

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Barber v. Simpson

286 F. App'x 969 (9th Cir. 2008) · Decided July 11, 2008

SUMMARY

The Ninth Circuit affirmed the denial of declaratory and injunctive relief concerning a Washoe Tribal Court eviction order involving land within Washoe Indian Country. The court held that the United States was not an indispensable party to the eviction dispute between tribal members and that 28 U.S.C. § 1346(f) did not establish exclusive federal jurisdiction over the action.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
JURISDICTION	Federal
DECIDED	July 11, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wesley Barber appealed the district court's denial of declaratory and injunctive relief from a Washoe Tribal Court eviction order.
STANDARD OF REVIEW	The Ninth Circuit reviewed the tribal court's factual findings for clear error and questions of law de novo.
PRECEDENTIAL VALUE	Nonprecedential unpublished memorandum disposition
PARTIES	Wesley Barber v. Simpson, Turner

TOPICS

- tribal jurisdiction
- eviction
- subject matter jurisdiction
- appellate jurisdiction
- statutory interpretation

PRACTICE AREAS

- Federal Indian law
- Civil procedure
- Appellate procedure
- Real property

QUESTIONS PRESENTED

- Whether the Washoe Tribal Court lacked jurisdiction to adjudicate the eviction action because the United States was an indispensable but unjoined party.
- Whether 28 U.S.C. § 1346(f) gave federal district courts exclusive jurisdiction over the eviction action because the property was subject to an interest claimed by the United States.

HOLDINGS

1. The United States was not an indispensable party requiring dismissal of the eviction action. Any per se indispensability rule derived from *Minnesota v. United States* and *Carlson v. Tulalip Tribes of Washington* is limited to actions instituted by non-Indians to effect the alienation of tribal lands, and does not apply to a dispute between tribal members over the right to occupy Indian land.
2. Section 1346(f) does not give federal district courts exclusive jurisdiction over every quiet-title action involving property in which the United States has an interest; it applies only to civil actions brought under 28 U.S.C. § 2409a. Barber therefore failed to establish that the tribal court exceeded its jurisdiction.

KEY QUOTATIONS

“Thus, to the extent that Minnesota and Carlson establish a “per se” indispensability rule in certain circumstances, this circuit limits that rule’s application to cases instituted by non-Indians for the purpose of effecting the alienation of tribal lands.” (971)

“Section 1346(f) does not give district courts exclusive jurisdiction over all actions to quiet title to property in which the United States has an interest; it only applies to actions “under [28 U.S.C. §] 2409a.”” (971)

FACTUAL BACKGROUND

Barber and Simpson and Turner were members of the Washoe Tribe. Simpson and Turner brought an eviction action against Barber in Washoe Tribal Court concerning Barber's possession of a plot of land within Washoe Indian Country. Barber challenged the tribal court's jurisdiction, asserting that the United States was an indispensable party and that the action was subject exclusively to federal jurisdiction as a quiet-title action involving property in which the United States had an interest.

PROCEDURAL HISTORY

The Washoe Tribal Court entered an eviction order against Barber concerning land within Washoe Indian Country. Barber sought declaratory and injunctive relief in federal district court, arguing that the tribal court lacked jurisdiction because the United States was an indispensable party and because federal courts had exclusive jurisdiction over the matter under 28 U.S.C. § 1346(f). The district court denied relief, and the Ninth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- *National Farmers Union Insurance Cos. v. Crow Tribe of Indians*, 471 U.S. 845, 853 (1985)
- *FMC v. Shoshone-Bannock Tribes*, 905 F.2d 1311, 1313-14 (9th Cir. 1990)
- *Imperial Granite Co. v. Pala Band of Mission Indians*, 940 F.2d 1269, 1271-72 & n.4 (9th Cir. 1991)
- *Minnesota v. United States*, 305 U.S. 382 (1939)

- Carlson v. Tulalip Tribes of Washington, 510 F.2d 1337 (9th Cir. 1975)
- Puyallup Indian Tribe v. Port of Tacoma, 717 F.2d 1251, 1254-55 & n.1 (9th Cir. 1983)

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