

In The
Supreme Court of the United States

MICHAEL SALINAS, *et al.*,
Petitioners,

v.

BOBBI LAMERE, *et al.*,
Respondents.

**On Petition For A Writ Of Certiorari To The
Court Of Appeal For The State Of California,
Fourth Appellate District**

**BRIEF OF THE RESPONDENTS
IN OPPOSITION TO THE PETITION
FOR A WRIT OF CERTIORARI**

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QUESTIONS PRESENTED

1. Petitioners' first question for review calls upon the Court to determine whether Public Law 280 confers subject matter jurisdiction on California Courts to make, review, or enjoin internal membership decisions of a federally-recognized tribe.

2. Petitioners' second question for review calls upon the Court to resolve an alleged conflict between two decisions of the same division of the same district of a state court of appeal regarding the sovereign immunity of elected officials of a tribe in the exercise of discretionary governmental duties.

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. STATEMENT OF THE CASE.....	3
III. REASONS FOR DENYING THE PETITION...	11
THE DECISION BELOW DOES NOT CON- FLICT WITH ANY STATE COURT OF LAST RESORT, A FEDERAL COURT OF APPEAL, OR THE UNITED STATES SUPREME COURT.....	11
A. Petitioners Manufacture A Conflict, Which If It Existed, Only Exists Within The Court Of Appeal Of The State Of California.....	11
B. The Decision Below Only Reiterates Long Settled Federal Law Regarding Tribal, Not State, Jurisdiction Over Internal Member- ship Decisions	12
IV. CONCLUSION	16

TABLE OF AUTHORITIES

Page

CASE LAW

<i>Apodaca v. Silvas</i> , 19 F.3d 1015 (5th Cir. 1994)	15
<i>Atkinson v. Haldane</i> , 569 P.2d 151 (Ak. 1977).....	11, 15
<i>Bryan v. Itasca County</i> , 426 U.S. 373 (1976)	10, 11, 13
<i>Iowa Mutual Insurance Company v. LaPlante</i> , 480 U.S. 9 (1987)	14
<i>LaMere v. Superior Court of the County of Riverside</i> , 131 Cal.App.4th 1059 (Cal.App. 2005)	1, 13, 14, 15
<i>Patterson v. Council of Seneca Nation</i> , 157 N.E. 734 (N.Y. 1927)	15
<i>Red Bird v. United States (Cherokee Intermarriage Cases)</i> , 203 U.S. 76 (1906).....	13
<i>Roff v. Burney</i> , 168 U.S. 218 (1897).....	13, 14
<i>Santa Clara Pueblo v. Martinez</i> , 436 U.S. 49 (1983)	9, 12, 13, 14
<i>Smith v. Babbitt</i> , 875 F. Supp. 1353 (D. Minn. 1995).....	13
<i>Turner v. Martire</i> , 82 Cal.App.4th 1042 (Cal.App. 2000).....	11, 12
<i>United States v. Wheeler</i> , 435 U.S. 313 (1978).....	13
<i>Worcester v. Georgia</i> , 31 U.S. 515 (1832).....	13

STATUTES

25 U.S.C. § 184	15
25 U.S.C. § 903b(c)	15
25 U.S.C. § 1301, Indian Civil Rights Act	10
28 U.S.C. § 1360	2, 10

TABLE OF AUTHORITIES – Continued

Page

OTHER

Felix S. Cohen, <i>Handbook of Federal Indian Law</i> (1958 and 2005 ed.)	13
Solicitor’s Opinion of May 17, 1941, 1 Opinions of the Solicitor 1048, 55 I.D. 14	15

I. INTRODUCTION

The petition for writ of certiorari should be denied because it presents no issue worthy of this Court's attention. The Court of Appeal of the State of California, Fourth Appellate District held that state courts do not have jurisdiction over internal tribal membership decisions. That decision made no new law.

The petition requests that the Court reconsider over 150 years of consistent legal precedent that tribes have authority to make their own internal membership decisions in tribal forums. In the courts below, Petitioners sought unsuccessfully to have a state court enjoin elected tribal officials from taking any actions to disenroll the Petitioners, to declare that the Petitioners are members of the Pechanga Band, and to permanently enjoin the elected officials of the sovereign Pechanga Band from ever disenrolling Petitioners. (Plaintiffs' Complaint, LCPet. p. 0048). The court of appeal correctly rejected Petitioners' unsupported claims and found that "this is not a 'private legal dispute between reservation Indians,' but goes rather to the heart of tribal sovereignty." *LaMere v. Superior Court of the County of Riverside*, 131 Cal.App.4th 1059, 1065 (Cal.App. 2005), Writ. Pet. App. p. 14A.¹ The California Supreme Court thereafter rejected Petitioners' request for certiorari.

The Respondents are elected officials of the Enrollment Committee whose duties include assuring that all those who claim membership in the Band meet the Band's

¹ Citations to the appendix for writ for certiorari in this case are cited as "Writ. Pet. App.". Parenthetical citations to the record in the court below describe the document and the location in the record before the court of appeal. "LCPet." stands for documents located in the lower court record. Citations to the Appendix to this Opposition To The Petition For A Writ Of Certiorari are cited as "Opp. App.".

constitutional membership requirements. The Pechanga Band is a tribal government with the sovereign right to make internal membership decisions in its own forums. This right is one of the most basic tenets of Indian law and is fundamental to the Pechanga Band's existence as a sovereign. Rather than uphold tribal sovereignty as alleged in their petition, Petitioners seek to rewrite long-standing Indian law in furtherance of their own economic interests. When the Enrollment Committee was about to begin deliberations required by tribal law after a full opportunity was afforded to Petitioners to present their factual bases for membership, Petitioners sought to eliminate through state court proceedings one of the Tribe's most inherent responsibilities – the right of a sovereign to independently determine its membership. Petitioners took this drastic action even though they were aware that the Respondents had recently upheld the enrollment status of a large number of tribal members who had similarly been subject to allegations that they did not meet the Band's constitutional membership requirements.

Petitioners' unsupported theory for jurisdiction under Public Law 280, 28 U.S.C. § 1360, and their equally inaccurate statements of the law regarding sovereign immunity are contrary to over 150 years of legal precedent. There is no conflict among lower courts as asserted by Petitioners. Petitioners' alleged conflict is within the same division of the same district of the state court of appeal. Therefore, the petition should be denied.

II. STATEMENT OF THE CASE

Petitioners' Introduction and Statement Of The Case contain numerous inaccuracies. As required by Rule 15.2, Respondents will briefly address the misstatements of fact or law in the petition that bear on what issues properly would be before the Court if certiorari were granted.

Petitioners misstate or only partially provide relevant portions of the laws of the Pechanga Band. Article II – Membership of the Constitution and Bylaws of the Temecula Band of Luiseno Mission Indians – Pechanga Indian Reservation est. 1882 (“Constitution and Bylaws”) is incorrectly quoted by the Petitioners. Article II reads as follows:

ARTICLE II MEMBERSHIP

Membership is an enrolled member documented in the Band's Official Enrollment Book of 1979.

Qualifications for membership of the Temecula Band of Luiseno Mission Indians Are:

A. Applicant must show proof of Lineal Descent from original Pechanga Temecula people.

B. Adopted people, family or Band, and non-indians cannot be enrolled. *Exception:* People who were accepted in the Indian Way prior to 1928 will be *accepted*.

C. If you have ever been enrolled or recognized in any other reservation you cannot enroll in Pechanga

The membership enrollment will be opened the first month of each year by the Bands Enrollment Committee.

(Plaintiffs' Complaint Exhibit 3, LCPet. p. 0061-0062 (italics indicate changes from quote in the petition)). The correct date that the Band's Constitution and Bylaws were adopted by the Pechanga General Council was December 10, 1978.

Petitioners only provide the Court an excerpt from the "Pechanga Enrollment Disenrollment Procedure" (hereinafter "Disenrollment Procedures"). The complete procedures for disenrollment, including the provisions regarding notice of the basis for possible disenrollment and the opportunity to present evidence, are contained in Appendix A. Opp. App. p. 1-6.

Petitioners' various statements about the "spectre of greed and internal corruption" of Native Americans and members of the Pechanga Band generally, or Respondents specifically, are entirely unsupported by the record. Petitioners' comments about whether other tribes may or may not follow their own laws are both unsupported and irrelevant. Petitioners' statements of economic motive are spurious given the fact that, immediately prior to consideration of the allegations against Petitioners, the Enrollment Committee considered three other sets of enrollment allegations and determined, after full review, that the allegations lacked merit because the facts actually supported the membership status of those affected tribal members. (Respondent LaMere's Declaration, ¶ 9, LCPet. p. 1119). Importantly, the Pechanga Band's disenrollment law has been in place and utilized since 1988 well before there were any gaming revenues, with decisions both to disenroll and to uphold membership. Opp. App. p. 6.

At all times relevant to this case, the Pechanga Band maintained a duly constituted Tribal Council and Enrollment Committee. (Respondent LaMere's Declaration, ¶ 5-6, LCPet. p. 1117-1118). The Respondents are all duly enrolled tribal members who were elected by the General Membership of the Pechanga Band. The General Membership is comprised of all adult members of the Pechanga Band, which included Petitioners and their supporters.

In late 2002 and early 2003, the Enrollment Committee, including two of the Petitioners, Respondents, and one other Tribal member, received several allegations that numerous members of the Pechanga Band failed to meet the Band's constitutionally established enrollment qualifications. (*See, e.g.*, Plaintiffs' Complaint Exhibit 11, LCPet. p. 0165). The Enrollment Committee began to review the allegations. During this time period, the Tribal Council exercised its responsibility under the Constitution and Bylaws "to uphold the individual rights of each member without malice or prejudice" and directed that a few procedural issues be corrected by the Enrollment Committee. (Plaintiffs' Complaint Exhibits 13, 16, LCPet. p. 0170, 0177). These issues were promptly addressed by the Committee. (Plaintiffs' Complaint Exhibits 14, 17, LCPet. p. 0173, 1818).

On February 23, 2003, the General Membership of the Pechanga Band convened a duly noticed meeting to discuss and vote upon a petition to amend the Disenrollment Procedures and to stay disenrollment until amendments were enacted. (Plaintiffs' Complaint Exhibit 16, LCPet. p. 0177). The petition was brought by tribal members pursuant to the Pechanga Band's Constitution. At this meeting, the General Membership rejected the petition, and no

amendments to the Disenrollment Procedures or stay of the disenrollment process were authorized. *Id.*

Following the General Membership meeting and “after several days of discussion, debate, and deliberation,” the Tribal Council issued a Notice and Order on March 7, 2003 addressing the fact that various disenrollment allegations directly affected some members of the Enrollment Committee. (Plaintiffs’ Complaint Exhibit. 16, LCPet. p. 0396). In order to ensure that the Disenrollment Procedures would be diligently followed in a fair and impartial manner, the Tribal Council temporarily removed two Petitioners and two Respondents from the Committee because disenrollment allegations concerning their line of descent were pending. *Id.* The Tribal Council also directed that the Committee would temporarily consist of five members. *Id.* The Tribal Council’s Notice and Order provided “that [if] any of the . . . individuals is not disenrolled, he or she shall immediately be reinstated to the Committee.” *Id.* The Committee was directed to use a fair and impartial decision by a majority of the committee to review a file when necessary and to follow Robert’s Rules of Order. *Id.*

On March 19 and April 24, 2003, the Notice and Order was amended to temporarily remove two more Committee members because disenrollment allegations had then been filed involving their lines of descent. The Committee membership consisting of a Chairperson, Alternate Chairperson, and Secretary was then temporarily reduced to three of the Respondents for consideration of the pending disenrollment allegations. Under the guidelines for the Enrollment Committee, a Board consisting of three officers

of the Committee can take action. (Plaintiffs' Complaint Exhibit 6, LCPet. p. 0112).

Following the above described actions of the Tribal Council, the Enrollment Committee proceeded to process the various disenrollment allegations under the Disenrollment Procedures and in accordance with the Tribal Council's directives. (Respondent LaMere's Declaration, ¶ 7, LCPet. p. 1118). The first three sets of allegations of disenrollment reviewed by the Enrollment Committee resulted in the Committee finding, after review of all the facts, that the tribal members who were the focus of those allegations – including four recused members of the Enrollment Committee – did in fact meet the Pechanga Band's enrollment qualifications. (Respondent LaMere's Declaration, ¶ 9, LCPet. p. 1119). After each set of allegations were fully reviewed and a decision made by the majority of the Committee, a letter was sent to the Tribal Council notifying it of the Committee's decision and that the affected temporarily removed Committee members were reinstated in accordance with the Tribal Council's Notice and Order of March 7, 2003, as amended. *Id.*

The Enrollment Committee, then composed of all the Respondents, turned to the allegations made regarding Petitioners' membership status. (Respondent LaMere's Affidavit ¶ 10, LCPet. p. 1118). A fifth set of allegations against another line of descent was still pending at that time. *Id.*

The Committee reviewed the allegations regarding Petitioners, submissions by Petitioners challenging the correctness of those allegations, and records of the Enrollment Committee. After review of that information over several months, the Committee on October 22, 2003

determined that grounds existed for initiating the disenrollment process. (Plaintiffs' Complaint Exhibit 18, LCPet. p. 0184). A summons was sent to Petitioners notifying them that the Committee believed one or more grounds existed for initiating the disenrollment process. *Id.*

Pursuant to the Disenrollment Procedures, Initial Meetings were held with Petitioners. The Initial Meeting is the point at which the Enrollment Committee explains why the available documentation raised questions regarding the individual's membership qualifications under the Pechanga Band's constitution. Opp. App. ¶ 3, p. 2. At the Initial Meeting, the Committee provided specifics regarding the Committee's concerns about Petitioners' enrollment status. (Plaintiffs' Complaint Exhibit 21, LCPet. p. 0194-0220). Petitioners were provided a copy of all the factual records the Enrollment Committee then possessed concerning their enrollment. (Plaintiffs' Complaint Exhibit 21, LCPet. p. 0198). At the Initial Meeting, Petitioners were informed that the facts reviewed by the Committee failed to prove lineal descent to an original Pechanga Temecula person on the Pechanga Reservation. Petitioners were told that their enrollment qualifications would be measured against the Band's membership qualifications in the Constitution and Bylaws. (Plaintiffs' Complaint Exhibit 21, LCPet. p. 0194). The Committee advised Petitioners that no decision would be made until the Committee received and reviewed any additional documentation submitted within the deadlines established by the disenrollment procedures. (Plaintiffs' Complaint Exhibit 21, LCPet. p. 206).

On the last day for Petitioners to provide the Enrollment Committee with additional information in support of

their membership and after submission of that information, Petitioners filed their complaint in this matter. (Plaintiffs' Complaint, LCPet. p. 0029). Five days later, Petitioners asked the state court for a temporary restraining order to prevent Respondents from taking any action on the membership status of Petitioners. The complaint named each of Respondents in their "official capacity as a member of the Enrollment Committee of the Temecula Band of Luiseño Mission Indians of the Pechanga Indian Reservation." (Plaintiffs' Complaint, LCPet. p. 0029). The complaint sought a state court injunction prohibiting Respondents from taking any actions purporting to disenroll Petitioners, a state court declaration that Petitioners were members of the Pechanga Band and entitled to remain members of the Pechanga Band, and a state court permanent injunction prohibiting Respondents from disenrolling Petitioners. (Plaintiffs' Complaint, LCPet. p. 0048).

The Respondents, as the elected officials responsible for the initial membership determination pursuant to the Disenrollment Procedures, subsequently ruled that Petitioners did not meet the Pechanga Band's enrollment criteria because the person through whom they claimed lineage had not in fact been an original Temecula Pechanga person as required by the Constitution and Bylaws. This decision was appealed to the Tribal Council in accordance with Pechanga law. The Tribal Council considered the appeal pursuant to the role assigned to it by the Disenrollment Procedures. Tribal Council actions discussed above, to ensure that decisions were made in a fair and impartial manner, show that the Council is the type of competent law-applying body recognized by the Court in *Santa Clara Pueblo v. Martinez*, 436 U.S. 49,

65-66 (1983), as capable of vindicating the rights created by the Indian Civil Rights Act, 25 U.S.C. § 1301 *et seq.* The Tribal Council, after a hearing and several weeks of deliberations, issued a ruling which upheld the substance of the Enrollment Committee's rulings and findings and directed the Committee to look at an alternative factor as a possible basis for enrollment of Petitioners. (Respondents' Supplemental Brief Submitted Pursuant to Court Order of November 10, 2004, p. 3). In accordance with the disenrollment procedures, the Committee considered the alternative basis, but concluded the proposed factor, read in conjunction with the constitutional requirements, did not allow Petitioners to meet the Pechanga Band's enrollment criteria. *Id.*

Petitioners misstate the law in their discussion of *Bryan v. Itasca County*, 426 U.S. 373, 389 (1976), by failing to point out authority in that case which directly contradicts their assertions in the petition. In *Bryan*, the Minnesota Supreme Court had attempted to use 28 U.S.C. § 1360(b) to expand the scope of § 1360(a)'s limited grant of jurisdiction beyond private civil disputes. This Court rejected the Minnesota Supreme Court's attempt by finding that the Minnesota court's conclusion was "foreclosed by the legislative history of Pub.L. 280 and the application of canons of construction applicable to congressional statutes claimed to terminate Indian immunities." *Bryan*, 426 U.S. at 379. The Court specifically found that "nothing in [Public Law 280's] legislative history remotely suggests that Congress meant the Act's extension of civil jurisdiction to the States should result in the undermining or destruction of such tribal governs as did exist and a conversion of the affected tribes to little more than 'private voluntary organizations'." *Bryan*, 426 U.S. at 388. In

rejecting efforts to extend the reach of Public Law 280 to tribes, the Court ruled “The Act itself refutes such an inference: there is notably absent any conferral of jurisdiction over the tribes themselves . . . ” under Public Law 280. *Bryan*, 426 U.S. at 188-89.

Petitioners also misstate the law from *Atkinson v. Haldane*, 569 P.2d 151 (Ak. 1977). While citing *Atkinson* for general legislative history on Public Law 280, Petitioners fail either to recognize or to attempt to distinguish the Alaska Supreme Court’s ruling in that case “that Congress, by virtue of the enactment of 28 U.S.C. § 1360(a), did not waive the sovereign immunity of Indian tribes.” *Atkinson*, 569 P.2d at 167.

III. REASONS FOR DENYING THE PETITION

THE DECISION BELOW DOES NOT CONFLICT WITH ANY STATE COURT OF LAST RESORT, A FEDERAL COURT OF APPEAL, OR THE UNITED STATES SUPREME COURT.

A. Petitioners Manufacture A Conflict, Which If It Existed, Only Exists Within The Court Of Appeal Of The State Of California.

The lower court decision that is the subject of the petition was rendered by the Court of Appeal of the State of California, Fourth Appellate District. Importantly, the alleged conflict presented in the petition is only within a subdivision of the Court of Appeal of the State of California. The decision for which certiorari is sought and the decision the Petitioners assert was “abandoned,” *Turner v. Martire*, 82 Cal.App.4th 1042 (Cal.App. 2000), were both decided by the same division of the same district of the court of appeal. First, unlike the instant case, the *Turner*

court was not deciding a dispute between members of a tribe and elected tribal officials. Second, the court of appeal's decision does not "abandon" its holding in *Turner*, but acknowledges that case's standard that "individual tribal members have no sovereign immunity from suit unless they are acting in official capacities on behalf of a tribe." Pet. App. 15A. The court of appeal correctly applied the law.

The court of appeal specifically held that "the Committee is necessarily entrusted with substantial discretion in evaluating evidence submitted for its consideration. . . . and necessarily acts as an essential arm of the Band itself." Pet. App. 15A. In fact, Respondents were sued in their official capacities. (Plaintiffs' Complaint, LCPet. p. 0029). The court of appeal also distinguished the situation in *Turner* from the present case by finding that, regardless of Petitioners' characterization, the dispute is between Petitioners and the Band and that there is an effective redress within the Band for any perceived misconduct. Pet. App. 16A. In reality, there is neither a conflict with any other court decision nor a misapplication of a properly stated rule of law.

Therefore, Respondents respectfully urge the Court to deny certiorari.

B. The Decision Below Only Reiterates Long Settled Federal Law Regarding Tribal, Not State, Jurisdiction Over Internal Membership Decisions.

The court of appeal correctly held, consistent with *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1983), that Public Law 280 cannot be viewed as a general grant of jurisdiction to state courts to determine intratribal

disputes. The court of appeal relied on this Court's precedent that "there is notably absent any conferral of jurisdiction over the tribes themselves . . ." under Public Law 280. *Bryan v. Itasca County*, 426 U.S. 373, 389 (1976). In addition, as discussed in the foregoing section, the court of appeal correctly applied the law regarding the extension of sovereign immunity to tribal officials acting in their official capacity. *LaMere*, 131 Cal.App.4th, at 1065, Writ. Pet. App. p. 15A-16A),

The court of appeal decision is in accord with long established legal precedent of the federal and state courts. The issue has been resolved by the courts, the federal government, and Congress numerous times over the last 150 years. "The courts have consistently recognized that one of an Indian tribe's most basic powers is the authority to determine questions of its own membership." Felix S. Cohen, *Handbook of Federal Indian Law* (2005 ed.), ¶ 3.03[3], p. 176, citing *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 72 n.32 (1978); *United States v. Wheeler*, 435 U.S. 313, 322 n.18 (1978); *Red Bird v. United States*, 203 U.S. 76 (1906) (*Cherokee Intermarriage Cases*); *Roff v. Burney*, 168 U.S. 218 (1897); *Smith v. Babbitt*, 875 F. Supp. 1353, 1360 (D. Minn. 1995). Indian tribes are "distinct, independent political communities, retaining their original natural rights." *Worcester v. Georgia*, 31 U.S. 515 (1832).

This Court has long recognized the paramount right of a sovereign tribe to determine its own membership. In the *Cherokee Intermarriage Cases*, this Court held that the Cherokee Nation had complete authority to qualify the rights of membership which it offered and to provide for revocation of such rights. *Cherokee Intermarriage Cases*, 203 U.S. at 81-82, 84. In *Roff v. Burney*, 168 U.S. 218

(1897), the Court held a tribe's authority over membership decisions includes the right to revoke that membership.

The citizenship which the Chickasaw legislature could confer it could withdraw. The only restriction on the power of the Chickasaw Nation to legislate in respect to its internal affair is that such legislation shall not conflict with the Constitution or laws of the United States, and we know of no provision of such Constitution or laws which would be set at naught by the action of a political community like this in withdrawing privileges of membership in the community once conferred.

Roff, 168 U.S., at 222.

More recent case law reaffirms the principle that tribes have exclusive authority over their own membership. In *Santa Clara Pueblo*, this Court recognized that “[a] tribe’s right to define its own membership for tribal purposes has long been recognized as central to its existence as an independent political community.” *Santa Clara Pueblo*, 436 U.S. at p. 72, n.32. Further, the Court cautioned “the judiciary should not rush to create causes of action that would intrude on these delicate matters.” *Id.* The court of appeal followed, *Santa Clara Pueblo* “as the primary case recognizing the importance of tribal rights and sovereignty.” *LaMere*, 131 Cal.App.4th at 1064, Writ. Pet. App. p. 13A. In congruence with *Santa Clara Pueblo*’s recognition that non-judicial tribal institutions are “recognized as competent law-applying bodies,” the court of appeal found that the Pechanga Band “has provided for an internal appeal of crucial decisions.” Writ. Pet. App. p. 17A; *LaMere*, 131 Cal.App.4th at 1064; see also *Iowa Mutual Insurance Company v. LaPlante*, 480 U.S. 9, 16 (1987).

The court of appeal decision in this case also is in accord with the decisions of other state courts of last resort. State courts have long followed this Court's precedent and recognized the pivotal role of membership decisions in tribal sovereignty. The highest court of the State of New York in *Patterson v. Council of Seneca Nation*, 157 N.E. 734 (N.Y. 1927), after reviewing the longstanding precedent regarding a tribe's authority over its own membership determinations, declared:

[I]n its capacity of a sovereign nation the Seneca Nation is not subservient to the orders and directions of the courts of New York state; that, above all, the Seneca Nation retains for itself the power of determining who are Senecas, and in that respect is above interference and dictation.

Patterson, 157 N.E. at 738. The State of Alaska has held "that Congress, by virtue of the enactment of 28 U.S.C. § 1360(a), did not waive the sovereign immunity of Indian tribes." *Atkinson*, 569 P.2d at 1567. The court of appeal in the present case could not have been more precise and accurate when it stated the present dispute "goes to the heart of tribal sovereignty." *LaMere*, 131 Cal.App.4th at 1064, Writ Pet. App. p. 14A.²

The federal and state courts uphold a tribe's sovereign right to make internal enrollment decisions. The Petition

² Congress and Executive Branch also have consistently recognized a tribe's right to determine its own membership without federal or state court review. *See, e.g.*, 25 U.S.C. § 184; 25 U.S.C. § 903b(c); *Apodaca v. Silvas*, 19 F.3d 1015 (5th Cir. 1994); Solicitor's Opinion of May 17, 1941, 1 Opinions of the Solicitor 1048; 55 I.D. 14, 33.

for Review should be denied because this important question of law is well settled.



CONCLUSION

Respondents respectfully request that the petition for certiorari be denied in this matter.

Respectfully submitted,

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APPENDIX A

Pechanga Enrollment Disenrollment Procedure

1. SUBJECT:

The purpose of the disenrollment procedure is to correct mistakes or irregularities that resulted when tribal membership was approved and to provide a process that will allow a fair hearing in the disenrollment procedure.

The definition for disenrollment is: revoking a person's membership when it is found that they do not meet the requirement set forth on the enrollment application which was approved by the Band.

The Band has approved a procedure and criteria for enrollment that all applicants must meet to acquire membership. If, in the enrollment process a mistake was incurred by the Enrollment Committee or Band then we need an outlined procedure to correct this situation.

2. INITIATING THE DISENROLLMENT PROCEDURE:

The Enrollment Committee shall initiate the disenrollment process against an enrolled individual for one or more of the following reasons:

- a. A written signed statement or affidavit providing facts questioning the enrollment of an individual.
- b. A factual statement from a member to a quorum of the Enrollment Committee providing facts questioning the enrollment of an individual.
- c. Falsified information on the enrollment application and/or falsified documents showing lineal descent.

App. 2

- d. Misrepresentation on enrollment documentation.
- e. Discovery of an error made by the Enrollment Committee in approving enrollment.
- f. Discovery of inappropriate documentation and/or insufficient documentation.
- g. If there is a break in lineal descent due to disenrollment.

The Enrollment Committee is not limited to the above in beginning the disenrollment process consistent with the procedures and shall use a fair and impartial decision by a majority of the committee to review a file when necessary.

All pertinent sources including files of enrolled individuals or applicants may be researched by the committee in connection with a disenrollment case. As our enrollment is through lineal descent it is necessary to verify the applicant's claim to a family tree.

3. INITIAL MEETING:

The individual who is subject to disenrollment shall be summoned to an Enrollment Committee meeting by letter delivered by the Enrollment Committee Chairperson and two Enrollment Committee members, when appropriate, and/or notification by registered U.S. mail.

This letter shall state that the Enrollment Committee has questions regarding their enrollment and stressing the importance of responding to this letter and requesting a meeting within thirty days. The individual shall have thirty days from the date of the letter to respond. Additional time will be approved by the Enrollment Committee under extreme circumstances.

The Enrollment Committee shall also inform the Tribal Council of its action in writing but not disclose any confidential information.

If this summons is ignored and not responded to by the person, then the procedure for disenrollment will begin.

4. AUTOMATIC DISENROLLMENT IF NO RESPONSE

The Enrollment Committee shall inform the Council in writing of its action to disenroll the individual noting failure of the individual either to respond to the summons letter from the Enrollment Committee without a request for an extension of time or if there is no communication from the individual. If for extreme circumstances it was impossible for the individual to make contact with the Enrollment Committee then the Enrollment Committee may vote to reopen the case.

The Enrollment Committee shall send a letter to the disenrolled individual informing him/her of their disenrollment and noting the specific reason(s) for disenrollment. A letter (copy) shall be placed in the file.

5. MEETING BETWEEN THE INDIVIDUAL AND THE ENROLLMENT COMMITTEE

When the individual responds to the summons letter and a meeting is set up and verified by a phone call and/or certified letter then the Enrollment Committee has thirty days from the day of response to set up a meeting date.

At this meeting the Enrollment Committee shall show specific evidence that would prove that the documentation for enrollment does not provide lineal descent for the individual. The Enrollment Committee shall advise the individual to provide additional

information to prove their claim to membership within a thirty-day limit as of the day of this meeting.

6. FAILURE TO PROVE LINEAL DESCENT

If the individual's additional information fails to answer the issue(s) to the satisfaction of the committee, then the committee shall point out specifically where the information is lacking or not in conformity with the enrollment criteria. At this time the individual's membership will be revoked. A letter shall be sent to the Tribal Council and the disenrolled individual stating the disenrolled status without disclosing any confidential enrollment information. The Council shall inform all appropriate and Tribal committees immediately of the individual's non-member status.

7. SATISFACTORY RESPONSE BY INDIVIDUAL

If the person in question provides additional information and satisfies the concerns of the Enrollment Committee, then the procedures of the disenrollment process is terminated. The Tribal Council and the individual shall be notified of this favorable outcome in writing and a copy of a letter shall be put in the individual's file.

8. REVOKING PRIVILEGES AND MEMBER'S RIGHTS

When the individual has been disenrolled by the Enrollment committee he/she and all of his/her offspring claiming lineal descent through this disenrolled member lose all privileges and rights accorded a member. The adult members of this line will be notified individually by letter.

Their names shall be removed from the mailing and enrollment lists. The names that are removed shall be sent a letter informing them of this action since they no longer can claim lineal descent. The Band's secretary should be sent an update of the mailing list

reflecting the deletions. The minors of disenrolled members will lose Tribal membership.

9. THE APPEAL PROCESS

In the disenrollment process if the Enrollment Committee fails to follow each step outlined by the disenrollment procedure or is negligent in any way then the involved individual can appeal to the Tribal Council for a fair hearing. In this event the individual must sign a waiver to disclose their confidential enrollment papers that the Council may need to access.

The information presented to the Tribal Council at the hearing is limited to only the documents that the Band approved on the enrollment application. The information provided to the Tribal Council should be the exact information that was used by the Enrollment Committee for their decision.

The Enrollment Committee members may be present at this meeting in case the Council needs to question them. A legal representative may not be present at this hearing.

If the Tribal Council notes an infraction to the disenrollment procedure or any unfair and/or impartial handling of a case, then they will instruct the Enrollment Committee to reevaluate the case applying their specific suggestion for a fair decision. The Tribal Council will provide their suggestions in writing to the Enrollment Committee. The Enrollment Committee will respond in writing within thirty days to the Council, Commenting on how they carried out the suggestions of the Council within thirty days.

This appeal is to check the attitude of the Enrollment Committee and to correct any infractions to the disenrollment procedure. The appeal is not for the Tribal Council to grant membership.

10. SUCCESSFUL APPEAL

In the event that the hearing to reevaluate a case does alter the previous decision for membership, then the Enrollment Committee will provide a letter confirming membership for the individual, their file and Tribal Council and Committees. The Council will notify all interested agencies and Tribal Committees within thirty days.

On the other hand if the above hearing does not alter the decision of the Enrollment Committee then the procedure for disenrollment will remain as it was applied.

11. ALTERING PROCEDURES

These procedures may be changed or amended as needed from time to time at a duly noticed Special Meeting.

Adopted by the General Membership of the Pechanga Band on October 2, 1988.
