

FILED 6-24 1996
NO. CR-96-047 DOCKETED
AT 9:30 O'CLOCK A.M.
BF
CLERK.

1 Sydney Ricks, SBN 015266
2 FOUR RIVERS INDIAN LEGAL SERVICES
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4 Tucson, Arizona 85746
5 (520) 883-5168

6 COUNSEL FOR: DEFENDANT

7 **IN THE PASCUA YAQUI TRIBAL COURT**
8 **IN AND FOR THE PASCUA YAQUI INDIAN RESERVATION**

9 PASCUA YAQUI TRIBE,
10 Plaintiff,
11 vs.
12 OCHOA, Reynaldo,
13 Defendant.

NO. CR-96-047

NOTICE OF APPEAL

14
15 COMES NOW Defendant/Appellant, Reynaldo Ochoa, by and through undersigned
16 counsel, to hereby give notice pursuant to 1 PYTC §1.13(1) that he appeals to the Appellellate
17 Court of the Pascua Yaqui Tribe from the May 30, 1996, Judgement Order issued by the trial
18 Court in the above matter. (See Exhibit A)

19 Defendant/Appellant's appeal is based on the following:

- 20 1. Defendant/Appellant was charged with violating, 1 PYTC §3.8, Battery.
- 21 2. Defendant's/Appellant defense was self-defense.
- 22 3. At trial, there was evidence that Defendant/Appellant tapped another person on
23 the shoulder and then the alleged victim in the matter came at the
24 Defendant/Appellant with a metal pole. It was when the alleged victim attacked
25 the Defendant with the pole that the Defendant first hit the alleged victim.
- 26 4. In rendering judgment, the Court found that the Defendant/Appellant had initiated
27 the altercation by touching the other person on the shoulder. For this reason,
28 the Court found the Defendant/Appellant guilty of battery.
- 5. Principles of self-defense allow a person to respond to violence only with that
amount of force necessary to fend off the attack. In this case, even if the alleged
victim was justified in attacking the Defendant/Appellant, he could only use
physical force with his own hands. There was absolutely no evidence that the
Defendant/Appellant ever had any type of a weapon in his possession. It was,
in fact, the alleged victim who introduced a weapon into the altercation.

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6. Based on principles of self-defense, Defendant/Appellant is not guilty of the crime of battery and the Trial Court's ruling should be reversed.

Defendant/Appellant requests that the Appellate Court waive the \$50.00 filing fee because Defendant/Appellant is the sole provider for the family.

Defendant/Appellant further requests that the Appellate Court issue an order setting forth a briefing schedule.

RESPECTFULLY Submitted this 24th day of June, 1996.

FOUR RIVERS INDIAN LEGAL SERVICES



Sydney Ricks
Counsel for Defendant/Appellant

COPY of the foregoing hand-delivered this date to Prosecutor's Office, PY Ct. In-Box, by:



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

PASCUA YAQUI TRIBE)
Plaintiff)
Vs.)
Ochoa Reynaldo)
Defendant)

NO. CR-96-047

JUDGMENT ORDER

On this 24th day of June, 1996, defendant appeared before this Court for sentencing of the following charge(s) and was sentenced to.

Charge One: BATTERY

\$ 100.00 fine+ 100.00 c.c. = \$ 200.00 + 30 days in jail

Charge Two: _____

\$ _____ fine+ _____ c.c. = \$ _____ + _____ days in jail

Charge Three: _____

\$ _____ fine+ _____ c.c. = \$ _____ + _____ days in jail

Special Conditions: jail days are suspended for 6 months probation; defendant shall not consume any alcoholic beverages and is subject to random breathalyzer checks; defendant shall obtain an evaluation from the ASA program and follow any recommendations for counseling and submit verification on or by July 24, 1996; defendant is restrained from Emilio Trujillo; defendant shall perform 75 hours of community service due on or by September 23, 1996; defendant shall pay a \$5.00 monthly probation fee; fine and Court cost are due on or by September 23, 1996; defendant shall report to the Probation Officer at the Probation Officer's discretion; sentencing is stayed in part pending appeal; defendant is still subject to obtain the ASA evaluation as submit proof and defendant shall not consume alcoholic beverages and is subject to random breathalyzer checks; defendant is also restrained from Emilio Trujillo.

SO ORDERED THIS 24th DAY OF June, 1996

Cornelia S. Cruz
Judge, Pascua Yaqui Tribal Court

Cc. _____
Date: _____

Tribe
 Defendant/Counsel
 Other

Clerk