVED JUN 30 2010**
 Response: You have to get these papers  
from your attorney or from  
the courts (Kewa tribal courts)  
You will have to write a letter  
to the court


Staff Signature

**RECEIVED JUN 30 2010**

Date

PETITIONER PACHECO'S PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT TO 25 U.S.C.1303

EXHIBIT D

PROPOSED ENTRY OF APPEARANCE  
BY THE SOUTHWEST INDIAN LAW CLINIC  
WITH THE KEWA PUEBLO TRIBAL COURT

**IN THE PUEBLO OF KEWA TRIBAL COURT  
COUNTY OF SANDOVAL  
STATE OF NEW MEXICO**

**PUEBLO OF KEWA,  
Plaintiff,**

**v.**

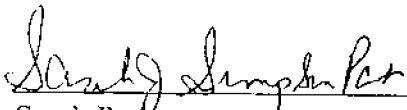
**Case number not provided  
BIA #09100903**

**AMIDOOOL PACHECO,  
Defendant.**


**ENTRY OF APPEARANCE**

COME NOW Sarah Parks, UNM Clinical Law Student AND Aliza Organick,  
supervising attorney, and enter their appearance as co-counsel of record for AmiDooli Pacheco  
in the above-captioned matter.

Respectfully submitted this 14 day of July, 2010, by



Sarah Parks  
Clinical Law Student  
Southwest Indian Law Clinic  
University of New Mexico  
MSC11-6070 Room 2540  
Albuquerque, NM 87131-0001  
(505) 277-5265



Aliza Organick  
Attorney for Defendant  
Southwest Indian Law Clinic  
University of New Mexico  
MSC11-6070 Room 2540  
Albuquerque, NM 87131-0001  
(505) 277-5265