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CONCORDANCE OF THE INDIAN

LAW CASES

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Blackmun Archive Research: A Draft Concordance of the Indian Law Cases

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This draft concordance of the Indian law-related cert pool memos and the docket sheets available in the Digital Archive of the Papers of Harry A. Blackmun¹ includes the docket numbers, caption, whether the petition was granted or denied, and, if available, Justice Blackmun's annotation of the docket sheet in regards to votes on the cert petitions. I did this strange project because, as you will see, the digital archive is not searchable.

I located the docket numbers for the Indian law cases through Westlaw searches and a manual review of the United States Law Week, volumes 55 through 62. And, because USLW doesn't describe or list unpaid petitions unless the Court granted cert, I don't include those here unless I stumbled across them. If you locate any Indian law-related docket numbers, please let me know.

This concordance lists the cases by docket number, as in the digital archive, as opposed to chronologically or by Term. And, by "Indian law-related," I mean cases that are Indian law cases, but also a few other cases that aren't really Indian law cases, but involve Indian tribes or individual Indians.

As a special preliminary bonus☺, I have included the short descriptors of the parties written in the captions of the cert pool memos by the clerks. Sometimes they are helpful, or amusing, sort of lame, or non-existent. Also, since each cert pool memo (and most supplemental memos) include the name of the author, often annotated by Justice Blackmun's own clerks with details about the clerk (Justice, Law School, lower court judge), that is included here as well. I'll provide more of my notes later, upon completion of my article.

You can always look for yourselves by going to the digital archive and typing in the docket number.

As always, any comments and suggestions are very much appreciated. I hope this proves helpful in some way. Thanks to Ian Gershengorn and Riyaz Kanji.

¹ Lee Epstein, Jeffrey A. Segal, & Harold J. Spaeth, *The Digital Archive of the Papers of Justice Harry A. Blackmun* (2007), available at: <http://epstein.law.northwestern.edu/research/BlackmunArchive.html>

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1986 Term

Paid Petitions

86-51 Lewis v. Kiowa Tribe

Denied

Memo: Leipold—deny

86-219 Southern Union Co. v. Jicarilla Apache Tribe

86-224 Southland Royalty Co. v. Jicarilla Apache Tribe

86-225 Exxon Corp. v. Jicarilla Apache Tribe

86-226 Unicorn Producing Co. v. Jicarilla Apache Tribe

Denied

Memo: Deason—deny

86-303 Hodel v. Tribal Village of Akutan

86-304 Amoco Production Co. v. Tribal Village of Akutan

GVR (in light of Amoco Production Co. v. Village of Gambell, 480 U.S. 531)

Memo: Sprague—hold for 85-1239, 85-1406

86-367 New Mexico Taxation Dept. v. Ramah Navajo School Board

Denied (Rehnquist, White, and Marshall—grant; Brennan, Blackmun, Powell, Stevens, O’Connor, Scalia—deny)

Memo: Ellen Schaerr—deny

- NM: “lost earlier case in this Court” (caption)
- Ramah: “wants attorney fees” (caption)

86-375 White Mountain Apache Tribe v. Hodel

Denied (Rehnquist—out)

Memo: Charles Blanchard (O’Connor, Harvard, Charles)—deny

- WMAT: “wants water rights” (caption)
- H: “trustee of Indian water rights” (caption)

Memo on Pet. for Reh’g: Sprague—deny

- WMAT: “wants water rights” (caption)

86-588 Aetna Casualty Co. v. Smith Plumbing Co.

Denied

Memo: Bussel—deny

Supp. Memo: Bussel—deny

86-634 Sanguine, Ltd. v. USDOJ

Denied

Memo: Westall—deny

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- S: “oil co.” (caption)

86-662 Native Village of Nenana v. Alaska

Denied

Memo: David Burcham (White, Loyola LA, Aldisert)—deny

- N: “wants jrdxn in child custody proceeding” (caption)

86-748 Chunie v. Ringrose

Denied

Memo: Laura Little (Rehnquist, Temple, Hunter)—deny

- C: “Indians” (caption)
- R: “claimed ownership of Santa Cruz & Santa Rose Islands” (caption)

86-814 White Mountain Apache Tribe v. Williams

Denied

Memo: Brinkmann—CVSG

- WM: “won earlier case in this Court and now seeking atty’s fees under §1988” (caption)
- W: “state of AZ and state officials” (caption)

Memo on Petition for Reh’g: Greco—deny

86-946 Employment Division v. Smith [Smith I]

86-947 Employment Division v. Black

Granted (Rehnquist, White, Scalia—grant; Blackmun—J3; Brennan, Marshall, Powell, Stevens, O’Connor—deny)

Memo: Schaerr—Hold for Hobbie (85-993) [Deny]

- ED: “denied benefits” (caption)
- S: “ingested peyote” (caption)
- B: “also ingested peyote” (caption)

86-996 McKenzie County Social Services Board v. V.G.

Denied

Memo: Dimon—deny

- MCSSB: “wants to bring paternity action in state court” (caption)
- VG: “alleged father; Indian” (caption)

86-1013 Lyng v. Northwest Indian Cemetery

Granted

- **1st vote—White & Stevens, grant; Brennan, Marshall, Blackmun, Powell, Scalia, deny; Rehnquist & O’Connor, “3”**
- **2nd vote—Rehnquist, White, Powell, Stevens, O’Connor, grant; Brennan, Marshall, Blackmun, Scalia, deny**

Memo: Brinkmann—deny

- L: “want to build road through religious site” (caption)

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- NIC: “Indians and State of California opposing road construction” (caption)

86-1163 Jones v. United States

Denied

Memo: Gary Lawson (Scalia, Yale, Scalia)

- J: “victims of breach of trust by US” (caption)
- US: “let Indians’ land get taken by county” (caption)

86-1425 Yakima Tribal Court v. United States

Denied

Memo: Deason—deny

- YTC: “issued restraining order against federal officials” (caption)

86-1436 Yankton Sioux Tribe of Indians v. South Dakota

Denied

Memo: Lawson—deny

- YST: “wants possession of lakebed” (caption)
- SD: “State and United States, who also want the lakebed” (caption)

86-1451 Oglala Sioux Tribe v. United States

Denied

Memo: Gielow(?)—deny

- OST: “contesting Court of Claims judgment on land dispute” (caption)
- US: “took the land” (caption)

86-1546 Central Machinery Co. v. Arizona

Denied

Memo: Ron Mann (Powell, Texas, Sneed CA9)—deny

- CM: “does business with Indians” (caption)

Memo on Motion for leave to file amicus brief: McKinnie—grant

86-1574 Chemehuevi Indian Tribe v. Cal. State Board of Equalization

Denied

Memo: Deason—deny

- CIT: “objects to State Tax on reservation cigarette sales” (caption)

86-1761 Pratt v. Shoemate

Denied

Memo: Bussel—deny

- P: “contesting will” (caption)
- S: “defending will” (caption)

Memo on Motion to Strike Brief of Fed. Resps.: Schickele—deny

86-1912 Totus v. Holly

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Denied

Memo (8/10/87): Nelson Lund (O'Connor, Chicago, Higginbotham, OLC-DOJ)—deny

- T: “members of tribal council” (caption)
- H: “non-Indians affected by tribal water code” (caption)

Memo on Motion for Reh'g: Steve Catlett (O'Connor, Columbia, Starr)—deny

86-1978 Jackson County v. Swayney

Denied

Memo:

- JC: “State child support enforcement agency” (caption)
- S: “putative father” (caption)

Unpaid Petitions – Incomplete

86-6994 Eagle v. United States

Denied

Memo: Chuck Miller (Rehnquist, Penn, S. Robinson)—Deny

- E: “Cherokee Indian tribe” (caption)

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1987 Term

Paid Petitions

87-73 Nichols v. Rysavy

Denied

Memo: Bill Taylor (Rehnquist, Yale, Wisdom)—Deny

- N: “seeking to recover ‘forced fee patents’” (caption)
- R: “titleholder of property” (caption)

87-199 Coeur d’Alene Tribe of Indians v. Idaho

Denied

Memo: Rich Cordray (White, Chicago, Bork)—deny

- CDT: “seek forfeiture of lands” (caption)
- I: “current user of lands” (caption)

87-343 State of Montana v. Crow Tribe of Indians

Denied (Stevens [later changed to deny], Scalia—grant; Rehnquist—J3 [depending on 9th justice]; Brennan, White, Marshall, Blackmun, O’Connor—deny)

Memo: Chuck Miller (Rehnquist, Penn, Robinson)—Summary Affirmance

- CT: “challenge Montana coal tax”

87-635 Oklahoma ex rel. OTC v. Graham

GVR (in light of Caterpillar, 482 U.S. 386)

Memo: Michaels—deny

- G: “Indian Nation” (caption)

87-642 Lee v. Eklutna, Inc.

Denied

Memo: Steve Catlett (O’Connor, Colorado, Starr)—deny

- L: “claim land as homesteaders” (caption)
- E: “claim land as patentees from U.S.” (caption)

87-950 Red Lake Bank [sic] of Chippewa Indians v. U.S.A.

Denied

Memo: ???—deny

- RLB: “ordered to produce court records” (caption)

87-961 Begay v. United States

Denied

Memo: Shawn Beckman (O’Connor, Michigan, Coffin)—deny

- B: “former Navajo uranium miners or their survivors” (caption)
- US: “failed to regulate or warn of dangers in uranium mines” (caption)

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87-980 Mississippi Band of Choctaw Indians v. Holyfield
Granted (Appeal as of Right: Brennan, White, Marshall, Blackmun, Stevens, Kennedy—Postpone; Rehnquist, O’Connor, Scalia—Dismiss)

Memo: Ertel—deny/dismiss

- MBC: “object to adoption” (caption)
- H: “adoptive and natural parents” (caption)

Supp. Memo: Ertel—CVSG

87-1068 Oklahoma Tax Commission v. Muscogee (Creek) Nation
Denied (Rehnquist, White, Stevens (deny, after CVSG)—grant; Brennan, Marshall, O’Connor, Scalia—deny; Blackmun and Kennedy—deny after CVSG)

Memo: Downs—Call For Response

- OTC: “wants to impose sales tax” (caption)
- MCN: “operates bingo game” (caption)

Supp. Memo (post-call for response): recommend CVSG

87-1165 California v. United States
Granted (Rehnquist, Brennan, Stevens, O’Connor—grant; White, Marshall, Blackmun, Scalia, Kennedy—deny)

Memo: Al Boro (White, Boalt, Cummings)—deny

87-1312 Pawnee v. United States
Denied

Memo: Michaels—deny

- P: “beneficial owner of land leased for gas extraction” (caption)
- US: “set price at which petrs would be paid for the gas” (caption)

87-1327 Cotton Petroleum Corp. v. New Mexico
Granted (White, Stevens, O’Connor, Blackmun [J3]—jurisdiction noted; Rehnquist, Brennan, Marshall, Scalia, Kennedy—dismiss)

Memo: Kappler—DWSFQ (as to Question 1)

- CPC: “produces oil & gas on Indian reservation” (caption)
- NM: “imposes tax on aplt” (caption)

87-1390 Makah Tribe v. Washington
Denied

Memo: Steve Catlett (O’Connor, Columbia, Starr)—deny

- MT: “seek attorney’s fees” (caption)
- W: “lost case about Indian fishing rights” (caption)

Blackmun Clerk Memo (AM)

87-1480 Winnebago Tribe of Nebraska v. Dept. of Revenue of Iowa
Denied

Memo: Chuck Miller (Rehnquist, Penn, S. Robinson)—deny

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- WTN: “runs bingo game” (caption)
- DRI: “wants to tax bingo game” (caption)

**87-1549 Joint Board of Control v. Confederated Salish and Kootenai Tribes
Denied**

Memo: Al Boro (White)—deny

- JBC: “irrigation dists” (caption)

87-1622 Brendale v. Confederated Tribes

87-1697 Wilkinson v. Confederated Tribes

87-1711 County of Yakima v. Confederated Tribes

Granted (Rehnquist, Brennan, White, Marshall, O’Connor—grant; Blackmun, Stevens, Scalia, Kennedy—deny)

Memo: Tony Downs—grant

- B: “non-Indian landowner” (caption)
- W: “non-Indian landowner” (caption)

87-1732 Ducheneaux v. Secretary of Interior

Denied

Memo: Rich Bernstein (Scalia, Colorado, Kearsse)—deny

- D: “asserts property held in trust is really hers” (caption)
- S: “trustee and legatees under will” (caption)

**87-1790 American Management and Amusement, Inc. v. Barona Group of the
Capitan Grande Band of Mission Indians**

Rule 53

Memo: Paul Cappucino (Scalia)—deny

- AMAI: “ran Indian bingo facility” (caption)

87-2108 Blackfeet Indian Tribe v. Montana Power Co.

Denied

Memo: Chris Drahozal (White, Iowa, Clark CA5)—deny

- BIT: “challenging right-of-way across tribal lands” (caption)
- MPC: “holder of right-of-way” (caption) + SG

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1988 Term

Paid Petitions

88-84 John v. City of Salamanca

Denied

Memo: Peter Keisler (Kennedy, Yale, Bork, White House, Federalist)—Deny

- J caption: “claims exemption from zoning code”
- CS caption: seek to enforce zoning code”

88-220 Vielle v. Baisley

Denied

Memo: Peter Keisler (Kennedy, Yale, Bork, White House, Federalist)—Deny

- V caption: “seeks custody of child”
- B caption: “awarded custody by state court”

88-266 Oklahoma Tax Commission v. Graham

[87-635 was GVR’d]

Granted (White, Stevens, O’Connor—grant; Rehnquist, Brennan, Blackmun—J3; Marshall, Scalia, Kennedy—deny)

Memo: Ron Klain (White, Harvard)—deny

- OTC caption: “wants to collect taxes from resp”
- G caption: “for the Chickasaw Indian Tribe”

Blackmun Clerk Memo (NF)

88-309 Wyoming v. United States

Granted (Rehnquist, O’Connor, Kennedy—grant; White—J3; Brennan, Marshall, Blackmun, Stevens, Scalia—deny)

88-492 Shoshone Tribe v. Wyoming

Denied (Rehnquist, Brennan, O’Connor [later recused], Kennedy—grant; White, Marshall, Blackmun, Stevens, Kennedy—deny)

88-553 Riverton, Wyo. v. United States

Denied (Docket Sheet Inconclusive))

Memo (88-309): Bob Giuffra (Rehnquist, Yale, Winter)—deny

- W caption: “sought general adjudication of water rights in Big Horn River Basin)
- Shoshone Tribe caption: “tribes awarded federal reserved water rights”
- City of Riverton caption (at 2): “municipality, farmers and ranchers in Big Horn River Basin”

Blackmun Clerk Memo (AM)

88-415 Pueblo of Acoma v. Padilla

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Denied (White & Stevens—grant; Rehnquist, Brennan, Marshall, Blackmun, O'Connor, Scalia—deny; Kennedy—out)

Memo: Bob Giuffra (Rehnquist, Yale, Winter)—hold for 88-266

- PA caption: “Indian tribe asserting sovereign immunity”
- P caption: “brought breach of contract suit”

88-459 Anderson v. United States

Denied

Memo: L. Miller (Yale, White)—deny

- A caption: “Indians who paid taxes”

88-533 Donnelly v. Eklutna, Inc.

88-549 Lee v. Eklutna, Inc.

Denied

Memo: Cam Findlay (Scalia, Harvard, Williams)—deny

- D caption: “Alaskan homesteader”
- E caption: “took petr’s land”

88-695 Miller v. Morongo Band of Mission Indians

Denied

Memo: Foley—deny

- M caption: “Indian”
- MBMI caption: “tribe”

88-773 Rodney, Dickason, Sloan, Akin & Robb, P.A. v. Revenue Div. of the Dept. of Taxation of the State of New Mexico

Denied (Blackmun, CVSG; Rehnquist, Brennan, White, Marshall, Stevens, O'Connor, Scalia, Kennedy—dismiss)

Memo: Deborah Malamud (Blackmun, Chicago, Pollack (ED NY), current NYU prof)—
Hold for Cotton Petroleum (87-1327) & CVSG/Note

- RDSAR caption: “law firm representing Indians”
- NM: “assessed gross receipt tax for legal services”

88-798 Hodel v. Muscogee (Creek) Nation

Denied (Rehnquist, Marshall, Blackmun, Stevens, O'Connor, Scalia, Kennedy—deny; Brennan, Blackmun—relist)

Memo: John Manning (Scalia, Harvard, Bork)—deny

- H caption: “Secretary of Interior”
- MCN caption: “wants money for tribal courts”

88-1213 Employment Division v. Smith (Smith II)

Granted (Rehnquist, Stevens, O'Connor, Scalia—grant; White—J3; Brennan, Marshall, Blackmun, Kennedy—deny)

Memo: Jane Stromseth (O'Connor, Yale, Oberdorfer)—deny

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- ED caption: “denied resps unemployment compensation”
- S caption: “ingested peyote as part of Indian religious ceremony”

Memo on Pet. for Reh’g: Kristen Linsley (Scalia, Harvard, D. Ginsberg)—deny

- Alfred Smith caption: “unhappy with Court’s decision in Smith”

88-1380 Lowery v. Lowery

Denied

Memo: Bart Jordan (O’Connor, Miami, Clark-CA11)—deny

88-1399 Peabody Coal Co. v. Arizona

Denied (O’Connor—out)

Memo: L. Miller—hold for Cotton Petroleum (87-1327) and then deny

88-1426 Omaha Indian Tribe v. Jackson

88-1592 Wilson v. Omaha Indian Tribe

88-1636 Iowa & Iowa Dept. of Natural Resources v. United States & Omaha Indian Tribe

Denied

Memo: Foley—deny

88-1477 Absentee Shawnee Tribe v. Kansas

Denied

Memo: Rich Cordray (White, Chicago, Bork)—deny

- AST caption: “claims land under 1854 treaty”
- K caption: “landowner”

88-1618 Parisien v. Twin City Construction

Denied

Memo: Jane Stromseth (O’Connor, Yale, Oberdorfer)—deny

88-1642 Alaska v. Kenaitze Indian Tribe

Denied

Memo: Rich Cordray (Kennedy & White, Chicago, Bork)—deny

- A caption: “misdefined ‘rural’ in state law”
- KIT caption: “claims priority in fishing”

88-1752 State of South Carolina v. Catawba Indian Tribe of South Carolina

Denied (Rehnquist & White—J3; Brennan, Marshall, Blackmun, Stevens, O’Connor, Scalia, Kennedy—deny)

Memo: Hungar—deny

- SC caption: “hold 144,000 acres in fee”
- CIT caption: “claim Indian title to land”

88-1758 Oneida Indian Nation of Wisconsin v. New York

88-1915 Oneida Indian Nation of New York v. New York

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Denied

Memo: John Manning (Scalia, Harvard, Bork)—deny

- OIN caption(s): “want land back”
- NY caption: “want to keep land”

88-1947 Intertribal Council of Nevada, Inc. v. Lujan

Denied

Memo: Michael Mollerus (Kennedy, Harvard, Smith)—deny

- ICTN caption: “seeks forfeiture of land used as site for Indian school”

Unpaid Petitions

88-6546 Duro v. Reina

Granted (Rehnquist, Brennan, White, Marshall, Blackmun, Stevens, O’Connor, Kennedy—grant; Scalia—deny)

Memo: [last page(s) missing]—grant

- D caption: “nonmember criminal defendant”
- R caption: “tribal authorities asserting jurisdiction”

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1989 Term

Paid Petitions

89-24 Dann v. United States

Denied

Memo: Lisa Burget (White, Georgetown, Keeton)—deny

- D caption: “members of Dann Band of Western Shoshone”
- US caption: “suing Indians for trespass”

89-538 Littlewolf v. Lujan

Denied

Memo: Dupre—deny

- Littlewolf caption: “challenging White Earth Reservation Land Settlement Act”
- Lujan caption: “Sec. of Interior”

89-609 Puckett v. Native Village of Tyonek

Denied (1st Vote: Rehnquist, Brennan, White, Marshall, Blackmun—CVSG; Stevens—hold; O’Connor, Scalia, Kennedy—deny) (2nd Vote: White—grant; Rehnquist, Marshall—J3; White, Stevens, O’Connor—hold???: Blackmun, Scalia, Kennedy—deny) (3rd vote: Rehnquist, Blackmun, Stevens, O’Connor, Kennedy, Souter—GVR; Marshall, Scalia—deny)

Memo: Vik Amar—CFR or deny

- P caption: “whose claims were barred by sovereign and derivative immunity”
- NVT caption: “Alaska”

Blackmun Clerk memo re: CJ memo on hold for Citizen Band Potawatomi (Michael)

89-686 Nevins v. Hoopa Valley Tribe

Denied

Memo: Stewart—deny

- N caption: “state tax officials”
- HVT caption: “challenged state tax levied on timber from Indian reservation”

89-890 Hoopa Valley Tribe v. Nevins

Denied

Memo: Stewart—Deny (if 89-686 denied, which it was)

- HVT caption: “cross-petrs who seek attorneys’ fees”
- N caption: “California officials”

89-1094 Little Earth Band of United Tribes, Inc. v. Kemp

Denied

Memo: Greg Maggs (Kennedy, Harvard, Sneed)—deny

- LEB caption: “faces foreclosure”

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- K caption: “HUD Sec’y”

89-1134 Yosef v. Passamaquoddy Tribe

Denied

Memo: Steve Colloton (Rehnquist)

- Y caption: “says Rule 41 motion precludes sanctions”

**89-1322 Oklahoma Tax Commission v. Citizen Band Potawatomi Tribe
Granted (Rehnquist, White, Stevens, O’Connor, Scalia, Kennedy—grant;
Marshall—deny)**

Memo: James Vines (Rehnquist, Wash & Lee, Merhige)—summary reversal of CA10’s rulings favoring tribe & deny tribal questions

- OTC caption: “wants to collect sales tax on cigarettes”

Blackmun Clerk Memo post-CVSG (MC)

89-1358 Kaloa v. Native Village of Tyonek

Denied (Rehnquist, Brennan, White, Marshall, Blackmun, O’Connor, Scalia, Kennedy—deny; Stevens—hold)

Memo: Vik Amar

- Alexandra and Ester Kaloa caption: “landlords”
- Curvelined with 89-609

89-1446 Ahtna, Inc. v. Alaska

Denied

Memo: Greg Maggs (Kennedy, Harvard, Sneed)—deny

- Ahtna caption: “wants title to river bed”

89-1520 Cook Inlet Tribal Council v. Catholic Social Services

Denied

Memo: Greg Maggs (Kennedy, Harvard, Sneed)—deny

- CITC caption: “wanted notice of adoption”

89-1716 Pueblo of Santa Domingo v. Real

Denied

Memo: Jack Goldsmith (Kennedy, Yale, Wilkinson)—deny

- PSD caption: “wants back its land”
- R caption: “claims superior title”

89-1782 Hoffman v. Native Village of Noatak and Circle Village

Granted (Rehnquist, White, O’Connor, Kennedy—grant; Blackmun—J3; Marshall, Stevens, Scalia—deny; Souter—not yet on Court)

Memo: Monica Nahl (Rehnquist, Chicago, Higginbotham CA5)—grant

- H caption: “wants immunity”
- NVNC caption: “want more money”

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Blackmun Clerk Supp. Memo (AJ)

Blackmun Clerk Supp. Memo post-Nineteen State amicus Brief (AJ)

Blackmun Clerk Supp. Memo post-Resp Supplemental Brief (AJ)

89-1861 Mic Mac Nation v. Giesler

Denied

Memo: Stewart—deny

- MMN caption: “Indian tribe”
- G caption: “seek custody over child”

**89-1883 Truckee-Carson Irrigation District v. United States and Pyramid
Lake Paiute Tribe**

Denied

Memo: Deny

- [Previous memo written – not in archive]

89-1992 Aanerud v. USA

Denied

Memo: Jeff Bleich (Rehnquist, Boalt, Mikva)—deny

- A caption: “aspiring leech trappers”

89-2011 City Vending of Muscogee v. Oklahoma Tax Commission

Denied

Memo: Bruce Braun (Rehnquist, Virginia, Flaun)—deny

89-2015 Sisseton-Wahpeton Sioux Tribe v. United States

Denied

Memo:

- SWST caption: “wants money for its land”
- [discussion missing from archive]

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1990 Term

Paid Petitions

90-223 Oylar v. Jones

Denied

Memo: Randy Beck (Kennedy, SMU, Higginbotham)—deny

- O caption: “Indian who challenges crim ct jurisdiction”
- J caption: “Ks judge”

90-364 Armell v. Prairie Band of Potawatomi Indians

Denied

Memo: David Litt (Kennedy, Chicago, Goodwin)—deny

- A caption: “born a Winnebago – the Indian tribe, not the recreational vehicle – or a Potawatomi?”

90-408 County of Yakima v. Confederated Tribes and Bands of the Yakima Nation

90-577 Confederated Tribes and Bands of the Yakima Nation v. County of Yakima

Granted (Rehnquist, White, Blackmun, Stevens, O’Connor, Kennedy—grant; Marshall, Scalia, Souter—deny)

Memo: Paul Salamanca (Souter, BC, Souter)—CVSG with view to grant

- County caption: “seek to tax fee-patented land on Indian reservation”

Blackmun Clerk Supp. Memo post-CVSG (Lynn)

- Recommend grant for reasons stated by SG (at 2)

90-635 Navajo Tax Commission v. Pittsburg & Midway Coal Mining Co.

Denied

Memo [filed under no. 90-634 in archive]: Meir Feder (Souter, Harvard, Norris)—deny

90-653 Osceola v. Florida Department of Revenue

Denied

Memo [filed under no. 90-654]: Alan Meese (Scalia, Easterbrook, Chicago)—deny

- O caption: “claims right to sue”

90-749 South Dakota v. Rosebud Sioux Tribe

Denied (1st Vote: Rehnquist—J3; White, Marshall, Blackmun, O’Connor, Kennedy—CVSG; Stevens, Scalia, Souter—deny) (2nd vote: all deny)

[No Cert. Pool Memo in archive]

Memo re: Petrs’ Motion to Defer: Rick Schickele

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90-871 Connecticut v. Mashantucket Pequot Tribe

Denied (White, Marshall, O'Connor [grant], Kennedy, Souter—CVSG; Rehnquist, Blackmun, Stevens, Scalia—deny)

Memo: Kevin Kelly (O'Connor, UCLA, Kozinski)—deny

- C caption: “won’t allow casino gambling”
- MPT caption: “wanna bet?” – **LAME!!!!**

90-1003 South Dakota v. Spotted Horse

Denied (Rehnquist, White, Marshall, Blackmun, Stevens, O'Connor, Scalia, Kennedy, Souter—deny)

Memo [filed under no. 90-1004]: Steve McAllister (White, Kansas, Posner)—tied to 90-749

- Relisted with 90-749

Blackmun Clerk Memo (AA, “Ann”):

90-1146 FMC Corp. v. Shoshone-Bannock Tribes

Denied (Rehnquist, Kennedy [switched to deny]—grant; White, Souter—J3; Marshall, Blackmun, Stevens, Scalia—deny)

Memo: Chris Landau (Scalia, Harvard, Thomas)—deny

- F caption: “Indians lacked jurisdiction”

90-1162 Cross v. Washington

Denied

Memo: Meir Feder (Souter, Harvard, Norris)—deny

- C caption: “Native American”
- W caption: “state”

90-1306 King Island Native Community v. State of Montana Dept. of Soc. Serv.

Denied

Memo: John Sullivan (Souter, Columbia, Wisdom)—deny

- KINC caption: “give us the child”
- M caption: “no, she is ours”

90-1386 Tarbell, Laughing & Burns v. United States

Denied

Memo: Mark Snyderman (O'Connor, Chicago, Kozinski)—deny

- T, L, & B caption: “he’s not laughing now”

90-1493 Indian Child Welfare Act Coordinator of the Juvenile Court of the Cheyenne River Sioux Tribe v. Chester County Department of Social Services

Denied

Memo: Alan Meese (Scalia, Chicago, Easterbrook)—deny

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90-1595 Makah Indian Tribe v. United States

Denied

Memo: Blais—deny

- MIT caption: “seek to intervene”
- US caption: “oppose intervention”

90-1704 Oyler v. Kansas

Denied

Memo: Bruce Braun (Rehnquist, Virginia, Flaum)—deny

- O caption: “cherokee”
- K caption: “wide and flat”

**90-1756 Wyandotte Tribe of Oklahoma v. State of Oklahoma ex rel.
Oklahoma Tax Commission**

Denied

Memo: Mark Snyderman (O’Connor, Chicago, Kozinski)—deny

- WT caption: “want to be in fed ct”

90-1889 Fluent v. Salamanca Indian Lease Authority

Denied

Memo: Conley—deny

- F caption: “challenges tribal sovereign immunity”
- SILA caption: “lessors”

90-1968 Cross v. United States

Denied

Memo: Stephen McAllister (White, Posner, Kansas)—deny

- C caption: “doesn’t want to pay taxes”

Unpaid Petitions

90-5909 Olliviere v. Lujan

Denied

Memo: Bruce Braun (Rehnquist, Virginia, Flaum)—deny

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1991 Term

Paid Petitions

91-114 Winn v. Kompkoff

Denied

Memo: Eric Scheruerman (Rehnquist, Harvard, Wallace)—deny

- W caption: “mother[, non-Indian, challenges application of Indian Child Welfare Act]” (additional text added by HB clerk)
- F caption: “father”

91-150 Lockhart v. Kenops

Denied

Memo: Crystal Nix (Marshall & O’Connor, Harvard, Norris (CA9))—deny

- L caption: “challenges summary judgment”

91-242 Tunica-Biloxi Tribe v. United States

Denied

Memo: Stuart Banner (O’Connor, Stanford, Kozinski)—deny

- TBT caption [added by HB clerk]: “statute of limitations does not apply to breach of fiduciary duty”

91-489 Omaha Indian Tribe v. Agricultural & Ind. Inv. Co.

Denied

Memo: Charles Eskridge (White, Pepperdine, Clark)—deny

- OIT caption [added by HB clerk]: “challenges dismissal of complaint”

91-545 Burlington No. RR Co. v. Blackfeet Tribe of the Blackfeet Indian Reservation

Denied (White, Stevens—grant; Rehnquist, Blackmun, O’Connor, Scalia, Kennedy, Souter, Thomas—deny)

Memo: Bill Araiza (Souter, Yale, Norris)—deny

- BNR caption: “doesn’t want to be taxed by the tribe”
- BT caption: “wants to tax RR’s rights-of-way”

Supp. Memo. Post-CVSG: Araiza

Supp. Memo. re: State motion to file supp. amicus (CA, ND, SD, WA): Willis—deny

91-569 State of Washington v. Confederated Tribes of the Colville Reservation

Denied (White—grant; O’Connor-J3; Rehnquist, Blackmun, Stevens, Scalia, Kennedy, Souter, Thomas—deny)

Memo: Jon Nuechterlein (Souter, Yale, Williams)—deny or CVSG

- WA caption: “wants to enforce petty traffic laws against Indians on reservations”

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91-678 Grey v. United States

Denied

Memo: Eric Scheruerman (Rehnquist, Harvard, Wallace)—deny

- G caption: “argue that the Claims Court erred in ruling it lacked jurisdiction”

**91-907 Department of Taxation and Finance of New York v. Milhelm Attea
& Bros., Inc.**

**GVR (Rehnquist, White, Stevens, O’Connor, Scalia, Kennedy, Souter—GVR;
Blackmun, Thomas—CVSG)**

Memo: John Barry (Rehnquist, Columbia, Campbell)—GVR in light of Citizen Band or CVSG

- NY caption: “financially strapped State wants to tax cigarettes sold to non-Indians on Indian reservations”
- MA caption: “cigarette wholesalers”

Supp. Memo: John Barry (Rehnquist, Columbia, Campbell)—CVSG with view to GVR in light of Citizen Band

91-1037 Genuine Parts Co. v. Crawford

Denied

Memo: Crystal Nix (Marshall & O’Connor, Harvard, Norris (CA9))—deny

- GPC caption: “deference to tribal ct not warranted”

91-1124 Havasupai Tribe v. United States

Denied

Memo: John Barry (Rehnquist, Columbia, Campbell)—deny

- HT caption: “challenge Forest Service’s approval of uranium mine operations in National Forest containing sacred site”

91-1179 Pueblo of Santo Domingo v. Thompson

91-1146 United States v. Thompson

Denied

Memo: Eric Scheruerman (Rehnquist, Harvard, Wallace)—deny

- P caption: “The land is ours”
- US caption: “agrees with the Pueblo”

91-1209 Northern Arapaho and Shoshone Indian Tribe v. Foust

Denied

Memo: Ed Whelan (Scalia, Harvard, Wallace)—deny

- NAST caption: “challenge correction of land patent”
- F caption: “applicant for patent correction”

91-1286 Sangre de Cristo Devel. Co. v. United States

Denied

Memo: Ash Shagwat (Kennedy, Chicago, Posner)—deny

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- SDCDC caption: “divested by NEPA”
- US caption: “sure we changed our minds, but we’re allowed to: we’re the government”

91-1354 Cherokee Nation of Oklahoma v. United States

Denied

Memo: Jon Nuechterlein (Souter, Yale, Williams)—deny

- CN caption: “asserts ‘moral’ claim against fed govt”

91-1399 Ute Distribution Corp. v. United States

Denied

Memo: Caroline Brown (O’Connor, Harvard, RBGinsburg)—deny

- UDC caption: “cash distributions to terminated mixed-blood members of the Ute Tribe are not taxable”

91-1480 Ponca City v. Housing Authority of the Kaw Tribe of Indians of Oklahoma

Denied

Memo: Dangel—deny

- PC caption: “govt’al entity is not a ‘person’ under FHA”

91-1833 Rhodes v. Vigil [Lincoln v. Vigil]

Granted (Rehnquist, White, O’Connor, Scalia, Kennedy, Souter, Thomas—grant; Blackmun, Stevens—deny)

Memo: Jeff Lamken (O’Connor, Stanford, Kozinski)—grant “although without enthusiasm”

- R caption: “Director of the Indian Health Service”
- V caption: “handicapped Native American children claiming that the discontinuation of a program for them violated the APA and various statutes”

HB Clerk Memo (GK):

Supp. Memo post-Reply: Jeff Lamken (O’Connor, Stanford, Kozinski)—grant, “And I still lack enthusiasm” (at 1)

91-1916 Western Shoshone National Council v. Molini

Denied

Memo: David Meyer (White, Michigan, Edwards)—deny

- WSNC caption: “claims hunting & fishing rights to half of Nevada”
- M caption: “Nevada Dep’t of Wildlife”

91-1948 Urabazo v. United States

Denied

Memo: Baxter—deny

- U caption: “seeks adjustment of tribal membership, 16 years later”

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**91-2037 State of Wisconsin v. Lac du Flambeau Band of Lake Superior
Indians
Denied**

Memo: Rebel Pace (Kennedy, Penn, Kozinski)—deny

- WI caption: “notice of appeal made non-operative b/c ct erred in interpreting subsequent motion as under Rule 59(e)”

**91-2051 South Dakota v. Bourland
Granted (Rehnquist, White, Stevens—grant; Thomas—J3; Blackmun, O’Connor,
Scalia, Kennedy, Souter—deny)**

Memo: Matthew Adler (O’Connor, Yale, Edwards)—deny

- SD caption: “Doesn’t want the Cheyenne River Sioux Tribe to regulate non-Indians”
- B caption: “Chairman on the Tribe”

Unpaid Petitions

**91-5397 Negonsott v. Samuels
Granted (Rehnquist, White, Blackmun, Stevens, O’Connor, Kennedy, Souter,
Thomas—grant; Scalia—deny)**

Memo: David Meyer (White, Michigan, Edwards)—CFR and CVSG

- N caption: “Kickapoo Indian claiming Kansas had no jurisdiction to convict him”
- S caption: “Warden”

Attachment (JM) post-response

Supp. Memo post-CVSG: David Meyer (White, Michigan, Edwards)—grant

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1992 Term

Paid Petitions

92-190 United States v. Idaho

Granted (Rehnquist, White, Blackmun, O'Connor, Scalia, Thomas—grant; Stevens, Kennedy, Souter—deny)

Memo: Steve Dunne (Souter, Stanford, Williams)—grant

- US caption: “refusing to pay costs of Idaho’s general stream adjudication”
- ID caption: “petr must pay filing fees to have its water claims adjudicated”

92-259 Oklahoma Tax Commission v. Sac & Fox Nation

92-499 Sac & Fox Nation v. Oklahoma Tax Commission

Granted (Rehnquist, White, Blackmun, O'Connor—grant; Scalia, Kennedy, Souter, Thomas—deny; Stevens—CVSG)

Memo (re: 92-259 only): Jeff Pryce (BRW/BRW/Yale)—deny

- OTC caption: “wants more”

Supp. Memo (both cases): Jeff Pryce (BRW/BRW/Yale)—hold for no. 92-5988 (Anderson v. Wisconsin)

92-546 Washington Water Power Co. v. Spokane Indian Tribe

Denied

Memo: Jim Chen (Rehnquist, Harvard, Luttig)—deny

- WWPC caption: “when CADC said we could dam the water, that decision was res judicata)
- SIT caption: “you have the rights at stake confused: your right to dam is not our right to use”

92-686 County of Inyo v. Gutierrez

Denied

Memo: Nussbaum—deny

- CI caption: “unless state ct has jurisdiction over paternity issue, it can’t adjudicate AFDC issues”
- G caption: “it would be helpful if petr read the opinion below”

92-877 Elliott v. State of Vermont

Denied

Memo: Brad Berenson (Kennedy, Harvard, Silberman)—deny

- E caption: “asserts aboriginal fishing rights”
- VT caption: “prosecuted Native Americans for fishing without a license”

92-970 Woods Petroleum Corp. v. Cheyenne-Arapaho Tribes of OK

92-1286 Cheyenne Arapaho Tribes of OK v. Woods Petroleum Corp.

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Denied

Memo: Julius Genachowski (Souter & Brennan, Harvard, Mikva)—deny

- WPC caption: “CA10 wrongly held that Secty of the Interior abused his discretion”
- CAT caption: “raises issue not decided below”

92-1088 Catawba Indian Tribe of South Carolina, Inc. v. South Carolina

Denied

Memo: Robert Brauneis (Souter, Harvard, Breyer)—deny

- CIT caption: “Native American land claimants protest summary judgment on defendants’ affirmative defense of adverse possession”

92-1149 Murdock v. Ute Distribution Corp.

Denied

Memo: Klineberg

- M caption: “resps are not authorized to represent interests of ‘mixed-blood’ Ute Indians”
- UDC caption: “over 20 years ago, the Supreme Court said we were the authorized representative”

92-1238 New Mexico v. Navajo Nation

Denied

Memo: Julius Genachowski (Souter & Brennan, Harvard, Mikva)—deny

- NM caption: “11th Amendment violation”

92-1398 Richardson v. Mt. Adams Furniture

Denied (Rehnquist, Blackmun, Stevens, Scalia—deny; White—grant/CVSG; O’Connor, Kennedy, Souter, Thomas—CVSG) (post-CVSG: all deny, with RBG replacing BRW)

Memo: Jeff Lamken (O’Connor, Stanford, Kozinski)—CVSG with view to deny

- R caption: “bankruptcy debtors and trustee”
- MAF caption: “tribe-owned enterprise”

Supp. Memo post-CVSG: Kate Adams (O’Connor)—deny

92-1445 Lummi Indian Tribe v. Washington State

Denied

Memo: Vaughn Dunnigan (O’Connor, Columbia, Browning)—deny

- LIT caption: “CA9 misinterpreted our treaty to leave us with a smaller reservation”

92-1536 Circle Native Community v. Alaska Dept. of Health and Social Services

Denied (Rehnquist, White, O’Connor, Scalia, Kennedy, Souter, Thomas—deny; Blackmun, Stevens—CVSG)

Memo: Dave Nahmias (Scalia, Harvard, Silberman)—CFR w/ view to grant

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- CNC caption: “our tribal ct has concurrent j/d over child custody cases”
Supp. Memo post-CFR: Dave Nahmias (Scalia, Harvard, Silberman)—Deny

92-1541 Shermoen v. United States

Denied

Memo: Dave Meyer (White, Edwards, Michigan)—deny

- S caption: “Indian Tribes were not indispensable parties”
Memo on Pet for Reh’g: Bill—deny

92-1617 Catawba Indian Tribe v. United States

Denied

Memo: Celestine Richards (Rehnquist, Georgetown, Hall)—deny

- CIT caption: “our claim did not accrue until 1986”

92-1757 Middlemist v. Babbitt

Denied

Memo: Peter Rubin (Souter, Harvard, Souter)—deny

Unpaid Petitions

92-5988 Anderson v. Wisconsin Dept. of Revenue

Denied (White, Blackmun, Stevens [switched to CVSG]—grant; Rehnquist, O’Connor, Scalia, Kennedy, Souter, Thomas—CVSG) (2nd vote—all deny)

Memo: Amy Kett (O’Connor, Harvard, Silberman)—CVSG w/ view to grant

- A caption: “Wisc can’t tax me, even tho I live in the state, b/c I’m a ‘reservation Indian””
- WI caption: “oh, yes we can”

Supp. Memo post grant in Sac & Fox (BD): recommend hold for Sac & Fox

2nd Supp. Memo post decision in Sac & Fox (Radhika?): recommend deny

92-6281 Hagen v. Utah

Granted (Rehnquist, White, Blackmun, Stevens, O’Connor, Scalia, Kennedy, Souter, Thomas—grant) (1st vote: Rehnquist, White, Blackmun [or CVSG]—grant; Stevens, O’Connor, Scalia [switched from grant], Kennedy, Souter, Thomas—CVSG)

Memo: Rebecca Womeldorf (Kennedy & Powell, Wash & Lee, Merhige)—CVSG w view to grant

- H caption: “state ct lacked jurisdiction bc I am an Indian who committed a crime in Myton, which w/in the Uintah-Ouray Reservation”
- U caption: “the Uintah-Ouray Reservation has been diminished, and Myton is now outside the fed jurisdiction of the Reservation”

HB Clerk Memo post-amicus briefs (Radhika): CVSG w view to deny

Supp. Email post CVSG: Rebecca Womeldorf (Kennedy & Powell, Wash & Lee, Merhige)—grant

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1993 Term

Paid Petitions

93-18 Swenson v. Oglala Sioux Tribe

Denied

Memo: Nathan Forrester (Kennedy, Chicago, Wilkinson)—deny

- S caption: “adoptive parents of half-Indian boy”
- OST caption: “the boy belongs to our tribe”

93-242 Schmuck v. State of Washington

Denied

Memo: Kale Adams (O’Connor, Chicago, Breyer)—deny

- S caption: “tribal police couldn’t arrest me”

93-272 Sulcer v. Citizen Band Potawatomi Indian Tribe

Denied

Memo: James Forman (O’Connor, Yale, Norris)—deny

- S caption: “Tribe is not immune from suit”

93-377 N.Y. Dept. of Taxation v. Milhelm Attea & Bros

Granted (Rehnquist, Stevens, O’Connor, Scalia, Souter, Thomas—grant; Blackmun—deny; Kennedy, Ginsburg—CVSG)

Memo: Jim Ryan (Rehnquist, Virginia, Wallace)—Grant, or CVSG w/v/t grant

- NY caption: “what has the NY Ct App been smoking?”
- MA caption: “don’t tread on us”

93-452 Sioux Manufacturing Corp. v. Altheimer & Gray

Denied

Memo: Paul Clement (Scalia, Harvard, Silberman)—deny

- SMC caption: “contract was invalid and any suit should have been brought in tribal courts”
- A&G caption: “lawfirm that wants to keep its fees”

93-616 United Keetoowah Band v. Oklahoma Tax Commission

Denied

Memo: Steve Krone (Brennan/Souter, Chicago, Mikva)—deny

- UKB caption: “purchased land on which we run smokeshops is Indian country not subject to Okla. st tobacco taxes”
- OTC caption: “land is not Indian country because gov’t did not acquire land for tribe and does not act as superintendent over land”

93-1034 Gore v. Babbitt

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Denied

Memo: Baxter—deny

- G caption: “contests late mother’s will”
- B caption: “approved the will”

93-1127 White Mountain Apache Tribe v. United States

Denied

Memo: Louis Feldman (Scalia, Penn, Wallace)—deny

- WMAT caption: “reservation should be bigger”

93-1223 Sokoagan Chippewa Community v. Exxon Corp.

Denied

Memo: Louis Feldman (Scalia, Penn, Wallace)—deny

- SCC caption: “wants land”
- EC caption: “has land”

93-1672 Pahdopony v. Department of Interior

Denied

No memos in archive

93-1724 Cabazon Band of Mission Indians v. National Indian Gaming Commission

Denied

Memo: Oetken—deny

- CBMI caption: “assert error in interpretation of Indian gaming statute”

93-1742 Lummi Indian Tribe v. Whatcom County

Denied

Memo: Eugene Volokh (O’Connor, UCLA, Kozinski)—deny

93-1753 City of Timber Lake, SD v. Cheyenne River Sioux Tribe

Denied

Memo: Cox—deny

- CTL caption: “we are not in ‘Indian country’”
- CRST caption: “yes you are b/c you are on the reservation”

93-1825 Black Hills Institute of Geological Research v. Department of Justice

Denied

No memos in archive

93-1941 Nisqually Indian Tribe v. Cullen

Denied

No memos in archive