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... The interaction of federal court jurisdiction with tribal court and state court jurisdiction in Arizona results in unique opportunities for cooperation between state, federal and tribal judiciaries. Recognizing this interaction, the Arizona State and Tribal Court Forum, formed in 1990 under the auspices of the Conference of Chief Justices, recommend creation of an ongoing colloquium, which includes state, tribal and federal members and operates based on [Administrative Order 2004-36](#).

In response to this recommendation and the continuing work of the original Forum, in 1994 the chief judges of the United States Ninth Circuit Court of Appeals and the District Court of Arizona appointed judges to serve on such a body. Chief judges and justices of Indian tribes and nations throughout Arizona also expressed interest in participating in this court forum.

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About the Forum

Background

The interaction of federal court jurisdiction with tribal court and state court jurisdiction in Arizona results in unique opportunities for cooperation between state, federal and tribal judiciaries. Recognizing this interaction, the Arizona State and Tribal Court Forum, formed in 1990 under the auspices of the Conference of Chief Justices, recommended creation of an ongoing colloquium, which includes state, tribal and federal members. In response to this recommendation and the continuing work of the original Forum, in 1994 the chief judges of the United States Ninth Circuit Court of Appeals and District Court of Arizona appointed judges to serve on such a body. Chief judges and justices of Indian tribes and nations throughout Arizona also expressed interest in participating in this court forum.

Purposes

1. To foster mutual understanding and acceptance by state, tribal and federal judges of the similarities and differences between each other's courts and legal systems, particularly pertaining to the resolution of jurisdictional issues.
2. To promote improvement in the quality of justice delivered in the context of the overlapping jurisdiction of state, tribal and federal courts through judicial education, professional court administration, education of attorneys and the public about tribal courts, and the sharing of personnel, facilities and programs, as well as state, tribal and federal funding, as appropriate.
3. To promote respect for and recognition of the judicial proceeding and judgments among the three court systems in order to minimize the need for litigation regarding jurisdictional issues.
4. To increase operational communication, cooperation and coordination among state, tribal and federal courts and other justice agencies in Arizona.
5. To promote legislative, regulatory and court rule changes to further the coordination of and cooperation among the three court systems.
6. Any other purposes deemed by a majority of forum members to be in the best interests of state, tribal and federal courts and of the justice system serving the citizens of Arizona affected by the interaction of these three systems.

Organization

The Court Forum shall consist of four federal members, eight state members, at least eight tribal members, one State Bar member, and two public members. The federal members shall include a judge of the Ninth Circuit Court of Appeals appointed by the Chief Judge of the Circuit, a judge of the District of Arizona appointed by the Chief Judge of the District, the U.S. Attorney or designee, and the Federal Public Defender or designee. The state members shall include an appellate judge, five trial court judges, and a clerk of the superior court or deputy clerk appointed by the Chief Justice and the Arizona Attorney General or designee. The tribal members shall include at least eight chief judges or justices or their designees who express interest in Forum membership and who are appointed by the Chief Justice. The Chief Justice shall appoint one of the members to chair the forum. The Chair shall appoint a member to serve as Vice-Chair.

Membership

State and tribal judicial members and public members shall be subject to appointment for three year terms. Members serving due to office, by appointment of an officer other than the chief justice, or by designation of an officers, shall not have a terms.

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- [AZ Order of Protection, 2009](#)
- [ITCA Update Involuntary Commitment Memorandum, 2009](#)
- [Protocol Processing and Enforcement of Tribal Court Involuntary Com. Orders, 2009](#)
- [Indian Law Questions - State Bar Exam, 2009](#)
- [Creative Civil Remedies, 2009](#)
- [Extending Project Passport, 2005](#)
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- [Four Chippewa Tribes of Northern Wisconsin and the 10th Judicial District of Wisconsin, 2005](#)
- [Judicial Protocol for Allocating Jurisdiction Between State and Tribal Courts, 2005](#)
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- [Tribal/State Protocol for the Judicial Allocation of Jurisdiction Between the Statute and Rule for Enforcement of Involuntary Commitment Orders, 2005, 2005](#)
- [Recognition of Judgments Comments, 1998](#)
- [Recognition of Judgments Petition, 1998](#)
- [Resolving State-Tribal Jurisdictional Dilemmas, 1995](#)
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13-3869. Extradition of persons to and from Indian jurisdiction.

A. If this state seeks the extradition of an Indian from within the jurisdiction of an Indian tribe in this state, this state shall comply with any applicable requirements of tribal extradition law.

B. An Indian tribe that permits extradition by this state of Indians from a tribal jurisdiction may request the extradition of Indians from state jurisdiction pursuant to this section.

C. An Indian tribe shall direct a demand for extradition to the county attorney of the county in which the person demanded is thought to be located, or if the location of the person is unknown, to the attorney general.

D. A written demand for extradition by an Indian tribe shall be recognized if the demand is accompanied by both:

1. A copy of a warrant issued for the person.

2. A criminal complaint or sworn statement made before a tribal judge substantially charging the person demanded with the commission of a crime under tribal law, with escape from confinement or with a violation of probation or parole.

E. The provisions of this article relating to extradition from a state that are not inconsistent with this section apply to extradition by an Indian tribe under this section. The public officer who receives the written demand under this section shall perform the functions of the governor under this article.

1994

**RULES OF PROCEDURE FOR
ENFORCEMENT OF TRIBAL COURT
INVOLUNTARY COMMITMENT ORDERS**

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Current with amendments received through 2/18/03

Adopted January 26, 1994

Effective June 1, 1994

Including Amendments Received Through November
18, 2002

Rule

- 1 Applicability.
- 2 Filing Procedure and Fees.
- 3 Responses.
- 4 Appointment of Counsel.
- 5 Enforcement of Tribal Court Commitment Order.
- 6 Rehearing and Review.

Form

- I Notice of Filing.
- II Certification.

Rule 1. Applicability

These rules govern the procedure for recognition and enforcement by the superior court of an involuntary commitment order of the court of any federally recognized Indian tribe within the State of Arizona, as authorized by A.R.S. § 12-136. Determinations regarding recognition of the tribal court commitment order pursuant to these rules have no effect upon the independent authority of the tribal court order. Whenever reference is made to the proposed patient in these rules, it means the person who is the subject of the tribal court commitment order.

Added Jan. 26, 1994, effective June 1, 1994.

Rule 2. Filing Procedure and Fees

(a) Documents to be Filed. A copy of the tribal court order, authenticated in accordance with the procedures of the tribal court, may be filed in the office of the clerk of the superior court in a county in which the tribal court has jurisdiction within 30 days of its entry in the tribal court. The order shall be accompanied by a signed and notarized statement from the appropriate tribal court officer stating that no subsequent orders vacating, modifying or reversing the order filed have been entered by the tribal court and that the order has not been stayed pending appeal. The clerk shall treat the tribal court order in the same manner as an order of involuntary

commitment issued by the superior court of this state.

(b) Notice of Filing. The person filing the order shall promptly serve a notice of filing substantially similar to Form I of these rules and a copy of the tribal court commitment order on the proposed patient or the patient's guardian or representative and the Attorney General of the State of Arizona. Proof of service shall be filed with the clerk of the superior court.

(c) Fees. There shall not be a fee for filing a tribal court order under this rule.

Added Jan. 26, 1994, effective June 1, 1994.

Rule 3. Responses

Any responses to the enforcement of the tribal court order shall be filed within 5 days of receipt of the notice of filing the order. If a response is filed within this time period, the enforcement proceeding under this rule shall have the same priority as a civil commitment proceeding originating in the superior court. The superior court may, in its discretion, set a time period for replies and/or set the matter for hearing.

Added Jan. 26, 1994, effective June 1, 1994.

Rule 4. Appointment of Counsel

If a response is filed, the court may, in its discretion, or at the request of the proposed patient, appoint counsel to represent the proposed patient at any enforcement proceedings.

Added Jan. 26, 1994, effective June 1, 1994.

Rule 5. Enforcement of Tribal Court Commitment Order

(a) Certification by the Clerk of Court. If no responses are timely filed, the next court day after the expiration of the time period to respond the clerk shall, on a form substantially similar to Form II of these rules, issue a certification that no responses were timely filed, and the tribal court order shall be enforceable in the same manner as if issued by the superior court.

(b) Standard of Review Following Response. The superior court shall not assess the validity of the tribal court order, but shall only assess its consistency with A.R.S. § 12-136 and these rules. A tribal court commitment order which contains all of the findings indicated in these rules shall be enforced subject to

the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of the superior court. The superior court judge shall attempt to resolve any issues raised regarding a tribal court order by contacting the tribal court judge who issued the order. If enforcement of an order is denied due to incomplete findings or unresolved issues regarding those findings, the superior court judge shall specifically state the reasons for the denial.

(c) Findings Required in the Tribal Court Order.

The tribal court order shall be enforceable if it contains the following findings:

1. The legal and factual basis of the tribal court jurisdiction over the civil commitment proceedings and over the proposed patient.

2. The proposed patient received notice of the civil commitment proceeding and the allegations regarding the patient's mental condition and had the opportunity to be heard with the assistance of a person recognized by the tribal court as competent to represent the proposed patient.

3. Based upon the diagnosis by a licensed physician, the proposed patient suffers from a mental disorder as defined by Arizona law which renders the proposed patient a danger to self, a danger to others, persistently or acutely disabled and/or gravely disabled.

4. The treatment ordered is the least restrictive treatment which meets the needs of the proposed patient, and the proposed patient is unable or unwilling voluntarily to receive this treatment.

(d) Other Information Required in the Tribal Court Order. To aid in enforcement and sending required notices, the tribal court order shall include the following information:

1. The title, address and county of the tribal court

entering the order of involuntary commitment.

2. The date the tribal court order was entered.

3. The name, address and location of the proposed patient.

4. The names and addresses of any attorneys, guardians or other persons with legal standing to represent the proposed patient and a brief statement of their authority and relationship.

5. The tribal official authorized to receive service under these rules and the address at which service may be made.

(e) Commitment Period. The period of commitment shall not be enforceable for a longer period of time or in a manner different than permitted by Arizona law and shall commence on the date the tribal court order was entered.

Added Jan. 26, 1994, effective June 1, 1994.

Rule 6. Rehearing and Review

(a) Rehearing. In the event enforcement of a tribal court order is denied, any affected person may move for a rehearing within 20 days after the denial. Any supplemental or revised tribal court orders shall be attached to the motion. A copy of such motion shall be served upon all parties to the original proceeding. A response to the motion may be filed within 5 days of receipt of notice of the motion for rehearing.

(b) Review and Administration Following Commitment. All proceedings following the commitment of the proposed patient shall be governed by Arizona law. Any documents filed with the court regarding the proposed patient shall be served upon the tribal official designated for receipt of service in the tribal court order.

Added Jan. 26, 1994, effective June 1, 1994.

Form I. Notice of Filing

**IN THE SUPERIOR COURT OF THE STATE OF
ARIZONA**

_____ COUNTY

In re: Involuntary Commitment of <u>(Patient's Name)</u>) No. _____)) NOTICE OF FILING) OF TRIBAL COURT) INVOLUNTARY) COMMITMENT) ORDER
---	---

YOU ARE HEREBY NOTIFIED that the Order of Involuntary Commitment issued by the _____ Tribal Court on _____, 19__, under which (patient's name) has been ordered to undergo treatment, was filed with the Clerk of the Court for _____ County on _____, 19__, Cause No. _____.

YOU ARE FURTHER NOTIFIED that you have 5 days from receipt of this notice to respond in writing to the Clerk of the Court for _____ County. If no response is filed within this time period pursuant to A.R.S. § 12-136 and Rule 3, Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders, the Order of Involuntary Commitment issued by the Tribal Court shall be recognized and shall be enforceable in the same manner as if issued by the Superior Court.

A copy of the tribal court order is attached hereto.

Name

Address

Instructions: When the notice is complete it must be filed with the clerk of the court and served on the Attorney General for the State of Arizona and the patient. It shall be served in the manner set forth in Rule 4.1, Ariz.R.Civ.P. Added Jan. 26, 1994, effective June 1, 1994.

Form II. Certification

**IN THE SUPERIOR COURT OF THE STATE OF
ARIZONA**

_____ COUNTY

In re: Involuntary Commitment) No. _____
of (Patient's Name))
) CERTIFICATION RE:
) ENFORCEMENT OF
) TRIBAL COURT
) INVOLUNTARY
) COMMITMENT
) ORDER

Pursuant to A.R.S. § 12-136 and the Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders, I hereby certify that the statements contained herein are an accurate representation of the contents of the record of the above captioned matter.

An Order of Involuntary Commitment was issued by the _____ Tribal Court on _____, 19__, under which (patient's name) was ordered to undergo treatment. The Order was filed herein on _____, 19__.

_____ The record reflects that the Notice of Filing was personally served on (patient's name) on _____, 19__, and at least 5 court days have since elapsed.

OR

_____ The record reflects that the Notice of Filing was sent by certified mail to (patient's name) on _____, 19__, it was received on _____, 19__, and at least 5 court days have elapsed since its receipt.

AND

_____ The record reflects that the Notice of Filing was personally served on the Attorney General for the State of Arizona on _____, 19__, and at least 5 court days have since elapsed.

OR

_____ The record reflects that the Notice of Filing was sent by certified mail to the Attorney General for the State of Arizona on _____, 19__, it was received on _____, 19__, and at least 5 days have elapsed since its receipt.

No responses have been filed.

Given under my hand and the Seal of the Court on this date, _____, 19__.

Clerk of the Superior Court
By:

Added Jan. 26, 1994, effective June 1, 1994.

Rule 27. Certification of questions of law from federal and tribal courts.

(a) Filing; form; number of copies; additional record.

- (1) A certification proceeding may be commenced in this court by filing with the clerk of this court a certification order from a federal court or the court of last resort of a federally recognized Indian tribe within the boundaries of the State of Arizona.
- (2) The certification order shall be filed in this court only by the clerk of the certifying court.
- (3) The certification order shall set forth:
 - (A) The questions of law to be answered;
 - (B) A statement of all facts relevant to the questions certified;
 - (C) A list of the counsel (or pro se parties) appearing in the matter, together with their addresses and telephone numbers;
 - (D) The proportions in which the parties shall share the required filing fees, if such proportions are not to be equal;
 - (E) Any other matters that the certifying court deems relevant to a determination of the questions certified.
- (4) An original and six copies of the certification order shall be filed.
- (5) Upon request of this court, the clerk of the certifying court shall transmit to the clerk of this court the original or copies of such other portions of the certifying court's record as this court deems necessary to a determination of the certified questions.

(b) Acceptance of jurisdiction; notice; motion for reconsideration.

- (1) Upon the filing of the certification order and any additional record requested by this court, this court will determine whether it will accept jurisdiction or decline to accept jurisdiction to answer the certified questions.
- (2) The clerk of this court will promptly notify the certifying court and the parties of this court's decision to accept jurisdiction or to decline to accept jurisdiction.
- (3) No motion for reconsideration of an order declining to accept jurisdiction of a certification order shall be filed.

- (c) *Filing fees.* Upon receipt of notice that the court has accepted jurisdiction of a certification order and notice of the amount of the required filing fees, the parties shall promptly remit such amount to the clerk of this court.
- (d) *Briefing; oral argument.*
 - (1) Within twenty (20) days after entry of an order accepting jurisdiction of the certification order, each of the parties may file a brief addressing the questions to be answered. No further briefs may be filed without leave of court.
 - (2) Oral argument may be had only upon order of the court. Any party may request oral argument within the time provided for filing a brief.
- (e) *Costs and attorneys' fees.* There shall be no application for costs or attorneys' fees made to this court in connection with a certification proceeding.
- (f) *Motions; other procedures.* Except as otherwise provided herein, the Arizona Rules of Civil Appellate Procedure shall apply to motions and other procedures under this rule.

History: Added Jan. 10, 1985, effective Feb. 1, 1985; amended Mar. 18, 1994, effective June 1, 1994.

RULES OF PROCEDURE FOR THE RECOGNITION OF TRIBAL COURT CIVIL JUDGMENTS

RULE 1. APPLICABILITY

These rules shall govern the procedures for recognition and enforcement by the superior courts of the State of Arizona of tribal court civil judgments of any federally recognized Indian tribe. Determinations regarding recognition and enforcement of a tribal judgment pursuant to these rules shall have no effect upon the independent authority of that tribal judgment. To the extent that they are not inconsistent with these rules, the Arizona Rules of Civil Procedure shall apply.

These rules do not apply to tribal judgments for which federal law requires that states grant full faith and credit recognition or for which state law mandates different treatment.

Nothing in these rules shall be deemed or construed to expand or limit the jurisdiction either of the State of Arizona or any Indian tribe.

RULE 2. DEFINITIONS

As used throughout these rules:

(a) "Tribal court" means any court or other tribunal of any federally recognized Indian nation, tribe, pueblo, band, or Alaska Native village, duly established under tribal or federal law, including courts of Indian Offenses organized pursuant to Title 25, Part 11 of the Code of Federal Regulations.

(b) "Tribal judgment" means any final written judgment, decree or order of a tribal court duly authenticated in accordance with the laws and procedures of the tribe or tribal court.

RULE 3. FILING PROCEDURES

(a) Documents to be Filed. A copy of any tribal judgment may be filed in the office of the clerk of the superior court in any county of this state.

(b) Notice of Filing. The person filing the tribal judgment shall make and file with the clerk of the superior court an affidavit setting forth the name and last known address of the party seeking enforcement and the responding party. Promptly upon the filing of the tribal judgment and the affidavit, the enforcing party shall serve upon the responding party a notice of filing of the tribal judgment, together with a copy of

the judgment, in accordance with Rule 4.1, Arizona Rules of Civil Procedure, or shall mail by certified mail, return receipt requested, the notice of filing and a copy of the judgment to the responding party at the last known address. If the responding party is the State of Arizona, or any of its officers, employees, departments, agencies, boards, or commissions, the notice of filing shall be mailed to the Attorney General's Office. The enforcing party shall file proof of service or mailing with the clerk. The notice of filing shall include the name and address of the enforcing party and the enforcing party's attorney, if any, and shall include the text of Rules 4 and 5(a) and (b).

RULE 4. RESPONSES

Any objection to the enforcement of a tribal judgment shall be filed within twenty (20) days of service or of receipt of the mailing of the notice of filing the judgment, or within twenty-five (25) days of the date of mailing, whichever last occurs. If an objection is filed within this time period, the superior court may, in its discretion, set a time period for replies and/or set the matter for hearing.

RULE 5. RECOGNITION OF TRIBAL JUDGMENTS

(a) Enforcement of Tribal Judgment. A tribal judgment, unless objected to in accordance with Rule 4, shall be recognized and enforced by the courts of this state to the same extent and shall have the same effect as any judgment, order, or decree of a court of this state.

(b) Certification by Clerk of Court. If no objections are timely filed, the clerk shall issue a certification that no objections were timely filed, and the tribal judgment shall be enforceable in the same manner as if issued by the superior court.

(c) Mandatory Considerations Following Objection. A tribal judgment shall not be recognized and enforced if the objecting party demonstrates to the court at least one of the following:

1. The tribal court did not have personal or subject matter jurisdiction.
2. The defendant was not afforded due process.

(d) Discretionary Considerations Following Objection. The superior court may, in its discretion, recognize and enforce or decline to recognize and enforce a tribal judgment on equitable grounds, including:

1. The tribal judgment was obtained by extrinsic fraud.
2. The tribal judgment conflicts with another final judgment that is entitled to recognition.

3. The tribal judgment is inconsistent with the parties' contractual choice of forum.

4. Recognition of the tribal judgment or the cause of action upon which it is based is against fundamental public policy of the United States or the State of Arizona.

Comments

[Rule 5(a)] See *Leon v. Numkena*, 142 Ariz. 307, 689 P.2d 566 (App. 1984). See also, *Lofts v. Superior Court*, 140 Ariz. 407, 410, 682 P.2d 412, 415 (1984), and *Firedoor Corp. of America v. Tibshraeny Bros. Construction, Inc.*, 126 Ariz. 392, 616 P.2d 67 (App. 1980).

[Rule 5(c)(2)] The due process requirement stated in this rule does not require that a tribe utilize judicial procedures identical to those used in state courts. However, tribal court proceedings must afford the parties the basic tenets of due process established by the federal and state constitutions. See *Wilson v. Marchington*, 127 F.3d 805, 811 (9th Cir. 1997).

[Rule 5(d)(1)] See *Restatement (Third) of Foreign Relations Law of the United States*, § 482 comment e (1986).

RULE 6. STAY

If the objecting party demonstrates to the superior court that an appeal from the tribal judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the tribal judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

RULE 7. CONTACTING COURTS

The superior court shall, after notice to the parties, attempt to resolve any issues raised regarding a tribal judgment under Rule 3 or Rule 5 of these rules, by contacting the tribal court judge who issued the judgment.