

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

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. 17-CR-1105 JH</b>
	)	
<b>vs.</b>	)	
	)	
<b>TYRONE CORIZ,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**DEFENDANT’S RESPONSE TO UNITED STATES’ MOTION *IN LIMINE* FOR  
PRE-TRIAL DETERMINATION OF INDIAN COUNTY LAND STATUS**

TYRONE CORIZ, Defendant, by and through undersigned counsel Assistant Federal Public Defender Mallory Gagan, files this Response to the government’s Motion *in Limine* for Pre-Trial Determination of Indian Country Land Status. As grounds, counsel states:

The United States requests the Court make a pre-trial determination finding the location alleged by the complaining witness is Indian Country for purposes of federal jurisdiction. Mr. Coriz disputes entirely that the incident alleged by the complaining witness occurred. To support its argument that such a pretrial determination is appropriate, the government cites to *United States v. Robert*, 185 F.3d 1125, 1139 (10th 1999). The government claims it is “settled law” that Indian County jurisdiction is a legal matter to be decided pretrial.

In *Roberts*, the Tenth Circuit held that “the district court *can* find, as a matter of law, a geographic area or particular location is Indian County, and then instruct the jury to determine factually whether the offense occurred there.” 185 F.3d at 1140, *emphasis added*. The Court reviewed other Circuit decisions, and noted “[s]everal circuits have had the opportunity to state, in dicta, the trial court should *not* submit to the jury the question of whether a particular tract of

land or geographic area is Indian Country.” *Id.* The Court declined, however, to adopt this steadfast rule. Instead, the Court held a district court *can* make such a factual finding. *Id.*

Mr. Coriz acknowledges that, under *Roberts*, a district court may make a pretrial jurisdictional finding, and leave to the jury the question of whether the alleged events occurred at the alleged location. However, *Roberts* does not require a district court to take the approach the government urges. *See U.S. v. Hunter*, 11 CR 2015 MV, 2012 WL 13076178 (D.N.M. August 21, 2012) (“Defendant highlights the fact that the court in *Roberts* did not *require* the district courts to determine the land status prior to trial. Nothing in *Roberts*, argues Defendant, would prohibit the Court from allowing the question of land status to go to the jury.”) It is most appropriate in this case for the jury to determine whether the particular tract of land on which these alleged events are alleged to have occurred is within Indian Country. The government intends to seek imposition of a life sentence should Mr. Coriz be convicted, based on his prior conviction. The government intends to bring multiple witnesses to claim that Mr. Coriz sexually abused them as well, with events dating back to the mid 1990s and early 2000s. The government has no problem prolonging the trial with old allegations, some of which were disproven at trial. Mr. Coriz denies any of these events occurred. He was acquitted of several before this Court in 2008, in 06-CR-2566-JCH. In light of the substantial and serious consequence should Mr. Coriz be convicted, the defense submits it is most proper to require the government to prove all essential elements of the charge against him, including that the alleged incident occurred in Indian Country. Therefore, Mr. Coriz opposes the government’s motion.

WHEREFORE, for the foregoing reasons, Mr. Coriz requests the Court DENY the government’s Motion *in Limine* for Pre-trial Determination of Indian Country Land Status [Doc. 79], and submit the matter of jurisdiction to the jury.

Respectfully Submitted,

**FEDERAL PUBLIC DEFENDER**

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*Electronically filed*

/s/ Mallory Gagan

Assistant Federal Public Defender