

PASCUA YAQUI TRIBAL COURT
FILED DATE AND TIME

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DOCKET NO. _____

CL PASCUA YAQUI TRIBE
COURT OF APPEALS

MAY 01 2014

ISSUED
CLERK OF COURT

1 **Pascua Yaqui Tribe**
2 *Office of the Prosecutor*
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7 By Frederick Lomayesva,
8 Deputy Prosecutor

9 **IN THE PASCUA YAQUI APPELLATE COURT**

10 IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION

11 PASCUA YAQUI TRIBE,)	Case No. CR-14-196
)	
12 Plaintiff,)	
)	
13 v.)	REPLY TO DEFENDANT'S
)	RESPONSE RE. TRIBE'S MOTION
14 MOLINA, SALOMON FLORES)	TO STAY PROCEEDINGS
)	
)	
16 Defendant.)	

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18 COMES NOW the Pascua Yaqui Tribe and Replies to Defendant's Response as
19 follows:
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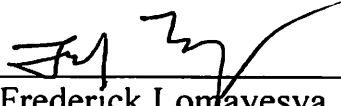
21 The defendant asserts that the Tribe is not entitled to a stay pursuant to 3 PYTC
22 §2-3-240. Code Section 3 PYTC §2-3-240 does not apply to this case. This is not a
23 normal appeal (which can only be taken from a final judgment). This is an
24 interlocutory appeal. It is clear that 3 PYTC §2-3-240 addressed cases where a final
25 judgment was issued and a party seeks to delay implementation of the judgment or
26 conviction. It does not address an interlocutory appeal (or special action) where the
27
28

1 litigation is ongoing rather than completed. Issues raised by interlocutory appeal or
2 special action often affect the outcome of the ongoing case. This is the case in this
3
4 appeal.

5 This Court has discretion to order a stay pursuant to 3 PYTC §2-3-50. There are
6
7 good reasons to issue a stay in this matter. The allegations, in this case, are that the
8 defendant, Salomon Molina, groped a young girl's breast while she slept. She awoke,
9 then screamed for her parents. The trial court has dismissed a count of public sexual
10 indecency and now allows the defendant to use voluntary intoxication as a defense to
11 the remaining charges. This case raises novel and important issues of tribal law that
12 need resolution prior to trial.
13
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15 Trial is set for May 6, 7, and 8. The legal issues involved in this case will take
16 longer to brief and decide than the date set for trial. The Tribe agrees with the
17 defendant that time is of the essence and has asked for an expedited briefing schedule.
18 In contrast to defendant's rights, the victim in this case is entitled to her day in court to
19 vindicate the alleged wrongs performed on her. There are good reasons for this court
20 to exercise its discretion.
21
22

23 RESPECTFULLY SUBMITTED this ___ / day of May, 2014.
24
25

26 
27 By Frederick Lomayesva,
28 Deputy Prosecutor

1 A copy of the foregoing was delivered

2 This day of May, 2014, to:

3 Patricia Leon-Enriquez

4 Office of the Public Defenders

5 Attorneys for the Defendant

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