

BACK STORY

MY EXPERIENCE AS A TRIBAL COURT JUDGE

BY HON. JIM VAN WINKLE

Several years prior to my becoming a full-time sitting judge, I was a tribal court judge. I worked for three years at one local tribal court and was a fill-in judge for another. I have to say it was a unique experience and one that really whetted my appetite for beginning a career as a judge.

Initially, when I was appointed, there was really no training. You just went in and sort of flew by the seat of your pants until you gained more experience and felt more comfortable doing the job. Now, of course, there is a lot of training available. The National Judicial College has numerous courses that deal with tribal court law.

Primarily what we handled were the criminal matters covered by the Tribal Code, including, but not limited to, civil infractions by non-Native Americans for traffic and fish and game regulations, civil disputes and, of course, juvenile and family court matters. The combination would roughly equal that of a municipal or justice court combined with a family court and juvenile court.

Pre-trial, the prisoners were housed at the Washoe County Jail and I would always get some strange looks when the tribal police brought the prisoners in shackles to my office for arraignment. Some of my attorney neighbors always wondered why prisoners were being brought to my office. Their concerns were eased when I explained my position and that I did not have a separate office for arraignments.

Few attorneys practiced in tribal court. Our prosecutor and public defender, even though they were very competent and knowledgeable, were nonlawyers. As far as criminal matters were concerned, they were all non-jury and



subsequently tried to the judge.

The reservations are really just a microcosm of society as a whole. They have the problems of crime, drugs, alcohol abuse and gangs that are also prevalent in urban areas. I still remember the man with the highest blood alcohol level I had ever seen; the individual had driven 30 miles from Reno. When he was arrested on the reservation, his blood

alcohol level was 0.45 percent. I was surprised he was conscious, much less able to drive.

I remember the individuals who were cited for dumping sewage in the water (i.e. urinating from a boat) and claimed they didn't do it. At trial, they denied drinking, even though two cases of beer and a 1.75 liter bottle of vodka had been found in the boat. Needless to say I really did not buy their story!

I have to say being a tribal court judge was a good experience. It gave me the experience and desire to become a full-time judge. The one part of the job that always troubled me was the judicial independence aspect. Tribal court judges are not elected but appointed by the Tribal Council. If too many Tribal Council members, or their family members, appear in front of a judge, and the rulings are not to their liking, that could potentially affect the judge's tenure. I'm not sure how often the judge's tenure has been affected by ruling against the tribal leaders. However, the potential for this sort of problem is certainly there. ■

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