



SCOTUS Declines To Consider Whether Tribal Courts Have Jurisdiction To Adjudicate Employment Claims

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The question of tribal jurisdiction arose when a group of current and former employees of two Arizona public school districts filed complaints with the Navajo Nation Labor Commission. The districts operate schools on land leased from the Navajo Nation and most of the districts' employees are members of that tribal nation.

Among various complaints before the commission, the employees alleged that the districts owed them merit pay under Arizona law and others alleged that the districts violated their rights under the Navajo Preference in Employment Act. The districts moved to dismiss the complaints on the ground that the commission lacked jurisdiction over personnel decisions made by Arizona public school districts.

The U.S. District Court for the District of Arizona ruled in favor for the districts, but a U.S. Court of Appeals for the Ninth Circuit panel ruled that tribal jurisdiction was "colorable or plausible" because the well-established exhaustion principles require that the tribal forum have the first opportunity to evaluate its own jurisdiction over this case, including the nature of the state and tribal interests involved. Interestingly, the Navajo Nation, in their brief to the high court, pointed out that no tribal court has yet claimed any jurisdiction over school employment cases and that the Ninth Circuit merely held that tribal court jurisdiction was not "plainly lacking."

There are a few highlights to take from this somewhat familiar dispute in an unfamiliar setting. Employers based in tribal territory should be aware that employment claims are still within the Navajo Nation Labor Commission's reach. In addition, this means that disgruntled employees have more opportunity to forum shop and re-litigate claims.

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