

The Burger Court Opinion Writing Database

Native American Church of Navajoland, Inc. v. Arizona Corporation Commission
405 U.S. 901 (1972)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



1. Mr. Chief Justice
2. Justice Brennan
3. Justice Stewart
4. Justice White
5. Justice Marshall
6. Justice Black
7. Justice Douglas
8. Justice Brandeis

py

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

claus, J.
Circulated:

NATIVE AMERICAN CHURCH OF NAVAJO LAND,
INC., ET AL. v. ARIZONA CORPORATION
COMMISSION

1-15
Circulated:

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF ARIZONA

No. 71-533. Decided January —, 1972

MR. JUSTICE DOUGLAS.

This is a direct appeal from the order of a three-judge District Court, convened pursuant to 28 U. S. C. § 2281,¹ denying appellants' prayer for injunctive relief. Jurisdiction over the appeal is based upon 28 U. S. C. § 1253.² If the three-judge court were improperly convened, however, the appeal lies not to this Court, but to the Court of Appeals. *Moody v. Flowers*, 387 U. S. 97. My analysis leads me to conclude that a three-judge court was not required, so I would dismiss this appeal.

The controversy involves the efforts of appellant Native American Church of Navajoland, Inc., to obtain a certificate of incorporation from the Arizona Corporation

¹ 28 U. S. C. § 2281:

"An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title."

² 28 U. S. C. § 1253:

"Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges."

To: The Chief Justice
Mr. Attorney General
Mr. Solicitor General
Mr. Secretary of State
Mr. Secretary of Defense
Mr. Postmaster General
Mr. Commissioner of Internal Revenue
Mr. Commissioner of Immigration
Mr. Commissioner of Fish and Wildlife
Mr. Commissioner of Education
Mr. Commissioner of Labor
Mr. Commissioner of Agriculture
Mr. Commissioner of Health, Education, and Welfare
Mr. Commissioner of Transportation
Mr. Commissioner of Housing and Urban Development
Mr. Commissioner of Small Business

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: [Redacted]

**NATIVE AMERICAN CHURCH OF NAVAJOLAND,
INC., ET AL. v. ARIZONA CORPORATION
COMMISSION**

Argued: 1/18/72

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF ARIZONA

No. 71-533. Decided January —, 1972

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE STEWART concurs.

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4th DRAFT

SUPREME COURT OF THE UNITED STATES

NATIVE AMERICAN CHURCH OF NAVAJOLAND,
INC., ET AL. v. ARIZONA CORPORATION
COMMISSION

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF ARIZONA

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

January 17, 1972

Re: No. 71-533 - Native American Church
v. Arizona Corporation Comm'n

Dear Bill,

I agree with your circulation in this case.

Sincerely yours,

C.S.
1/

Mr. Justice Douglas

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 18, 1972

Re: No. 71-533 - Native American Church of Navajoland,
Inc., et al. v. Arizona Corporation Commission

Dear Bill,

Please join me in your opinion in the above
case.

Sincerely,

W.W.

Mr. Justice Douglas

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Sanford, California 94933-6000



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