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News

Lawyer contests Pueblo tribal court sentencing

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Attorneys with the Alan Maestas Law Office petitioned the U.S. District Court this week to release a Taos Pueblo man they say was unfairly sentenced in Taos Pueblo Tribal Court.

Taos Pueblo resident Martin Martinez Jr. was sentenced to one year in prison and a \$1,000 fine Nov. 10 for allegedly driving drunk last July. The problem, attorney Kimberly Alderman says, is that the proceedings leading to Martinez' incarceration were a layered violation of his rights under the Indian Civil Rights Act.

The act affirms that any tribal members charged with offenses punishable by prison time are entitled to: A lawyer at their own cost; a fair, speedy, public trial; due process; and the right not to serve as a witness against themselves.

Although Alderman declined to comment on the details of the case in compliance with her client's wishes and neither Taos Pueblo Tribal Court nor the Taos Pueblo Governor's Office responded to phone calls about the case, the documents filed in U.S. District Court state the details of the case. According to a copy of the complaint filed Dec. 11 (Friday) in U.S. District Court in Albuquerque, Martinez pleaded not guilty to his charge at his arraignment July 7.

But when he came to the courthouse last month for a criminal trial, he found the proceedings closed and that his trial consisted only of himself, Judge Charlene Tsoodle-Marcus and Tribal Officer Robert Vasquez, who had made the traffic stop. Neither Martinez' parents nor any other witnesses were allowed into the courtroom, nor was there a jury present or an attorney to represent Martinez, the complaints states.

Tsoodle-Marcus reportedly told Martinez' parents that her decision to close the proceedings was justified simply because Martinez was over 21. In the complaint Alderman alleged that Tsoodle-Marcus was undermining Martinez' right to counsel.

"Since Martinez is being held in Albuquerque and there are no witnesses to his trial, the Taos Pueblo Tribal Court is attempting to foreclose his attorneys from acting on his behalf at all," the complaint said. "By not releasing what happened at the trial, the court is stymieing the legal efforts legitimate reason."

In the complaint, Alderman stated that the court forced Martinez to testify against himself. At the closed proceedings, Martinez unknowingly answered questions as Tsoodle-Marcus interrogated him about the events of the night and convicted him based on Vasquez' probable cause statement when he arrested Martinez in July, according to the complaint.

"To try a criminal defendant in a room alone with the judge and police officer without allowing him to even have a family member there for support creates an atmosphere of intimidation that would make it impossible for him not to answer the judge's questions," the complaint read.

To make matters worse, the complaint continued, was the fact that the court denied Alderman's standard request for recordings or transcripts of the proceedings. Alderman's complaint also states that no trial has ever been held at tribal court — something Martinez was told he could have at his arraignment. The complaint argued that both the Indian Civil Rights Act and the Taos Pueblo Law and Order Code maintain that any accused has the right to a trial.

"Tribal court does not have the facilities to have a jury trial and has never had a jury trial, so it is well known that even though the words 'right to a jury trial' may be spoken at arraignment, it is not actually an

option," the complaint stated. "The very act of trying a person in a court which the person knows cannot offer jury trials constitutes a denial of that defendant's right to a jury trial."

Alderman put together a list of potential witnesses including Pueblo Gov. Ruben Romero, Pueblo Police Chief Glenn Weathers and other Taos Pueblo officials to testify to the fact that no trial has ever taken place at tribal court.

The complaint also aired other issues with the circumstances surrounding Martinez' sentence, including the fact that Tsoodle-Marcus is not an attorney and does not belong to any bar association in the state, contrary to the Indian Civil Rights Act.

Martinez' mother also claimed in the complaint that Tsoodle-Marcus had alerted her employer to her "dissidence" after she began circulating a petition to have Tsoodle-Marcus removed from the bench.

A copy of the probable cause statement also revealed that no physical evidence was ever taken to prove Martinez was in fact drunk — Vasquez never required Martinez to perform a field sobriety test and Martinez refused to take a breath test.

While Vasquez cited in his statement that Martinez' father admitted his son had consumed some alcohol, he was never called in to testify or subpoenaed for trial. In her Nov. 12 sentencing order, Tsoodle-Marcus admitted that Vasquez' statement was the basis for Martinez' sentence, even though no cross-examination ever took place.

While the court processes the case, Martinez remains in custody in Albuquerque, despite what his attorneys say is a major miscarriage of justice.

"In theory, Martinez could have a cellmate who was afforded indigent defense, a fair jury trial, a public trial, the opportunity to cross-examine witnesses and the opportunity not to testify against himself," Alderman wrote. "The fact that these two men could be cellmates and that one was given protections while the other was incarcerated via a draconian process which resembles an inquisition more than a trial highlights the exact kind of injustice that made enactment of the Indian Civil Rights Act necessary."

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