

# **EXHIBIT 128**

1 Q. The -- the -- you're familiar with the general 03:51:57  
2 circumstances and conditions on the reservations in Arizona 03:52:04  
3 as your position in ITCA requires; right? 03:52:08  
4 A. Yes. 03:52:11  
5 Q. And in terms of the overall well-being, you have 03:52:12  
6 reason to understand the conditions of housing, do you not? 03:52:22  
7 A. Yes. 03:52:28  
8 Q. Would you describe generally the condition of 03:52:28  
9 housing on Indian reservations to the -- to the Court? 03:52:31  
10 A. Housing is a very -- a problem that exists on all 03:52:39  
11 reservations. There is a backlog of housing, particularly 03:52:45  
12 on those larger reservations, larger-populated 03:52:50  
13 reservations. Congressman Rick Renzi just had a hearing 03:52:55  
14 two weeks ago and documented why there is housing and isn't 03:53:01  
15 housing and the failure of federal policy and agencies and 03:53:08  
16 others to -- that haven't fulfilled their responsibilities 03:53:12  
17 to Indian people. 03:53:16  
18 Q. Well, how do tribal people on the reservations cope 03:53:18  
19 with so few houses and the inadequacy? 03:53:23  
20 A. In many instances the housing that is available is 03:53:28  
21 shared among extended families, and there is sometimes 03:53:33  
22 maybe up to a great number of people in any one dwelling 03:53:38  
23 that goes to the extended family and beyond in some 03:53:45  
24 instances. 03:53:48  
25 Q. So that would include both infants, all the way to 03:53:52

1 people much older than we are who might actually be defined 03:53:56  
2 as elders from our perspective, yours and my perspective? 03:53:59  
3 A. Correct. 03:54:05  
4 Q. Say maybe 110 or older? 03:54:06  
5 A. Right. 03:54:08  
6 Q. Are you familiar with the basic infrastructure for 03:54:08  
7 those houses on reservations? Does it exist? Explain to 03:54:14  
8 the Court how it is. 03:54:20  
9 A. Many of the housing is made of different types of 03:54:21  
10 materials. Sometimes they are the usual cement and wood. 03:54:23  
11 Sometimes they are made up of adobe. They could be made up 03:54:30  
12 of mud of different types, mud and straw and planks of 03:54:34  
13 wood. It depends on the tribe and the housing. Many of 03:54:44  
14 them lack electricity, water, domestic water and sewage 03:54:47  
15 facilities. 03:54:53  
16 Q. Is that a common situation in Arizona where they 03:54:54  
17 lack water and sewage facilities and electricity? 03:54:56  
18 A. Yes. 03:55:00  
19 Q. If they lack those facilities, do they also lack 03:55:07  
20 telephones? 03:55:10  
21 A. Yes. 03:55:11  
22 Q. Arizona is a large state. When you see that guy 03:55:11  
23 riding around on TV on a donkey and saying, "Can you hear 03:55:14  
24 me now," on the cell phone, "Can you hear me now" on a cell 03:55:20  
25 phone on the Indian reservations in Arizona? 03:55:23

1 A. To some degree you can, but in large part, 03:55:29  
2 particularly the more rural areas, you cannot, and there 03:55:34  
3 are still not systems available for cell phones. 03:55:38

4 Q. I want to refer you to item 15 on your affidavit, 03:55:51  
5 please, and particularly to the last sentence of that 03:55:55  
6 avowal. Would you read that to the Court, please. 03:56:05

7 A. "Indians were recognized as citizens of the United 03:56:09  
8 States by the Act of June 2nd, 1924." 03:56:16

9 Q. Now it has a citation that goes with it, but the 03:56:22  
10 Court need not be troubled with that. 03:56:25

11 The question I want to ask you is, to your 03:56:27  
12 knowledge, could Indians vote in 1924 as citizens of the 03:56:29  
13 United States in Arizona? 03:56:33

14 A. No. 03:56:34

15 Q. As a matter of fact, even though -- how long have 03:56:35  
16 Indians been born in what is now Arizona, by the way? 03:56:41

17 A. From time immemorial. 03:56:44

18 Q. So there is no question that Indian people are born 03:56:49  
19 here. That's the fact, and -- and so when we're talking 03:56:53  
20 about -- about natural-born citizens, certainly it -- it 03:56:59  
21 was strange that it took a congressional statute to 03:57:10  
22 recognize Indians as citizens, isn't it? 03:57:12

23 A. Yes. 03:57:16

24 Q. Well, what did it take in Arizona after that, in 03:57:16  
25 order to be able to vote as an Indian person? 03:57:22

1 A. It took lawsuits brought by Indian people, first in 03:57:26  
2 1928 by members of the Gila River Indian community, and in 03:57:30  
3 1948, the right was recognized when two members of the 03:57:36  
4 Yavapai Apache at Fort McDowell filed a lawsuit, and the 03:57:41  
5 decision recognized the right to vote. 03:57:52  
6 Q. So the first case, in the '20s, that didn't work, 03:57:54  
7 did it? Indians were not allowed to vote even after they 03:57:58  
8 were citizens? 03:58:02  
9 A. That is correct. 03:58:03  
10 Q. So the Supreme Court of Arizona then recognized the 03:58:04  
11 Indian tribes, the Indian people's right to vote in the 03:58:10  
12 1940s, was it? 03:58:15  
13 A. 1948. 03:58:17  
14 Q. The ITCA and the tribes in Arizona celebrate that 03:58:18  
15 day, that Supreme Court decision even today, don't we? 03:58:22  
16 A. Yes, we do, on July 15th. We -- we usually have a 03:58:26  
17 celebration, a press conference, and have a "get out and 03:58:33  
18 vote" and the importance of voting, to share with the 03:58:39  
19 Indian people and the general public. 03:58:41  
20 Q. Now these -- these questions I mentioned, I said may 03:58:44  
21 be uncomfortable, and I know they are difficult to talk 03:58:50  
22 about, but in our lifetimes, there have actually been laws 03:58:52  
23 in the State of Arizona that expressly discriminate against 03:59:00  
24 Indians and people of color; isn't that correct? 03:59:05  
25 A. Yes. 03:59:07

1 Q. During your lifetime, that's true, isn't it? 03:59:08  
2 A. Yes. 03:59:11  
3 Q. What are some of those examples? 03:59:12  
4 A. Well, I think one is just the -- the school. There 03:59:13  
5 was segregated schools that have happened to people of 03:59:21  
6 color. There have been, I think -- I don't know if there 03:59:23  
7 were specific laws, but there has been practices to not 03:59:29  
8 have Indian people allowed in certain public places, and so 03:59:32  
9 I think those are -- those are some examples of it, besides 03:59:38  
10 the voting that we spoke of. 03:59:41  
11 Q. Well, I mean you were citizens of the United States 03:59:43  
12 by statute. Were you not allowed to go to public swimming 03:59:49  
13 pools in Arizona during your life? 03:59:53  
14 A. That, in many cases, was the case. 03:59:54  
15 Q. What about movies? 03:59:59  
16 A. There were segregated theaters, and in some cases 04:00:01  
17 there were signs indicating people of color not allowed. 04:00:06  
18 Q. And in restaurants? 04:00:09  
19 A. Again, there were signs in restaurants that didn't 04:00:10  
20 allow people of color to enter and to be served. 04:00:17  
21 Q. And public facilities such as rest rooms or water 04:00:20  
22 fountains? 04:00:26  
23 A. That, as well. I think that is all part of the 04:00:28  
24 practice of discrimination. 04:00:30  
25 Q. Well, that's pretty much all behind us now, isn't 04:00:33

1 it? I mean what's left now that the statutes have been 04:00:35  
2 passed saying that none of that exists? 04:00:38

3 A. Well, I think there still exists many areas of 04:00:42  
4 discriminatory practices or impacts. We have in our 04:00:49  
5 background studies by the Civil Rights Commission in the 04:00:53  
6 '70s that documented many discriminatory practices here in 04:00:59  
7 the State, including voting. Then also recently we have 04:01:03  
8 had a study by the U.S. Civil Rights Commission, again, 04:01:10  
9 outlining the disparities and discriminatory practices in 04:01:16  
10 terms of health, and that came out a couple of years ago. 04:01:21  
11 There have been numerous studies throughout our history 04:01:27  
12 that have documented the discrimination and disparities 04:01:29  
13 across a broad spectrum of public policy. 04:01:35

14 Q. Well, as an educated person in your position, you 04:01:40  
15 don't really need a study to tell you what's going on out 04:01:44  
16 there in the world, do you? 04:01:47

17 A. Well, that is correct, but I think that the -- what 04:01:47  
18 is happening still does exist, and we do have to deal with 04:01:53  
19 it and we do, as Indian people, have to find ways to 04:01:58  
20 overcome those barriers. 04:02:06

21 Q. What kind of barriers, if any, have Indian people 04:02:07  
22 faced since the Supreme Court recognized your right to vote 04:02:11  
23 in 1948, to actually casting a vote? 04:02:14

24 A. Initially there were barriers dealing with literacy 04:02:17  
25 and the ability to read and write the Constitution, which 04:02:23

1 at the time there was a high rate of illiteracy in the 04:02:28  
2 Indian population, so that was there for quite some time 04:02:32  
3 and really halted the -- the ability of Indian people to 04:02:38  
4 vote. 04:02:45

5 Q. In terms of voting locations, were the polls located 04:02:45  
6 on or off the reservations? 04:02:51

7 A. They were, at the time, exclusively off the 04:02:52  
8 reservations. 04:02:58

9 Q. In your -- in your experience as executive director 04:02:59  
10 and a cultural anthropologist and a Native American in 04:03:05  
11 Arizona, do you have any opinion about the reluctance of 04:03:10  
12 Indian people to go to these off-reservation locations and 04:03:15  
13 deal with non-Indian officials on these matters, such as 04:03:20  
14 the right to vote? 04:03:23

15 A. In my opinion, it is a difficult thing to overcome, 04:03:27  
16 and that the importance of voting is a long-time 04:03:32  
17 educational process. Because of a lot of discriminatory 04:03:40  
18 and disparities to access to services, there becomes an 04:03:43  
19 attitude in terms of how one can -- and when one should and 04:03:54  
20 can go -- go off and deal in these matters. There is a 04:03:58  
21 reluctance to do so. But as time has come and these 04:04:05  
22 practices have been addressed solely, we have tried to 04:04:21  
23 overcome those barriers through education and tried to 04:04:24  
24 alleviate those practices and the ability of Indian people 04:04:27  
25 to exercise those rights. Those are the things that we're 04:04:30