

No 21-7180

SUPREME COURT OF UNITED STATES

Hung M Nguyen
(Petitioner – Pro Per Se)
V.
Cache Creek Casino Resort - Subclass
(Respondent)

Supreme Court, U.S.
FILED

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**On Petition for Writ of Certiorari to the United States Court of Appeals of 9 Circuit
for Eastern District Court of Sacramento**

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28 USC 451 this court shall certify the Attorney General pursuant 28 USC 2403 (a) –
Constitutionality of the United States or The Act of Congress is drawn into the Federal
Question as Rule 29.4 (b)

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I. Question presented

Does Cache Creek Casino Resort the subclass member of Yocha Dehe Wintum Nation as the tribal Indian of United States as trustee who owns this gambling class III as Cache Creek Casino Resort qualify for tribal sovereign immunity when it violated the Federal authorities under interstate commerce (42USC 2000a, 42USC 2000a1, 42USC 2000a2, 42USC 2000a3, 42USC 2000a5, 42USC 2000a6) which has been guaranteed by Constitution of United States – Article 1 Section 8 Clause 3 (Cited Weeks v. United States, 406 F. Supp. 1309 (W.D. Okla. 1975 – Senior Judge of the United States Court of Appeal for the tenth Circuit - William Judson Holloway Jr.) with self - government 25 USC 1301(1)(2) with the constitutional rights Under 25 USC 1302 (a,b,c,d,e,f). Under 28 USC 1331 Federal question as due process violation?

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Constitutional Provision

Constitution of United States – Article 1 Section 8 Clause 3

Act of Congress for ADA 1990

IV. Petition for Writ of Certiorari

Hung M Nguyen, the petitioner for this matter has been denied the matter of jurisdiction over Cache Creek Casino Resort as subclass member of Yocha Dehe Wintum Nation as the tribal Indian of United States as trustee (Cited as Weeks v. United States, 406 F. Supp. 1309, 1327 (W.D. Okla. 1975) (Senior Judge of the United States Court of Appeal for the tenth Circuit - William Judson Holloway Jr.) by United States of Appeal 9 Circuit Court for Eastern District of California Sacramento division, respectfully petitions to Supreme Court of United States for the Writ of Certiorari to review the memorandum issued by 9 Circuit member (3 panels) on 01/27/2022. (See Appendix A for evident).

V. Opinions Below

The decision by the United States Court of Appeal 9 Circuit is reported as Hung M. Nguyen v. Cache Creek Casino Resort, No. 21-15351 (9th Cir. Jan. 27, 2022). The 9 Circuit Court of Appeal denied Hung M Nguyen (Petitioner) 's appeal for matter jurisdiction to Cache Creek Casino Resort as subclass member from Yocha Dehe Wintum Nation (Tribal Indian) (Cited as Weeks v. United States, 406 F. Supp. 1309, 1327 (W.D. Okla. 1975) (Senior Judge of the United States Court of Appeal for the tenth Circuit - William Judson Holloway Jr.)

The memorandum of 3 panel judges is attached as appendix A for evident.

VI. Jurisdiction

Hung M Nguyen (Petitioner) 's appeal for matter jurisdiction to Cache Creek Casino Resort – Subclass member of Yocha Dehe Wintum Nation (Tribal Indian) in California Eastern District Court Sacramento division from United States Court of Appeal 9 Circuit was denied and issued on 01/27/2022. Hung M Nguyen (Petitioner) invoked this Court's jurisdiction under 28 USC 1257, having timely filed this petition for a writ of certiorari within ninety days of United States Court of Appeal for 9 Circuit 's memorandum issued on 01/27/2022.

VII. Provisional Constitution Involved

United States Constitution – Article 1 Section 8 Clause 3 - To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes

Congress Act for ADA 1990 - The Americans with Disabilities Act (ADA) **prohibits discrimination against people with disabilities in several areas**, including employment, transportation, public accommodations, communications and access to state and local government' programs and services.

VIII. Statement of the case

1. Legal Background of Congress for Commerce, Indian Tribal and ADA 1990

THE REAL WORDS AND WILLS OF CONGRESS OF COMMERCE

No words need to be read into the act (The Employers' Liability Cases, 207 U.S. 463, 518 (1908) because it is required only that the words already there shall be applied to that commerce which Congress referred to, namely, territorial, foreign and interstate. Thus read, the whole statute is saved and no part of it is destroyed. The natural meaning of the words of the statutes are the REAL WORDS AND WILLS OF THE CONGRESS ACTS (Metro Seattle v. O'Brien, 86 Wn. 2d 339, 343 (Wash. 1976).

THE REAL WORDS AND WILLS OF CONGRESS OF COMMERCE FOR INDIAN TRIBES IN UNITED STATES

That clause is a grant of legislative authority to Congress to regulate commerce 'with the Indian Tribes (Gingras v. Rosette, No. 5:15-cv-101, at *35 (D. Vt. May 18, 2016) Of course, there is explicit constitutional authorization for congressional action in dealing with Indian affairs in the provision for Congress to regulate commerce . . . with the Indian Tribes (Weeks v. United States, 406 F. Supp. 1309, 1327 (W.D. Okla. 1975). The federal government has specifically declared its power to regulate commerce with the Indian tribes (Rice v. Maybee, 2 F. Supp. 669, 671 (W.D.N.Y. 1933) which has been recognized and given strength and authority by statute. It does not owe its existence to the state statute and is only in a qualified sense a

state court (Matter of Patterson v. Council of Seneca Nation, 245 N.Y. 433, 157 N.E. 734). The federal government has specifically declared its power to regulate commerce with the Indian tribes. It has reserved to itself jurisdiction over certain major criminal offenses, and it has provided that the federal courts shall have original jurisdiction "of all actions * * * involving the right of any person * * * to any allotment of land under the ACT OF CONGRESS OF COMMERCE FOR INDIAN IN UNITED STATES EXPRESSED THROUGH THE LANGUAGE OF FEDERAL STATUTES (United States v. Thomas, 939 F.3d 1121, 1129 (10th Cir. 2019). Many of the Federal enactments arise from the express grant to Congress found in article 1, section 8, cl. 3 of the Constitution of the United States; 'to regulate Commerce * * * with the Indian Tribes'. Generally speaking tribal Indians are not subject to State law (Harrison v. Laveen, 67 Ariz. 337, 342 (Ariz. 1948) In 1871, but since then more than four thousand distinct statutory enactments have been passed by the Congress comprising what is commonly referred to as "Indian Law".

THE REAL WORDS AND WILLS OF CONGRESS FOR DISABILITIES – ADA 1990

On the other hand, their power is at all times subject to the will of Congress, at the pleasure of which they act and give effect to their acts (Clarke v. U.S., 705 F. Supp. 605, 612 (D.D.C. 1988). In enacting the ADA, Congress explicitly found that was discrete and insular classes of ADA - 1990 (Trautz v. Weisman, 819 F. Supp. 282, 293 (S.D.N.Y. 1993). Americans with Disabilities Act of 1990 - Pub.L. No. 101-336, 104 Stat. 327 (1990), 42 U.S.C. § 12101 et seq., made effective on July 26, 1990. "Congress invoked § 5 in enacting the ADA -1990 (Reickenbacker v. Foster, 274 F.3d 974, 977 (5th Cir. 2001) (Garrett, 121 S.Ct. at 962. Congress invoked § 5 in enacting the ADA. Id. at 962 n. 3 (citing 42 U.S.C. § 12101(b)(4)). Congress has invoked 14 amendment and regulated commerce to enforce and protect disabled people day by day. The stated purpose of the statute was to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities (Hernandez

v. International Shoppes, LLC, 100 F. Supp. 3d 232, 248 (E.D.N.Y. 2015) (See Pub.L. No. 101-336, 104 Stat. 327 8(codified at 42 U.S.C. § 12101 et seq.)

2. Factual Allegation to Complaint

A. Plaintiff was wrongfully detained, restricted, restraint and locked in the back of the cage of casino.

On June 29, 2020, plaintiff was approached by the security lead team- Fitzsimmons, Chris and his team in front of the casino gift shop on the casino premise. They showed plaintiff 3 subject summaries with 3 different photos recorded by 3 different dates (10/16/2014; 10/20/2009; 09/07/2003) from 3 different people. They also showed plaintiff the civil exclusion property form from Cache Creek Casino Resort dated 10/14/2016 with forgery signature and invalid and expired the civil statue limitation for civil exclusion property in the state of California under Civ Code 338(b). They also issued another civil exclusion property form to plaintiff on 06/29/2019. They handcuffed and detained plaintiff without plaintiff's consent. They restricted and restraint plaintiff in the back of the casino cage while plaintiff awaited for the Yolo Sheriff Office (Vega,H, Badge # 5577) to process and release plaintiff with the notice to promise to appear in Yolo Superior Court on 09/30/2019. The plaintiff was arraigned and prosecuted for PC 602(k) for trespassing casino property on 09/30/2019. Plaintiff's case was dismissed entirely due to no probable cause or discovery evident on 10/30/2019.

The Cache Creek Casino Resort is the Indian reservation allotment subclass member of Yocha Dehe Wintun Nation which has been owned and governed by self-governor under Public law 83-280 (18USC 1162, 28USC 1360). The Yocha Dehe Wintun Nation - chairperson had undersigned (08/02/2016) the tribal state compact agreement with California governor (08/04/2016), and the compact had been approved by Secretary of interior on 12/05/2016 with Federal registry notice# 87585

B. Plaintiff challenges the Constitution of United States – Article 1 Section 8 Clause 3, and Federal laws under 42USC 2000a, 42USC 2000a1, 42USC 2000a2, 42USC 2000a3, 42USC 2000a5, 42USC 2000a6 for Cache Creek violating due process under 25 USC 1302 (a,b,c,d,e,f) Constitutional rights.

Cache Creek Casino Resort as subclass member from Yocha Dehe Wintum Nation as Indian tribal has been as interstate commerce as public accommodation under 42USC 2000a, 42USC 2000a1, 42USC 2000a2, 42USC 2000a3, 42USC 2000a5, 42USC 2000a6 regulated by Constitutions of United States of America – Article 1 Section 8 Clause 3 which never allowed Cache Creek Casino Resort as subclass member to carry out their own powers or interpretations to lock up any individual in the public place as public accommodation.

Other hands, With Congress Act for ADA 1990 section -The Americans with Disabilities Act (ADA) **prohibits discrimination against people with disabilities in several areas**, including employment, transportation, public accommodations, communications and access to state and local government' programs and services.

So clearly United States Court of Appeal for the 9 Circuit cited to deny petitioner's appeal for their violations to Constitution of United States – Article 1 Section 8 Clause 3 and The Act of Congress for ADA 1990 based on sovereign immunity to subclass member as Cache Creek Casino Resort deemed to be contrary to the Words of Senior Judge of the United States Court of Appeal for the tenth Circuit - William Judson Holloway Jr. Cited as (Weeks v. United States, 406 F. Supp. 1309 (W.D. Okla. 1975).

The whole statements from United States Court of Appeal for the 9 Circuit can wrongfully has been proven that United States never have any enforcements with the Interstates Commerce laws which has been passed by the Congress legislature.

3. **Direct Appeal to United States Court of Appeal 9 Circuit from Eastern District Court, Division – Sacramento in California**

Hung M Nguyen (Petitioner) appealed the final judgement and order to deny matter jurisdiction to Cache Creek Casino Resort as subclass member of Yocha Dehe Wintum Nation as Tribal Indian of United States as trustee to United State Court of Appeal 9 Circuit for review the final judgement and order. Petitioner legal believed that the sovereign immunity does not apply to Cache Creek Casino Resort as subclass member from Yocha Dehe Wintum Nation as Tribal Indian under case law cited as (Weeks v. United States, 406 F. Supp. 1309, 1327 (W.D. Okla. 1975) (Senior Judge of the United States Court of Appeal for the tenth Circuit - William Judson Holloway Jr.). Supreme Court of United States said the employer (Cache Creek Casino Resort – Subclass member) shall be liable for their negligence for their employees when the incident involved with the interstate commerce cited as (The Employers' Liability Cases, 207 U.S. 463, 518 (1908) – United States Supreme Court Opinions.

The complaint alleged Cache Creek Casino Resort is public accommodation under Interstate Commerce who has violated Constitutions of United States – Article 1 Section 8 Clause 3 and Federal laws under 42USC 2000a, 42USC 2000a1, 42USC 2000a2, 42USC 2000a3, 42USC 2000a5, 42USC 2000a6 along sided with The Act of Congress for ADA 1990 under 42USC 12101, 42USC 12102, 41 CFR 101-8.705(a) (b), and due process under 25 USC 1302 (a,b,c,d) and 28 USC 1331 Federal questions.

Petitioner also present substantial constitutional claims under the Due Process claim 25 USC 1302 (a,b,c,d) deserving consideration on the merits. And since with the extensive evident and Federal laws under Interstate Commerce (42 USC 2000a1-2000a6) and the Act of Congress for ADA 1990 under (42 USC 12101, 42 USC 12102, and 41 CFR 101-8.705(a) (b)) are also convinced that the claims are justiciable, as explained below, Petitioner feel the case is properly here under 28 U.S.C.A. § 1331. See Baker v. Carr, 369 U.S. at 198, 82 S. Ct. 691; see also, Powell v. McCormack, 395 U.S. 486, 512- 13, 89 S. Ct. 1944, 23 L. Ed. 2d 491.[22].

Petitioner's case it is objected that the tribal Indian which is sued and is immune from suit. It is true that the Indian Nations are exempt from suit without congressional authorization. *United States v. U.S. Fidelity & Guaranty Co.*, 309 U.S. 506, 512, 60 S. Ct. 653, 84 L. Ed. 894; *Turner v. United States*, 248 U.S. 354, 358, 39 S. Ct. 109, 63 L. Ed. 291. Nor may a tribe be sued indirectly by suing tribal officers or the United States as trustee or guardian of the tribe. *Barnes v. United States*, 205 F. Supp. 97, 100 (D.Mont.). However, the Petitioners' complaint alleges as to Cache Creek Casino Resort as subclass member not to the Yocha Dehe Wintum Nation that is a Tribal Indian as Yocha Dehe Wintum Nation who is each a representative of his or her respective subclasses as Cache Creek Casino Resort. The Indian defendants are not immune from suit in their individual capacities. See *Chemah v. Fodder*, 259 F. Supp. 910, 914 (W.D. Okl.). Petitioner feels it may entertain the suit against the individually named Indian defendants, in their individual capacities, and that we may also properly recognize them as representatives for class action purposes under Federal Rules of Civil Procedure 23(b) (1) (B) and 23(b) (2) and enter a proper declaratory judgment of the right of the individuals constituting the classes.

However, Easter District Court of California – Sacramento Division and United States Court of Appeal 9 Circuit denied the facts that matter jurisdiction has barred petitioner's claim or action against Cache Creek Casino Resort as Subclass member of Yocha Dehe Wintum Nation as Tribal Indian, and it seemed to be odd to the Supreme court of United States said cited (**The Employers' Liability Cases, 207 U.S. 463, 518 (1908) – United States Supreme Court Opinions** and Senior Judge of the United States Court of Appeal for the tenth Circuit · William Judson Holloway Jr. said cited (*Weeks v. United States*, 406 F. Supp. 1309, 1327 W.D. Okla. 1975).

IX. Reason for granting the Writ

The United States Court of Appeal 9 Circuit has erred to deny Petition's appeal for lacking of matter jurisdiction based on sovereign immunity and claim to the matter above. Their memorandum statements are contrary with the Senior Judge of the United States Court of Appeal for the tenth

Circuit - William Judson Holloway Jr.) (Cited *Weeks v. United States, 406 F. Supp. 1309 (W.D. Okla. 1975*). The United States Court of Appeal also violated the Supreme Court of United States Rule 10 sub (a).

X. Conclusion

For the foregoing reasons, Petitioner – Hung M Nguyen respectfully requests that this Court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the 9 Circuit.

XI. **Appendix** – Memorandum from United State Court of Appeal for 9
Circuit issued on 01/27/2022.