

Feb 12, 2010

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CA-10-001

1 5130 W. Neokae,
2 Tucson, Arizona 85757

3 Jennifer Gutierrez
4 COUNSEL FOR: Defendant/Appellant

5 IN THE PASCUA YAQUI TRIBE COURT OF APPEALS
6 IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

7 PASCUA YAQUI TRIBE,
8 Plaintiff/Appellee,

9 vs.

10 FLORES, STEVIE

11 Defendant/Appellant.
12

) Appellate Case No: CA-10-

) Tribal Court No.: TR-09-044

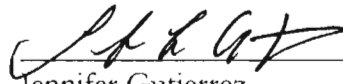
) **PETITION FOR TRIAL DE NOVO**

13
14 COMES NOW Appellant STEVIE FLORES, through counsel and pursuant to Rules 27(A), Pascua
15 Yaqui Tribe Rules of Appellate Procedure, respectfully petitions for a Trial de Novo in the Pascua Yaqui
16 Tribe Court of Appeals.

17 Mr. Flores was convicted on January 28, 2010 of Driving under the Influence, a violation of 8 PYTC
18 § 6-4-10/A.R.S. § 28-3473 (A), and driving on a suspended, revoked, or cancelled license, a violation of 8
19 PYT § 6-4-10/ A.R.S. § 28-1381 (A) (1). A copy of the Tribal Court's Order is attached hereto.

20 Mr. Flores further requests a trial by jury pursuant to the Indian Civil Rights Acts, 25 U.S.C.A.
21 §1302(10).

22 RESPECTFULLY SUBMITTED this 10th day February of, 2010.

23
24 

25 Jennifer Gutierrez
26 Lay Advocate

1 CERTIFICATE OF SERVICE

2 I hereby certify that ~~the~~ original and five (5) copies of the Petition for Trial de Novo were delivered
3 this date to:

4 Clerk of the Court of Appeals
5 Pascua Yaqui Court of Appeals
6 7474 South Camino de Oeste
Tucson, AZ 85757

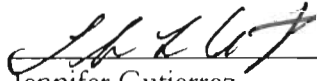
7 and that one copy of the Petition for Trial de Novo was delivered this date to:

8 Pascua Yaqui Tribal Court
9 7474 South Camino de Oeste
10 Tucson, AZ 85757

11 and that one copy of the Petition for Trial de Novo was delivered this date to:

12 Alfred Urbina
13 Chief Prosecutor
14 Office of the Prosecutor of the Pascua Yaqui Tribe
7474 South Camino de Oeste
Tucson, AZ 85757

15 DATED this 10th day of February, 2010.

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19 Jennifer Gutierrez
20 Lay Advocate
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IN THE PASCUA YAQUI TRIBAL COURT

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

PASCUA YAQUI TRIBE,)	Case No.: TR-09-044
)	
Plaintiff,)	JUDGMENT AND SENTENCING ORDER
vs.)	
)	
FLORES, STEVIE,)	
)	
Defendant.)	
)	

On January 28, 2010 the defendant, Stevie Flores, appeared for Bench Trial hearing with Lay Advocate, Jennifer Gutierrez. Patricia Castro appeared for the Tribe.

Ms. Gutierrez presented a Motion To Dismiss based on the Tribe not having evidence to warrant a trial. The Tribe objected and the court denied the Motion To Dismiss, as the Tribe stated that the Tribe does have sufficient evidence to proceed to trial. The Lay Advocate also moved the Court to strike any evidence with regard to the blood test results, as the lab technician is not present to cross examine. After hearing from the Tribe the court granted the motion.

The court held a bench trial, heard testimony, reviewed documentary evidence, and it finds the defendant guilty beyond a reasonable doubt to Count 1: Driving Under The Influence and Count 2: Driving On Suspended/Revoked/Cancelled License.

The Tribe's Exhibit One, a certificate of Indian blood and Pascua Yaqui Tribal enrollment department record, was admitted, without objection. Through the certificate, the Tribe has proven that the defendant is an Indian and enrolled with the Pascua Yaqui Tribe.

As to the charge of Count 1: Driving Under The Influence the Tribe has proven beyond a reasonable doubt, that the defendant committed Driving Under The Influence and by the defendant driving a motor vehicle while being intoxicated with alcohol within the reservation boundaries. Officer Andres Gastelum testified that when the defendant was apprehended the defendant had red watery eyes, with his face flushed, that the defendant was perspiring and his speech was slurred and mumbled, with an odor of intoxicants. Officer Christopher Thompson testified that the defendant was back and forth with his responses and he was being argumentative. Officer Thompson also testified that the defendant had a strong odor of alcoholic beverage and that the defendant was staring off into the distance and would not look at the officer. The Tribe has proven beyond a reasonable doubt, that the defendant committed Driving On Suspended/Revoked/Cancelled License as Officer Andres Gastelum testified that a records check was preformed by police dispatch and the officer was told that the defendant did not have a license and that the defendant had suspended driving privileges. Tribe's Exhibit Two, Arizona Department of Motor Vehicle record, was admitted, without objection. Through the document, the Tribe has proven that the defendant's license is suspended with the date of 8/13/07.

1 **Having found the defendant guilty of the both Counts, the defendant, through his advocate,**
2 **had no objection to the Tribe proceeding to sentencing in the matter. The court should adopt the**
3 **Tribe's sentencing recommendations in part for detention days and probation. The defendant did**
4 **not object to any of the recommendations.**

4 **IT IS ORDERED** that the defendant, Stevie Flores, is guilty beyond a reasonable doubt of
5 **Count 1: Driving Under The Influence and Count 2: Driving On Suspended/Revoked/Cancelled**
6 **License. The defendant shall be sentenced as follows:**


6 **Count 1: Driving Under The Influence:**

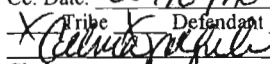
- 7 1. 30 days jail, suspended for nine (9) months of supervised probation;
- 8 2. Defendant shall pay a fine of \$250.00 within two (2) months, in the form of a money
9 order, payable to the Pascua Yaqui Tribe;
- 10 3. Defendant shall perform twenty (20) hours of community service to be conducted with
11 Pascua Yaqui Facilities Maintenance by calling Ramon Rivera at 879-5934 within one
12 week of today's date and shall submit completed community service hours to probation
13 within 30 days;
- 14 4. Defendant shall complete an "intake" with Pascua Yaqui Centered Spirit, within a
15 week to submit proof within two (2) working days after intake is completed;
- 16 5. Defendant shall complete the "comprehensive assessment" within thirty (30) days,
17 submit proof within two (2) working days after assessment is completed; defendant
18 must successfully complete all the recommendations made by CSP, any failure to
19 participate or comply with those recommendations can result in this probation status
20 being revoked and suspended time imposed;
- 21 6. Defendant shall not have in his possession or consume any alcoholic beverages;
- 22 7. Defendant shall be subject to random alcohol breath testing by Probation Officer;
- 23 8. Defendant shall attend a M.A.D.D. impact panel within thirty (30) days and submit
24 proof of completed session to probation within thirty (30) days;
- 25 9. Defendant shall pay probation fees in the amount of twenty (\$20.00) a month, due the
26 first of each month;
- 27 10. Defendant shall abide by all standard conditions of probation and shall initiate contact
28 with probation within two (2) working days;
11. Defendant shall pay a court cost of \$100.00 within thirty (30) days.

21 **Count 2: Driving On Suspended/Revoked/Cancelled License:**

- 22 1. \$250.00 fine or if defendant provides a valid driver's license to the Court within 45
23 days, the fine shall be reduced to \$25.00, due within 45 days.

23 SO ORDERED THIS 28TH DAY OF JANUARY, 2010.

24 
25 Associate Judge, Pascua Yaqui Tribal Court

26 Cc: Date: 02/10/10
27 Tribe Defendant _____ Counsel _____ Probation _____
28 Clerk 

IN THE PASCUA YAQUI TRIBAL COURT
IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION, ARIZONA

STANDARD CONDITIONS OF PROBATION

Pascua Yaqui Tribe:
Vs.

Defendant: STEVIE FLORES

Docket No. TR-09-044

1. Obey all Laws and Court Orders. Notify the Probation Officer within 72 hours of contact with any law enforcement agency.
2. Report to the Probation Officer as directed by the Tribal Court or Probation Officer. Obey the lawful orders of the Probation Officer.
3. To participate in education, training, treatment and /or counseling programs as directed by the Court or Probation Officer. Sign any release of information forms required by the agency and/or Probation Officer.
4. Not associate with any person who is in violation of the law or any convicted felon or any person on probation or parole in any jurisdiction.
5. Not possess or control any firearm(s), ammunition, knives or prohibited weapons.
6. To grant the Probation Officer safe access to your residence and property, to submit to search and seizure as directed by the Probation Officer.
7. Be subject to arrest without a warrant, by the Probation Officer or Law Enforcement Officer, if there is reason to believe I may have violated any condition(s) of probation. Waive extradition for any probation revocation proceedings.
8. Notify the Probation Officer of current address or change of address within 72 hours. Not leave the state of Arizona without first securing approval of the Court and/of Probation Officer.
9. Not to possess or use marijuana, dangerous drugs, narcotics, or drug paraphernalia, except as prescribed for you by a physician or dentist. **YOU SHALL SUBMIT TO RANDOM URINALYSIS TESTING**, as directed by the Probation Officer.
10. I have personally read, understand, and agree to abide by all of the preceding Terms and Conditions of Standard Probation. I understand that my failure to comply with one or more of the above conditions could result in my arrest and/or return to Tribal Court. I also understand that my continued violation of any one or more of the above-conditions while on probation may result in an unsatisfactory discharge from probation at the conclusion of my Court ordered probation period.

Date: 1-28-09

Date: 1/28/10

Stevie Flores
Defendant's signature

Margaret M. Flores
Judge's signature

IN THE PASCUA YAQUI TRIBAL COURT

IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

PASCUA YAQUI TRIBE VS FLORES, STEVIE Defendant	COURT USE ONLY Case Number: TR-09-044
PROBATION ORDER	

IT IS ORDERED THAT:

- PROBATION PERIOD** **9 MONTHS**
- SUSPENDED SENTENCE OF** **30 DAYS IN DETENTION**
- PROBATION SHALL BE** **SUPERVISED**
- PROBATION SHALL BEGIN ON** **January 28, 2010** **AND TERMINATE ON** **October 28, 2010**

AS STANDARD CONDITION OF PROBATION YOU SHALL:

1. Obey all laws and Courts Orders. Notify the Office of Probation Services within 72 hours of any contact with any Law Enforcement Agency.
2. Report to the probation officer once a week, or as directed by the Probation Officer: and follow all reasonable directives of the Probation Officer.
3. To participate in education, training, treatment and/or counseling programs as directed by the Court or Probation Officer. Sign any release of information forms required by the agency and/or Probation Officer.
4. Not associate with any person who is in violation of the law or any convicted felon or any person on probation or parole in any jurisdiction.
5. Not possess or control any firearm(s), ammunition, knives or prohibited weapons.
6. To grant the Probation Officer safe access to your residence and property, to submit to search and seizure as directed by the Probation Officer.
7. Be subject to arrest without a warrant, by the Probation Officer or Law Enforcement Officer, if there is reason to believe you may have violated any conditions of probation. Waive extradition for probation revocation proceedings.
8. Notify the Probation Officer of current address or change of address within 72 hours. Not leave the state of Arizona without first securing approval of the Court and/or Probation Officer.

9. Not to possess or use marijuana, dangerous drugs, narcotics, or drug paraphernalia, except as prescribed by a physician or dentist. YOU SHALL SUBMIT TO RANDOM URINALYSIS TESTING, as directed by the Probation Officer.

AS SPECIAL CONDITION OF PROBATION YOU SHALL:

- A. Shall initiate contact with probation officer by January 30, 2010
- B. Shall pay \$20.00 in probation fees due the first of each month
- C. Shall pay \$250.00 fine (Count 1) within two (2) months and \$250.00 fine (Court 2) due within 45 days
- D. Shall pay \$100.00 court cost within thirty (30) days
- E. Shall complete an "intake" with Pascua Yaqui Centered Spirit, within a week to submit proof within two (2) working days after intake is completed
- F. Shall complete the "comprehensive assessment" within thirty (30), and must submit proof within two (2) working days after the assessment is completed; the Defendant must successfully complete all the recommendations made by the CSP, any failure to participate or comply with those recommendations can result in termination of the probation status being revoked and suspended time imposed
- G. Shall not consume or possess any alcoholic beverages; subject to random alcohol breath testing by Probation Officer
- H. Shall attend a M.A.D.D. impact panel within thirty (30) days and submit proof of completed session to probation within thirty (30) days;
- I. Shall complete 20 hours of community services, to be conducted with the Pascua Yaqui Facilities Maintenance by calling Ramon Rivera at 879-5934 within one week of today's date and shall submit proof of any completed hours to the probation officer and the hours shall be due by February 28, 2010

SO ORDERED THIS 28th DAY OF January, 2010

Margaret A. Flores
Judge Pascua Yaqui Tribal Court

Tribe Defendant Probation Dept

Date 2/10/10
Clerk Celine [Signature]