

STATE'S EXHIBIT

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

MARIA M. GONZALEZ, et al.,)	
)	
Plaintiffs,)	CV 06-1268 PHX-ROS
)	CV 06-1362 PHS-ROS
vs.)	CV 06-1575 PHX-ROS
)	
STATE OF ARIZONA, et al.,)	Phoenix, Arizona
)	August 30, 2006
Defendant.)	9:25 a.m.
)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
(Preliminary Injunction Hearing - Day One)
BEFORE THE HONORABLE ROSLYN O. SILVER

Court Reporter: David M. Lee, CSR 9543, RMR, CRR
Sandra Day O'Connor U.S. Courthouse
401 W. Washington Street
Phoenix, Arizona 85003
(602) 322-7245

Proceedings taken by stenographic court reporter
Transcript prepared by computer-aided transcription

1 House of Representatives pertaining to Apache County's 11:48:47
2 voter outreach and voter education efforts on the Navajo 11:48:52
3 Nation. Mr. Gorman is correct that she is the elections 11:48:55
4 director for Apache County. 11:49:03
5 Q. Mr. Gorman, what is your understanding as to what a 11:49:11
6 tribal member would have to present in order to vote in 11:49:14
7 person on election day? What forms of proof would a tribal 11:49:20
8 member present? 11:49:29
9 A. My understanding is that you have to have an 11:49:30
10 identification card that has your photo on it and your 11:49:34
11 address on it. 11:49:39
12 Q. Is it your understanding that that is the only thing 11:49:51
13 that will suffice to allow a person on the Navajo Nation to 11:49:56
14 actually vote at a polling place? 11:49:59
15 A. The documents that I have read have indicated that 11:50:01
16 for myself, that it would be a photo ID with an address on 11:50:09
17 it. I have a driver's license that has a photo on it with 11:50:14
18 my address. I have a passport, that has my photo on it 11:50:17
19 with an address on it, so I feel I'm comfortable that I am 11:50:22
20 prepared to cast a vote, as Leonard Gorman, a member of the 11:50:26
21 Navajo Nation. 11:50:31
22 Q. Based upon what you just said, would it then be your 11:50:32
23 understanding that documentation that does not contain a 11:50:35
24 photograph would not suffice to allow a Navajo Nation 11:50:50
25 tribal member to vote at a polling place on election day? 11:50:55

1 A. That is my understanding, yes. 11:50:57

2 Q. Okay. Thank you. 11:50:58

3 Mr. Gorman, I would like to read a brief 11:51:08

4 paragraph contained within one of the State's exhibits, and 11:51:23

5 then have you comment on it. In particular, it's state -- 11:51:30

6 THE COURT: Which number is it? 11:51:33

7 MR. SKOLNIK: It's State's Exhibit Number 402, 11:51:35

8 your Honor, and it is the third full paragraph contained on 11:51:37

9 page 9 of that exhibit. I'm going to quote directly from 11:51:41

10 it. 11:51:45

11 And by the way, this is an earlier draft of a 11:51:47

12 report issued by ITCA's expert in this case, Mr. Anthony 11:51:49

13 Sissons. It reads as follows, the third paragraph. 11:51:59

14 "In the Farmington, New Mexico Daily Times of 11:52:02

15 July 17, 2006, reporter Erny Zah wrote an article headlined 11:52:05

16 "Navajo Nation to consider ID cards." Up to now Navajo 11:52:13

17 people have identified themselves with a Certificate of 11:52:21

18 Indian Blood (CIB). For many Navajos, this paper 11:52:27

19 certificate needed for many tribal services, has become 11:52:30

20 fragile. The Navajo Nation Council is considering creation 11:52:38

21 of a photo identification card system." 11:52:42

22 Were you present in any tribal council meetings 11:52:47

23 in which there was discussions pertaining to the issue of a 11:52:51

24 tribal identification card? 11:52:54

25 A. I was present in the Navajo Nation Council session 11:52:57

1 in which legislation was presented to appropriate funds for 11:53:02
2 such an initiative. 11:53:14

3 Q. Now, I think you told us earlier that you were from 11:53:16
4 Fort Defiance originally? 11:53:20

5 A. No, not originally. I was born at the Fort Defiance 11:53:22
6 hospital. 11:53:26

7 Q. All right. Are you familiar with a gentlemen who I 11:53:28
8 guess also may have been from Fort Defiance by the name of 11:53:30
9 Larry Andersen? Do you know a Larry Andersen? 11:53:34

10 A. I know a Larry Andersen that's on the Navajo Nation 11:53:38
11 Council who represents the Fort Defiance chapter in the 11:53:41
12 Council. 11:53:46

13 Q. And this is a council delegate? 11:53:47

14 A. If that's the same Larry Andersen you are referring 11:53:49
15 to, that's the same Larry Andersen I know. 11:53:51

16 Q. Were you present at the July council meeting? 11:53:54

17 A. Yes. 11:53:56

18 Q. And that would have been on or around July 17th of 11:53:57
19 this year? 11:54:00

20 A. Yes, I was in the council session when that 11:54:00
21 legislation was presented. 11:54:03

22 Q. Am I correct that Mr. Larry Andersen, a council 11:54:04
23 delegate, put forth a motion to seek \$150,000 of tribal 11:54:09
24 funds for creation of an identification card system for 11:54:16
25 tribal members? 11:54:21

1 A. Yes. 11:54:21

2 Q. Okay. By the way, and this is an aside, how many 11:54:26

3 tribal members are there in total, approximately, spread 11:54:29

4 throughout the various states? 11:54:33

5 A. Over 200,000. 11:54:34

6 Q. Okay. If I were to tell you that I've seen 11:54:36

7 census -- a 2000 census figure that listed 277,000 people 11:54:42

8 who identified themselves as Navajo, does that sound about 11:54:47

9 accurate to you? 11:54:50

10 A. We've always challenged the accuracy of the census, 11:54:51

11 so my -- my comment would be that that probably is. It 11:54:56

12 should be more. 11:55:05

13 Q. At any rate, I think what you are telling me is you 11:55:05

14 will acknowledge there are, at a minimum, 200,000 Navajos; 11:55:10

15 correct? 11:55:14

16 A. Yes. 11:55:14

17 Q. Now, you also told me that you were present at the 11:55:15

18 meeting in which Larry Andersen proposed to spend \$150,000 11:55:18

19 of tribal funds for establishment of an identification card 11:55:23

20 system for tribal members? 11:55:26

21 A. Yes. 11:55:28

22 Q. In trying to follow up on what happened to that 11:55:29

23 proposal through the internet and other sources, I was 11:55:36

24 unable to find the -- to ascertain the final result. What 11:55:40

25 happened to Mr. Anderson's proposal to spend \$150,000 of 11:55:47

1 tribal funds to establish a tribal identification card 11:55:51
2 system? 11:55:54

3 A. If my memory serves me right, I believe when the 11:55:54
4 legislation was presented to the council, we did not have 11:56:01
5 sufficient funds to appropriate for the amount that he was 11:56:05
6 asking for, from the pool that he wanted to appropriate 11:56:14
7 from. 11:56:18

8 Q. What is the tribal's early fiscal budget, if you 11:56:18
9 will? How much money does the tribe spend on a yearly 11:56:23
10 basis? 11:56:26

11 A. I'm not an auditor. Generally speaking, with 11:56:26
12 different sources of funds, it's over \$500 million. 11:56:33

13 Q. So approximately one half of a billion dollars is 11:56:37
14 the tribal budget? 11:56:43

15 A. Is the Navajo Nation's budget, yes. 11:56:45

16 Q. Okay. Thank you. 11:56:47

17 To your knowledge, has the Navajo Nation taken a 11:56:51
18 position on any initiative measures that are going to 11:57:02
19 appear on the upcoming ballot in Arizona? In other words, 11:57:08
20 at the November general election? 11:57:13

21 A. I'm also one of the people that reviews legislation 11:57:14
22 that goes through the process. Our office has a 11:57:23
23 responsibility to assign legislation to various standing 11:57:27
24 committees for consideration, so to my knowledge, I haven't 11:57:32
25 seen, if memory serves me right, any legislation that's 11:57:36

1 early ballot at an in-person voting location? 12:53:08

2 A. I have never voted early ballot or absentee ballot. 12:53:13

3 Q. Okay. So when you've personally voted in the past, 12:53:25

4 you have always gone to a polling place on the actual 12:53:27

5 election day? 12:53:30

6 A. Yes. 12:53:31

7 Q. Okay. So I'm not quite sure who was questioning you 12:53:31

8 when you gave this answer, but the answer you gave in 12:53:38

9 response to a question by one of the plaintiff's attorneys 12:53:40

10 was that to your knowledge, no language assistance was 12:53:45

11 offered for early voting. Do you remember saying that? 12:53:49

12 A. Yes. 12:53:55

13 Q. So my question would be, having never -- never 12:53:56

14 having voted at an in-person location, never having voted 12:54:03

15 early at an in-person location, I take it you have no 12:54:08

16 personal knowledge as to whether or not language assistance 12:54:11

17 is offered for early voting? 12:54:13

18 A. As I understand it -- are you referring to someone 12:54:14

19 going to an office in which they would cast a ballot in 12:54:22

20 advance of the election day? 12:54:30

21 Q. Well, let's talk about that, to make sure we are on 12:54:37

22 the same page here. 12:54:40

23 A. Because what I'm thinking is I pick up a ballot and 12:54:41

24 I mark the ballots and cast it. 12:54:45

25 Q. Do you understand, for instance, that there are two 12:54:52

1 ways to vote early? One is to mail in a ballot; do you 12:54:56
2 understand that? 12:54:59
3 A. Yes. 12:55:03
4 Q. You further understand that the counties make 12:55:03
5 available in-person locations, to physically go to that 12:55:05
6 location to cast a ballot early in advance of the actual 12:55:10
7 scheduled election? 12:55:13
8 A. I have no knowledge of the second one you're 12:55:15
9 referring to. 12:55:17
10 Q. Okay. So therefore, if you have no knowledge of 12:55:18
11 that, I take it you also would have no knowledge as to 12:55:20
12 whether or not language assistance is offered to voters who 12:55:26
13 might exercise that particular option, assuming they're 12:55:30
14 available? 12:55:41
15 A. Yes. 12:55:41
16 Q. Are you familiar with section 203 of the Voting 12:55:42
17 Rights Act? 12:55:47
18 A. I have had the opportunity to be advised of it in 12:55:48
19 prior instance in this case, and also the redistricting 12:55:58
20 issues in Section 805 or something like that. 12:56:02
21 Q. Do you understand that Section 203 of the Voting 12:56:04
22 Rights Act requires language assistance at all polling 12:56:06
23 places? 12:56:09
24 A. Yes. 12:56:09
25 Q. Does the Navajo Nation employ its own police force? 12:56:10