

need more info
find out

criminal actions pending

find out if existing filed

or about to be filed

if "pending" then what filed

what's underlying case.
essence of underlying case in
lower ct, etc.

want to know tribe + nature

Alexander
514-9080
Craig →

State CA has refused to meet w/ lotta
tribes over gaming. Tribes sued.
Most are gaming anyway, which = illegal.
Certain tribes are under investig
+ old home charges

Rumsey Rancheria v Pete Wilson

Ct App said state didn't need to
negot. over certain games. That
means what tribes = doing =
illegal.

will ⇒ enf. action

petition for rehearing
ct ≠ determine yet on petition

There = standstill aginst w/ Rumsey Rancheria
no enf hl that's done

other tribes, w/ investig. pendg.

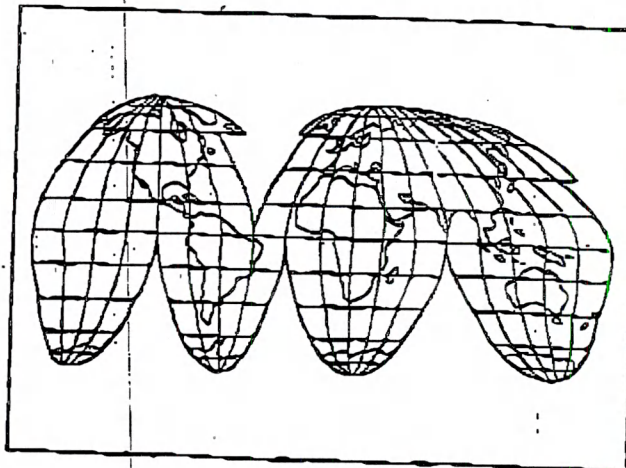
federal
case

US opposed
w/ on
such tribes
Amicus

U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C.

VIA FAX

DATE: 4/4/95



TO: Jennifer O'Connor
456-1121

FROM: CRAIG ALEXANDER
DEPUTY DIRECTOR
SUBJECT: OFFICE OF TRIBAL JUSTICE

Rumsey v. Wilson

MESSAGE:

(TOTAL NUMBER OF PAGES INCLUDING THIS ONE)

TRANSMITTED BY:

FOR VOICE COMMUNICATIONS WITH THIS OFFICE, PLEASE TELEPHONE (202-514-8812)
TO TRANSMIT TO THIS OFFICE VIA TELEFAX, PLEASE TELEPHONE (202-514-9078)

~~11/15/94~~
RUMSEY INDIAN RANCHERIA OF WINTUN INDIANS; TABLE MOUNTAIN RANCHERIA; CHER-AE HEIGHTS INDIAN COMMUNITY OF THE TRINIDAD RANCHERIA; SAN MANUAL BAND OF MISSION INDIANS, VIEJAS RESERVATION OF THE CAPITAN GRANDE BAND OF DIEGUENO MISSION INDIANS and HOPLAND BAND OF POMO INDIANS; BARONA BAND OF MISSION INDIANS; SYCUAN BAND OF MISSION INDIANS; AGUA CALIENTE BAND OF CAHUILLA INDIANS, Plaintiffs-Appellees, v. PETE WILSON, Governor; STATE OF CALIFORNIA, Defendants-Appellants. RUMSEY INDIAN RANCHERIA OF WINTUN INDIANS; TABLE MOUNTAIN RANCHERIA; CHER-AE HEIGHTS INDIAN COMMUNITY OF THE TRINIDAD RANCHERIA; SAN MANUAL BAND OF MISSION INDIANS, VIEJAS RESERVATION OF THE CAPITAN GRANDE BAND OF DIEGUENO MISSION INDIANS and HOPLAND BAND OF POMO INDIANS; WINTUN INDIANS; SAN MANUAL BAND OF MISSION INDIANS; CABAZON BAND OF MISSION INDIANS; The SANTA YNEZ BAND OF CHUMASH MISSION OF THE SANTA YSABEL RESERVATION, CALIFORNIA; VIEJAS RESERVATION OF THE CAPITAN GRANDE BAND OF DIEGUENO MISSION INDIANS; SAN MANUAL BAND OF MISSION INDIANS; The HOPLAND BAND OF POMO INDIANS; THE SYUCUAN BAND OF MISSION INDIANS; THE MORONGO BAND OF MISSION INDIANS; THE SANTA ROSA BAND OF TACHE INDIANS; The CACHIL DEHE BAND OF WINTUN INDIANS OF THE COLUSA INDIAN COMMUNITY; THE SOBOBA BAND OF CHUILLA MISSION INDIANS; THE ROBINSON BAND OF POMO INDIANS; THE AGUA CALIENTE BAND OF CAHUILLA INDIANS; and THE BARONA GROUP OF THE CAPITAN GRANDE BAND OF MISSION INDIANS, Plaintiffs-Appellees-Cross-Appellants, v. PETE WILSON, Governor; STATE OF CALIFORNIA, Defendants-Appellants-Cross-Appellees.

RUMSEY INDIAN RANCHERIA OF WINTUN INDIANS v. WILSON

No. 93-16609, No. 93-16745

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

41 F.3d 421; 1994 U.S. App. LEXIS 31854; 94 Cal. Daily Op. Service 8665; 94 Daily Journal DAR 16048

May 10, 1994, Argued, Submitted, San Francisco, California

November 15, 1994, Filed

PRIOR HISTORY: [*1] Appeals from the United States District Court for the Eastern District of California. D.C. No. CV-92-00812-GEB. D.C. No. CV-92-00972-GEB. Garland E. Burrell, District Judge, Presiding.

COUNSEL:

Howard L. Dickstein, Dickstein & Merin, Sacramento, California; Art Bunce, Escondido, California; George Forman, Alexander & Karshmer, Berkeley, California, for the plaintiffs-appellees-cross-appellants.

Manuel M. Medeiros, Deputy Attorney General, Sacramento, California, for the defendants-appellants-cross-appellees.

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41 F.3d 421; 1994 U.S. App. LEXIS 31854, *1;
94 Cal. Daily Op. Service 8665; 94 Daily Journal DAR 16048

JUDGES: Before: J. Clifford Wallace, Chief Judge; Diarmuid F. O'Scannlain, Circuit Judge; Robert J. Kelleher, * District Judge. Opinion by Judge O'Scannlain; Concurrence by Chief Judge Wallace.

* The Honorable Robert J. Kelleher, Senior United States District Judge for the Central District of California, sitting by designation.

OPINIONBY: O'SCANNLAIN

OPINION: OPINION

O'SCANNLAIN, Circuit Judge:

We decide whether certain gaming activities are permitted under California law and thus subject to tribal-state negotiation under the Indian Gaming Regulatory Act.

Numerous federally recognized Indian tribes currently engage in various gaming activities on tribal lands in California. Desiring to engage in additional [*2] activities (the "Proposed Gaming Activities"), several tribes asked the State of California (the "State") to negotiate a compact permitting the operation of certain stand-alone electronic gaming devices n1 and live banking and percentage card games. n2 The State refused to negotiate with the tribes, asserting that the Proposed Gaming Activities were illegal under California law.

-----Footnotes-----

n1 Included among these electronic games are electronic pull tab machines, video poker devices, video bingo devices, video lotto devices, and video keno devices. The parties agree that California allows these games to be played in nonelectronic formats.

n2 A card game is "banked" if a gaming operator participates in the game with the players and acts as a house bank, paying all winners and retaining all other players' losses. *Sullivan v. Fox*, 189 Cal. App. 3d 673, 679, 235 Cal. Rptr. 5 (1987). A card game is a "percentage" game if the gaming operator has no interest in the outcome of a game but takes a percentage of all amounts wagered or won. *Id.*

-----End Footnotes-----

[*3]

The State and seven tribes subsequently entered into a stipulation to seek judicial determination of whether the State was obligated to negotiate with the tribes. These tribes filed a complaint for declaratory judgment with the district court under the Indian Gaming Regulatory Act ("IGRA"), 25 @@ U.S.C. 2701-2721. Four other complaints, filed by different Indian tribes, were consolidated with this action (plaintiffs collectively referred to as the "Tribes").