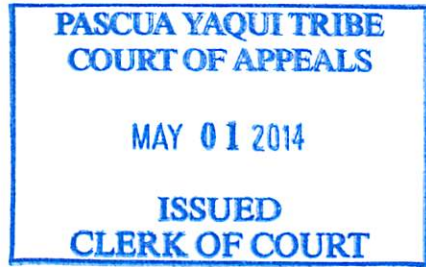


1 PASCUA YAQUI PUBLIC DEFENDER
7474 S. Camino de Oeste
Tucson, Arizona 85757

2 Patricia Leon-Enriquez
3 PYT Bar No. 10186
4 COUNSEL FOR: Appellee



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

8 PASCUA YAQUI TRIBE,

9 Appellant,

10 vs.

11 MOLINA, SALOMON,

12 Appellee.

) CR-14-196

) **RESPONSE TO TRIBE'S REQUEST TO**
) **STAY MAY 6, 2014 TRIAL**

13
14 Appellee Salomon Molina, through counsel, hereby responds to the Tribe's request to stay Mr.
15 Molina's May 6, 2014 jury trial.

16 On April 28, 2014, upon motion of the Defendant, the trial court dismissed Count 3 of the criminal
17 complaint pending against Mr. Molina. On May 1, 2014, the Tribe filed Notice of Interlocutory Appeal with
18 the Court of Appeals (hereinafter "Notice"). Contained within its Notice, the Tribe requested that the
19 Court of Appeals stay Mr. Molina's May 6, 2014 jury trial until resolution of the appeal.

20 The Tribe's request to the Court of Appeals to stay Mr. Molina's jury trial is procedurally defective.
21 According to the Pascua Yaqui Tribal Code, 3 PYTC § 2-3-250:

22 **Section 250 Stay of Execution (- Formerly 3 PYTRAP Rule 23)**

23 (A) Filing Requirements.

24 (1) The appellant may file with the **trial court** a motion for a stay of execution of its
25 judgment, order, or conviction at any time after the decision is final.

26 (2) If the trial court denies the motion, it shall set forth its reasons in writing.

27 (B) Documents Forwarded. All original documents, orders, and other papers filed in the trial court
28 relating to the stay of execution shall be included in the record on appeal and forwarded to the

1 appellate court.

2 (C) Motion for Stay Denied.

3 (1) **If the trial court denies the motion for stay, and only in such case, a petition for a**
4 **stay may be filed with the appellate court clerk,** and the chief justice may grant the stay
5 upon any conditions that protect the interests of the parties.

6 (2) The trial court's order denying the stay shall be attached to the petition to the appellate
7 court.

8 (3) If the trial court grants the stay, a copy of the order granting the stay shall be filed with
9 the appellate court clerk.

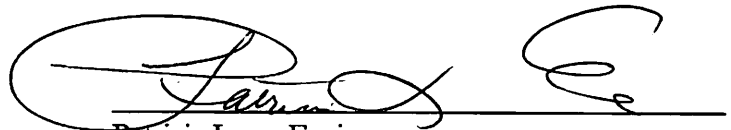
10 (emphasis added).

11 The Tribe did not file a request with the trial court to stay Mr. Molina's jury trial pending resolution
12 of the Tribe's appeal. Because the Tribe failed to follow the very clear requirements of 3 PYTC § 2-3-250,
13 the Court of Appeals is not in a position to entertain the Tribe's request. Mr. Molina respectfully requests
14 that the Court of Appeals deny the Tribe's request to stay the proceedings.

15 If the Court of Appeals should decide that the Tribe's request to stay Mr. Molina's jury trial is not
16 procedurally barred, then Mr. Molina substantively objects to the Tribe's request. Mr. Molina is entitled to a
17 speedy trial under the laws of this Tribe, the Tribal Constitution and the Indian Civil Rights Act. Pursuant
18 to 3 PYTC § 2-2-330(C), Mr. Molina is required to have a trial on this matter before June 16, 2014. Mr.
19 Molina does not waive his right to a speedy trial and objects to any stay that would compromise his right to
20 a speedy trial. The Defendant is not free pending trial. He is released on a cash bond and has been ordered
21 not to have contact with any minor children, including his own children. These substantial restraints on his
22 liberty do not support the Court issuing a stay of his trial pending resolution of this appeal.

23 DATED this 1st day of May 2014.

24 PASCUA YAQUI PUBLIC DEFENDER

25
26
27 
28 Patricia Leon-Enriquez
Senior Staff Attorney

1
2
3 **CERTIFICATE OF SERVICE**

4 A copy of the foregoing was delivered this 1st day of May, 2014 to :

5
6 Fred Lomayesva
7 Office of the PYT Prosecutor
8

9 DATED this 1st day of May, 2014.
10

11 PASCUA YAQUI PUBLIC DEFENDER

12
13 Monique Ramsey
14 Monique Ramsey
15 Legal Secretary
16
17
18
19
20
21
22
23
24
25
26
27
28