

EXHIBIT 1

**IN THE COURT OF APPEALS
FOR THE LAS VEGAS PAIUTE TRIBAL COURT**

CHRISTOPHER W. PHEBUS,)	
)	
Appellant,)	
)	
vs.)	No. CA13-001
)	
THE LAS VEGAS TRIBE OF PAIUTE)	
INDIANS)	
)	
Respondent.)	
_____)	

PER CURIAM:

Honorable William Thorne, Chief Judge of the Appellate Panel, Honorable John St. Clair, Appellate Justice, and Abby Abinanti, Appellate Justice, sitting en banc on May 17, 2013 in Las Vegas, Nevada.

Appearing for Appellant, self-represented was Christopher W. Phebus.
Appearing for Respondent, was Patrick J. Murch, attorney .

The intended decision was announced by Chief of the Panel Justice Thorne following submission by the parties and a conference of the panel. Herein is the written confirmation of that decision.

This appeal is hopefully the final legal chapter of an on going dispute between the parties. (Which is not to say that the dispute is resolved, rather this Court has urged upon the Appellant the need to conduct his protest of certain of the Respondent's actions in a legally acceptable manner. Specifically, to address or redress those claims in the political arena in a manner that does not cross into illegal acts.)

The Appellant has been outraged by the 1999 action of Respondent to disenroll certain tribal members, including Appellant. His conduct in addressing this issue has at times crossed the line of acceptable behavior. Most recently resulting in a criminal complaint filed in November of 2012, which resulted in a conviction for violation of Tribal Code Section 5-60-020, Improper Influence in Official Matters, wherein the Appellant was sentenced to a term of six months of incarceration. On May 6, 2013 the Chief Judge of this panel issued an immediate stay of that sentence, ordering the release of Appellant forthwith, with conduct and appearance orders, setting this matter for briefing and argument.

The argument addressed in detail the issues of the factual basis for the conviction (whether or not one existed) and whether or not the sentence imposed was pursuant to the Indian Civil Rights Act of 1968 an infliction of "cruel and unusual punishments" and therefor void. The arguments of both parties were repeatedly and inexorably drawn to the disenrollment dispute, which clearly motivated all of Appellant's behavior. He claimed it also should be considered to have mitigated his behavior. The Court listened to these arguments but did not have to resolve these issues because the threshold argument of jurisdiction trumped all such concerns.

In the end it, the disenrollment, was in fact definitive, but not in a manner either party had fully contemplated. Though in fairness Appellant did touch on the exonerating factor of the disenrollment. As the Chief Judge of the Appellate Panel pointed out the Respondent, in seeking to punish the behavior of Appellate had relied upon their belief that they had the legal authority to do so, that their sovereign powers extended to jurisdiction over the person of Appellant, specifically that they had criminal jurisdiction over said Appellant. Yet, they clearly had specifically deprived Appellant of his enrolled status, and continued to do so even in the face of a 2005 Court decision to the contrary. In so doing they left Appellant with the status of Indian ONLY in terms of certain services definitions, e.g., IHS. So that if Respondent had criminal conduct jurisdiction over the Appellant it must flow from that status and/or unless as the Chief Judge noted the basis for that assertion somehow resulted from his status as a "generic Indian".

However, to date "generic Indian" is not, nor has it ever been successfully claimed as a basis for tribal court criminal jurisdiction. Criminal jurisdiction on Indian reservations has many limitations the most important limitation for the purpose of this discussion is the need for the defendant to be an Indian. Indian in this situation is very specifically defined as ENROLLED Tribal member, which was initially taken to mean enrolled tribal member of the Tribe seeking to prosecute. In recent years following the Duro v. Reina, 495 U.S. 676 (1990) decision and the subsequent "Duro" fix of 25 U.S.C.A. 1301(2) the authority of a tribe to prosecute an offending ENROLLED tribal member for a violation on reservation lands other than those lands where the offender was enrolled has been confirmed.

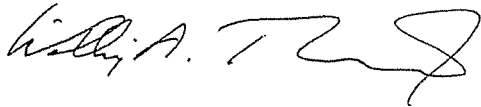
In this instance, the Respondent could point to no jurisdictional constitutional or statutory language extending criminal jurisdiction to non-enrolled tribal members. If Appellant had met that standard the panel may well have felt comfortable to extend Respondent's authority based on the current state of the law. However, that is not the case, nor was Respondent able to point to any constitutional or statutory language for the basis of a prosecution of a former member and/or generic Indian. (This decision makes no claims as to the validity of such an attempt should it be contemplated for future actions.)

Respondent without jurisdiction over Appellate cannot maintain a criminal action against him. The act of disenrollment, so long as it stands, precludes criminal

prosecution by Respondent. Basic concepts of estoppel and fairness prevent the Tribe from depriving Appellant of tribal membership and then prosecuting him criminally as they would have been entitled to do had he not been disenrolled. (The panel cautioned Appellant that criminal prosecution by the State is NOT precluded; this decision is not a free pass to engage in criminal behavior. Criminal conduct precluded by the State may be prosecuted in the State. It should be noted that those possible sanctions far outweigh the possible sanctions in Tribal Court and Appellant should consider himself cautioned. The panel repeatedly instructed/implored Respondent to engage in legal political actions to try and reverse the decision of disenrollment, which has so distressed him. Further criminal actions will in our opinion result in harsh consequences and not lead to resolution of this essentially political question.)

Based on the above it is our decision that the underlying criminal conviction and sentence be vacated and Appellant suffer no further legal consequences from said conviction.

Entered this 10th day of June, 2013.

A handwritten signature in black ink, appearing to read "William A. Thorne, Jr.", with a stylized, looping flourish at the end.

William A. Thorne, Jr.
For the Panel