

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Hamilton v. MacDonald

503 F.2d 1138 (9th Cir. 1974) · No. Nos. 73-1151 and 73-2572 · Decided September 12, 1974

SUMMARY

The Ninth Circuit reviewed appeals concerning enforcement of a judgment resolving territorial and possessory rights between the Hopi and Navajo Tribes. It held that the district court had jurisdiction to enforce the prior decree, properly issued a writ of assistance, and could impose equitable measures addressing possession, construction, grazing, and range conservation in the joint use area. The court also rejected challenges based on hardship, election of remedies, enforceability, ouster, waste, indispensable parties, and time limits on enforcement.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Koelsch, Circuit Judge; Koelsch
JURISDICTION	Federal
DECIDED	September 12, 1974
DOCKET	Nos. 73-1151 and 73-2572
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Navajo Indian Tribe appealed two postjudgment orders enforcing the prior judgment in <i>Healing v. Jones</i> : an Order of Compliance placing the Hopi Tribe in joint possession of the disputed area and an order approving implementation plans restricting construction, reducing livestock, conserving the range, and allocating grazing permits.
STANDARD OF REVIEW	The court reviewed the district court's factual findings for clear error and its equitable remedial determinations for abuse of discretion; legal and jurisdictional issues were reviewed de novo.
PRECEDENTIAL VALUE	Published precedential federal appellate opinion
PARTIES	Navajo Indian Tribe v. Hopi Indian Tribe

TOPICS

- indian affairs
- tribal jurisdiction
- injunctions
- civil procedure
- appellate procedure

PRACTICE AREAS

Indian affairs

tribal jurisdiction

equitable remedies

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court had subject-matter jurisdiction to enforce the prior judgment and place the Hopi Tribe in possession of an equal share of the joint use area.
2. Whether a writ of assistance was available to enforce the equitable decree against the Navajo Tribe despite its colorable claim to possession.
3. Whether equitable doctrines concerning hardship, election of remedies, enforceability, ouster, or waste barred the relief ordered.
4. Whether creditors holding security interests in Navajo livestock were necessary or indispensable parties.
5. Whether Federal Rule of Civil Procedure 69(a) and an Arizona five-year limitation on execution barred the supplementary enforcement proceeding.
6. Whether construction restrictions, livestock reduction, grazing-permit allocations, and possible exclusive grazing districts constituted an impermissible partition beyond the district court's jurisdiction.

HOLDINGS

1. The district court had jurisdiction under Public Law 85-547 and the All Writs Act to enforce the prior judgment determining that the Hopi and Navajo Tribes held joint, undivided, and equal interests in the joint use area.
2. A writ of assistance was an appropriate means of enforcing the decree and delivering joint possession of the joint use area to the excluded Hopi Tribe.
3. The balance of hardships, election of remedies, alleged difficulty of enforcement, lack of ouster, and lack of waste did not bar the Order of Compliance or its range-conservation provisions.
4. Creditors holding security interests in Navajo livestock were not necessary or indispensable parties under Federal Rule of Civil Procedure 19.
5. Federal Rule of Civil Procedure 69(a) and Arizona's five-year limitation on execution did not bar enforcement of the non-money equitable decree in *Healing II*.
6. The construction restrictions, stock reduction, grazing-permit allocation, range-conservation measures, and potential exclusive grazing districts did not constitute a judicial partition and were permissible equitable remedies to implement equal joint possession.

KEY QUOTATIONS

“There was no occasion for the district court to “re-balance” the hardship imposed on individual members of the Navajo Tribe if the decision is enforced. That balance was struck in Healing II, and is now the law of the case.” (at 1144)

“The subject matter of this action is the title to and possession of the land, not the livestock — the secured creditors have no interest in the land, and the rights of the parties to the land can be determined, and

complete relief accorded them, in the absence of the secured parties.” (at 1147)

“As the judgment in Healing II is not for the payment of money, and is governed by the last sentence of Rule 70, the limitation on execution provided by A.R.S. § 12-1551(B) is inapplicable.” (at 1149)

“We therefore conclude that use of exclusive grazing districts does not constitute a partition, and is a reasonable and practical method of range conservation and of facilitating “the exercise by the Hopi and Navajo of their ‘joint, undivided and equal interests.’ ”” (at 1151)

FACTUAL BACKGROUND

The Hopi and Navajo Tribes disputed rights to reservation lands in northeastern Arizona. The prior judgment determined that the tribes had joint, undivided, and equal interests in the joint use area, but the Hopi remained substantially excluded while Navajo members used the area and heavily grazed livestock. On remand, the district court found that the range was severely overgrazed and ordered measures intended to provide the Hopi equal possession while conserving the land, including livestock reduction, construction restrictions, and equal allocation of grazing permits.

PROCEDURAL HISTORY

Congress authorized litigation to determine and quiet the Hopi and Navajo tribes' rights in disputed reservation lands. A three-judge district court determined that the tribes held joint, undivided, and equal interests in the joint use area, and the Supreme Court affirmed. After the Hopi alleged continuing exclusion from the area, the Ninth Circuit held in *Hamilton v. Nakai* that the district court had jurisdiction under the congressional act and the All Writs Act to enforce the judgment and remanded for fact-specific relief. The district court thereafter entered an Order of Compliance, issued a writ of assistance, and approved implementation plans; the Ninth Circuit affirmed both challenged orders.

DISPOSITION

affirmed

CASES CITED

- *Healing v. Jones*, 174 F.Supp. 211 (D. Ariz. 1959)
- *Healing v. Jones*, 210 F.Supp. 125, 192 (D. Ariz. 1962)
- *Jones v. Healing*, 373 U.S. 758 (1963)
- *Hamilton v. Nakai*, 453 F.2d 152 (9th Cir. 1972)
- *Pachmayr Gun Works, Inc. v. Olin Mathieson Chemical Corp.*, 502 F.2d 802, 805 (9th Cir. 1974)
- *Automatic Radio Mfg. Co. v. Ford Motor Co.*, 390 F.2d 113, 115-116 (1st Cir. 1968), cert. denied, 391 U.S. 914 (1968)
- *New York v. Pine*, 185 U.S. 93 (1902)
- *Madison v. Ducktown Sulphur, Copper & Iron Co.*, 113 Tenn. 331, 83 S.W. 658 (1904)
- *Newell v. Woodruff*, 30 Conn. 492, 497

- Mastbaum v. Mastbaum, 126 N.J. Eq. 366, 9 A.2d 51, 53 (1939)
- Burney v. Lee, 57 Ariz. 41, 110 P.2d 554 (1941)
- Dixon v. Dixon, 140 Fla. 166, 191 So. 292 (1939)
- NLRB v. Trans Ocean Export Packing, Inc., 473 F.2d 612, 615 (9th Cir. 1973)
- Custer v. McCutcheon, 283 U.S. 514 (1931)
- United States v. Tacoma Gravel and Supply Co., 376 F.2d 343 (9th Cir. 1967)
- General Electric Co. v. Hurd, 171 F. 984, 988 (C.C. Or. 1909)
- Guaranty Trust Co. v. York, 326 U.S. 99 (1945)
- Noble v. Beach, 21 Cal.2d 91, 130 P.2d 426, 430 (1942)