

SUPREME JUDICIAL COURT OF MAINE

Opinion of the Justices

2018 ME 154 · No. OJ-18-1 · Decided November 20, 2018

SUMMARY

The Maine Supreme Judicial Court considered a question propounded by the Maine House of Representatives under Article VI, Section 3 of the Maine Constitution concerning whether California v. Cabazon Band of Mission Indians allowed the Houlton Band of Maliseet Indians to conduct gambling on tribal trust land without state permission. The Justices concluded that no solemn occasion existed and declined individually to answer the question.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Leigh I. Saufley; Donald G. Alexander; Andrew M. Mead; Ellen A. Gorman; Joseph M. Jabar; Jeffrey L. Hjelm; Thomas E. Humphrey
JURISDICTION	Maine
DECIDED	November 20, 2018
DOCKET	OJ-18-1
DISPOSITION	other
PROCEDURAL POSTURE	The Maine House of Representatives referred a constitutional question to the Justices of the Supreme Judicial Court pursuant to article VI, section 3 of the Maine Constitution. The Justices invited briefing on whether the referral presented a solemn occasion, but the House did not submit a brief addressing that issue.
PRECEDENTIAL VALUE	Published opinion addressing the constitutional requirements for advisory opinions under article VI, section 3 of the Maine Constitution; the court did not reach the underlying tribal-gambling issue.

TOPICS

[appellate procedure](#) [tribal gaming](#) [indian affairs](#) [gambling](#) [constitutional law](#)

PRACTICE AREAS

[appellate procedure](#) [constitutional law](#) [tribal law](#) [gaming law](#)

QUESTIONS PRESENTED

1. Whether the referral presented a solemn occasion under article VI, section 3 of the Maine Constitution sufficient to require the Justices to answer the propounded question.
2. Whether the Justices should answer whether *California v. Cabazon Band of Mission Indians* permits the Houlton Band of Maliseet Indians to conduct gambling on tribal trust land without state permission.

HOLDINGS

1. When the legislative body that propounded a question does not respond to a request for briefing by asking the Justices to determine that a solemn occasion exists, the Justices will determine that the question is not of a serious and immediate nature and that the situation does not present an unusual exigency. Because the House did not provide such a response, no solemn occasion existed.
2. The Justices declined to answer the propounded question because no solemn occasion existed.

KEY QUOTATIONS

“When the body propounding a Question does not, upon our request for briefing of the issue, provide any response that asks us to determine the existence of a solemn occasion that would justify our consideration of a propounded question, we will determine that the question is not “of a serious and immediate nature” and that the situation does not “present[] an unusual exigency.”” (¶ 4)

“Accordingly, we conclude that no solemn occasion exists, and we each decline to answer the Question propounded.” (¶ 5)

FACTUAL BACKGROUND

The Maine House of Representatives asked whether federal law, as interpreted in *California v. Cabazon Band of Mission Indians*, allowed the federally recognized Houlton Band of Maliseet Indians to conduct gambling on tribal trust land without state permission. The referral was made before the Legislature adjourned sine die. The House did not file a brief addressing whether the question presented a solemn occasion, although other interested persons and entities submitted briefs.

PROCEDURAL HISTORY

On August 30, 2018, the Maine House of Representatives propounded a question asking whether *California v. Cabazon Band of Mission Indians* permitted the Houlton Band of Maliseet Indians to conduct gambling on tribal trust land without state permission. The Justices requested briefing concerning the existence of a solemn occasion. Because the House did not provide a response supporting consideration of the question, the Justices concluded that no solemn occasion existed and declined to answer.

DISPOSITION

other

CASES CITED

- California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987)
- Opinion of the Justices, 682 A.2d 661, 663 (Me. 1996)
- Opinion of the Justices, 2017 ME 100, ¶ 22, 162 A.3d 188

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