

## ***Journal #5622***

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Glorious aerial photo of Spider Rock, in Canyon de Chelly, Arizona. "In the Navajo creation story, the first world was small and pitch black. There were four seas and an island. In the very middle of the island was a single pine tree. Ants, dragonflies, locusts and beetles lived there and made up the Air-Spirit People of the first world.

"The second world was known as blue, where life was given to Spider Woman & Spider Man. Only their inner spirits or souls were made. Their physical bodies were made later to contain their spirits when they evolved into future worlds.

"In the third world the holy ones advised Spider Woman that she had the capabilities of weaving a map of the universe and the geometrical patterns of the spirit beings in the night sky. At first she did not know what they meant, and was not told how it could be done. Curiosity became her energy and driving force to learn to weave as the holy ones instructed.

"On a beautiful day when she was out on the land, exploring and gathering food, she came upon a small young tree. She touched it with her right hand and wrapped her fingers around one of its branches. As she was letting go, a string streamed out the center of her palm and wrapped around the tree branch. She was not quite sure what the string was. At first she shook her hand to release the string, but it would not break free. She thought if she kept wrapping the string around the branch it might let go.

Spider Woman started maneuvering and manipulating the string into various shapes.

"At this particular moment, she knew this was the weaving the holy people instructed her to do. Immediately she broke the string with her left hand without hesitation. She sat and thought carefully about how to use her new gift. For the rest of the day she sat close to the tree and wrapped the string into various patterns on other branches of the small tree.

"The holy ones heard about Spider Woman's new talent and came to visit her. During the visit the holy ones instructed Spider Man to construct a weaving loom and also create the tools used in the various processes of weaving. At this time Spider Woman began to sing the weaving songs, given to her by the holy ones. The songs empower the weavings and the weaving tools.

"Dine (Navajo) of today live in the fourth world, known as the "Glittering World". Young weavers are instructed to find a spider web in the early morning, glistening with sunlight and sparkles. They are told to place the palm of their right hand upon the spider's webbing without destroying or damaging the web. At that moment Spider Woman's gift of weaving enters the young weaver's spirit, where it lives forever."

<https://www.navajorug.com/.../spider-rock-center-of-the...>

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California has a new state mushroom, the Golden Chanterelle. The *Cantharellus californicus*, a yellowish "monster chanterelle" was first described in 2008, grows under live oaks and is largest in the world, can "feed a family of four, with leftovers!"

time is precious



so waste

it wisely!

## Department of Water Resources Approves Delta Conveyance Project

Final EIR Certified; Engineering, Design and Permitting to Move Forward

Project will capture and move more water during wet seasons to better endure dry seasons and protect against earthquake disruptions to water supplies

There are 17 public water agencies from the Bay Area, Central Valley, Central Coast, and Southern California participating in the project. Their customers are among the 27 million people and 750,000 acres of farmland that rely on the SWP to provide an affordable source of high quality, clean and safe water. For more information about the project, visit [water.ca.gov/deltaconveyance](http://water.ca.gov/deltaconveyance). For more information about permitting, visit [deltaconveyanceproject.com](http://deltaconveyanceproject.com).

## News from NARF



High school seniors across the U.S. have started planning for their graduation ceremony. For Native students and their families, this process includes determining if their school graduation policies are in accord with the right of Indigenous people to wear traditional clothing or religious and cultural items to their graduation ceremony.

Often, Native students wear regalia or related items for the same reasons that some students wear an honor cord or stole to graduation—in recognition of their academic achievement. Many states and schools now have policies to ensure Native students receive the same respect and regard as students allowed to wear other symbols of religious and academic achievement. However, some

school district policies require students to request dress code accommodations well in advance of the graduation ceremony.

Native students and their families should review school policies and request any dress code accommodations as early as possible. Starting early gives the family and student time to build a bridge of understanding with school officials who may or may not have an inclusive policy to guide them. Once school administrators understand the religious, cultural, and academic significance of Indigenous cultural items, they are more likely to respect students' right to wear them.

Sadly, every spring, Native students from across the country contact the Native American Rights Fund (NARF) for assistance because their schools denied requests to wear traditional items at graduation. Schools that insist on uniformity of dress at any cost force Native students into the position of having to choose between being included in the celebration or following religious and cultural traditions.

Students, families, allies, and educators sometimes must help school officials grasp the significance of Native regalia created for graduation. To assist, NARF assembled resources that outline the related legal protections at <https://www.narf.org/cases/graduation/>

NARF looks forward to you and your loved ones celebrating your great accomplishment while proudly practicing your Native religious and cultural traditions at graduation.



*While traditions vary across cultural groups, Native people respect academic achievement as a rite of passage and moment of honor, typically by donning specific religious and cultural items such as eagle plumes, eagle feathers, or other regalia. Photo of Coy-A-Dee Salomon.*

### **How can you help?**

Without the help of allies, Native students and their families bear the burden of making school district policies more inclusive. Be an ally!

Proactively share the link to this post with the principal of your local public high school. Ask if school and district dress code policies affirm the right of Indigenous students to practice their religious and cultural traditions.

If the school does not have a policy of welcoming Native students to participate in the graduation ceremony while donning their traditional attire, please let them know they can find information to help update district policies at: <https://www.narf.org/cases/graduation/>

Thank you for your advocacy: it could make all the difference for a Native student in this year's graduating class and in years to come, too.

## Continuing Efforts to Provide Language Assistance to Alaska Native Voters



**December 18, 2023**

*August 23, 2023 photo from the settlement conference, front row from left to right: Nellie Thomas, Anecia Toyukak, and Mike Toyukak. Back row from left to right: Megan Condon, James Tucker, and Erin Dougherty Lynch.*

On August 31, 2023, the U.S. District Court for the District of Alaska approved a settlement designed to ensure the State of Alaska provides legally required language assistance for Alaska Native voters. The settlement extends the terms of an earlier agreement to now remain in place until December 31, 2026.

Section 203 of the Voting Rights Act (VRA) requires covered jurisdictions to provide language assistance, including translated registration, ballots, and election information if enough voters need it. Because Alaska still did not provide the required language assistance to Alaska Native languages speakers in 2013, Mike Toyukak and fellow Yup'ik speaker Fred Augustine [filed suit along with four Tribal Nations](#). Represented by the Native American Rights Fund (NARF) and co-counsel, the plaintiffs received a favorable ruling.

The court held that the State of Alaska had violated Section 203 of the VRA. After trial, the parties reached a settlement agreement requiring the state to improve its language assistance program. The agreement included requirements to hire and train bilingual outreach workers and poll workers, create written and audio translations of election materials, and publicize the availability of language assistance. The agreement also required Alaska to report back on its progress for subsequent elections.

The plaintiffs' request to extend the order noted that the state still does not provide effective language assistance. The plaintiffs worked with the state to create an action plan to make the positive changes outlined in the now extended order. The plan describes how the state will offer translation services, translated materials, and Yup'ik language assistance in the Dillingham and Kusilvak census areas.



“The Voting Rights Act protects Alaska Native language speakers. By agreeing to this plan, the state has detailed how it plans to come into compliance with the law. We will continue to monitor their progress in future elections to ensure the state is providing language assistance that enables meaningful participation in the electoral process,” said NARF [Staff Attorney Megan Condon](#).

**More about [Toyukak v. Dahlstrom](#) (formerly *Toyukak v. Treadwell*)**

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**Native Voters in North Dakota Secure Big Wins for Fair Representation** December 15, 2023  
By [Michael Carter](#), NARF Staff Attorney, and [Mel Neal](#), Legal Fellow at CLC.

North Dakota has a long and ongoing history of discrimination against Native Americans, including denying Native voters an equal voice in the state’s elections.

Until 1922, North Dakota barred most Native people from voting. Even after North Dakota finally allowed Native Americans to vote, state officials continued to pass laws and adopt practices that discriminate against Native voters. For example, the state enacted voter ID laws in 2013 and 2017 that targeted Native voters and made it harder for voters living on reservations to vote.

North Dakota’s history of discrimination is reflected in the makeup of the state legislature, where North Dakota politicians have drawn unfair voting maps.



Based on relative population size, Native Americans should hold three state senate seats and six state house seats in the state legislature. But under the most recent redistricting plan adopted in 2021, there were no Native American state senators serving in the legislature for the first time since 1990 and Native Americans held just two state house seats.

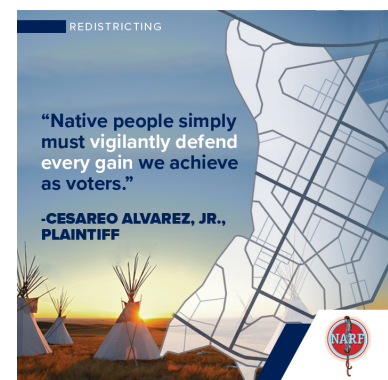
Over the past five years, Campaign Legal Center (CLC) and the Native American Rights Fund (NARF) have often partnered together to fight on behalf of Native voters in North Dakota.

Most recently, CLC and NARF, alongside other counsel, represented the Turtle Mountain Band of Chippewa Indians and the Spirit Lake Tribe in [\*Turtle Mountain Chippewa et al v. Howe\*](#) and the Mandan, Hidatsa, and Arikara (MHA) Nation in [\*Walen v. Burgum\*](#), two lawsuits seeking to ensure that Native North Dakotans have an equal opportunity to have their voices heard in state government.

In the *Turtle Mountain* case—brought by the Turtle Mountain Band of Chippewa Indians, the Spirit Lake Tribe, and affected Native voters—a federal court found that North Dakota’s 2021 redistricting plan discriminated against Native voters in the northeast part of the state.

Specifically, the *Turtle Mountain* court found that under North Dakota’s 2021 redistricting plan, Native Americans saw decreased representation in the state legislature.

This was due in part to the [“cracking” and “packing”](#) of Native voters on and around the Turtle Mountain and Spirit Lake reservations, which drowned out Native voices and made it harder for Native voters to elect leaders who would best serve their communities. The Eighth Circuit Court of Appeals has denied the state’s request to pause the injunction pending appeal, meaning a nondiscriminatory map will be in effect for the 2024 election.



In addition to challenging unfair districts drawn by state politicians, Native voters have also had to fight to preserve existing fair districts.

In *Walen v. Burgum*, for example, non-Native voters challenged the creation of a state house subdistrict that ensured Native voters living on MHA Nation’s Fort Berthold Reservation have a fair chance at electing representation in the state house, as required by Section 2 of the Voting Rights Act.

Represented by NARF, CLC and the Law Offices of Bryan Sells, the MHA Nation successfully defeated that challenge, preserving the district.

The Turtle Mountain and Walen lawsuits create and preserve fair maps and equitable representation for Native voters in North Dakota, and both cases resulted in pro-voter decisions and major victories for Native voters and fair representation.

Pending the outcome of any appeals, these cases mean that Native voters living on and around the Turtle Mountain, Spirit Lake, and MHA Nation Reservations will have a fair shot at making

their voices heard in the state’s elections and electing their preferred candidates to the state legislature.

Furthermore, as Tim Purdon, counsel for the Turtle Mountain and Spirit Lake Tribes and former United States Attorney for the District of North Dakota, explained with respect to the *Turtle Mountain* case, these cases also paved the way for the next generation of Native lawyers to participate in a civil rights case and defend Native Americans’ freedom to vote:

“It’s really important that we have Native American lawyers who are part of the team, who are a key part of this... We’re training a new generation of civil rights lawyers in this trial... And without NARF and the Campaign Legal Center, this case simply wouldn’t have been [as successful.] It’s [been] so important to have their participation in the case.”

The fight for fair representation and equitable access to the ballot box for Native voters in North Dakota and across the country will continue, but these historic victories should be celebrated as major steps forward in the fight for Native American voting rights in North Dakota.

### **Native Voters in Arizona Fight to Keep Ballot Drop Boxes December 11, 2023**



On December 8, 2023, the White Mountain Apache Tribe and the San Carlos Apache Tribe [moved to intervene in \*Arizona Free Enterprise Club v. Fontes in the Yavapai County Arizona Superior Court\*](#). The tribes are intervening to protect their on-reservation ballot drop boxes. The case, which seeks to remove voting drop boxes around the state, would disproportionately impact Native American voters in Arizona who rely on ballot drop boxes to vote.

“Native voters in Arizona have to travel immense distances to vote—much farther than non-Native voters in the state. Voting drop boxes are an effective way to help address this inequity and allow tribal members living on reservations to have access to the vote,” explained White Mountain Apache Chair Kasey Velasquez.

Some members of San Carlos travel up to 10 miles to vote, while members of White Mountain travel as much as 25 miles. In recent years, members of the Kaibab Paiute Band of Indians reported traveling five and a half hours to reach voter services located at county seats. In 2018, some Navajo voters reported having to travel 400 miles to reach an in-person polling place.

Additionally, even though the majority of Arizonans now vote by mail, for many Native Americans in Arizona, voting by mail is a burdensome and difficult process. Across reservations in Arizona, the vast majority of Native Americans do not receive mail delivery to their homes. Consequently, mail—including ballots—are not delivered to or picked up from their front door.



“Native American voters must travel incredibly long distances not just to vote, but also to access mail services. Mail is not delivered to homes in our community. Drop boxes are essential to decrease the distances tribal members must travel to deliver a ballot,” according to San Carlos Apache Chair Terry Rambler.

Decreases in distance translate to a decrease in expense, which is critically important for impoverished Native Americans. Moreover, given the racial disparity between access to residential mail delivery between Native American and white voters, as well as the markedly worse mail services Native Americans receive, removing ballot drop boxes would disproportionately impact Native American voters in Arizona.

“Plaintiffs seek to remove ballot drop boxes for all Arizonans, including Native Americans. This removal would negatively impact the ability of Native voters to exercise their right to vote. Our clients seek to intervene in this action because it will directly affect members of their Tribal Nations and they want to protect access to the democratic process for Native voters in Arizona,” explained NARF [Staff Attorney Allison Neswood](#).

Read the Motion to Intervene: <https://www.narf.org/nill/documents/20231208az-dropbox-tribal-intervene.pdf>

## **NCAI Defends its Free Speech and Stands Strong Against Hateful Mascots**

December 4, 2023

On December 1, 2023, the National Congress of American Indians (NCAI), represented by the Native American Rights Fund (NARF), [filed a motion to dismiss](#) a case brought against it in the United States District Court for the District of North Dakota. The case, which was brought by the Virginia-incorporated Native American Guardian’s Association (NAGA), alleges that NCAI somehow conspired with the Washington, DC, National Football League team when they changed their name to the Washington Commanders. However, the only act that plaintiffs allege is that NCAI issued a press release supporting the Commanders’ decision



to keep their new name.

NCAI President Mark Macarro responded to the NAGA complaint explaining, “Since 1968, the National Congress of American Indians and its Tribal Nation members have taken the position that the Washington NFL team should change its dehumanizing and derogatory name. Issuing a press release applauding the team’s decision to drop a derogatory name is far from unlawful. All the complaint shows is that NCAI exercised its right to free speech on an important issue that affects Native Americans across the country.”

Race-based mascots, logos, and symbols became popular during a time in our country when racism and cultural oppression were the norm. Not only are they offensive and perpetuate negative stereotypes of Native people, they cause real, documented harm to the mental health of Native youth. The American Psychological Association found that derogatory representations

like Native-based mascots create hostile learning environments for Native students. Studies show that the continued use of American Indian mascots teaches young people that stereotyping minority groups is an acceptable practice, further legitimizing discrimination against Native Americans.

NARF Deputy Director Matthew Campbell, who has worked in forums across the country to change harmful mascots, said, “NCAI has advocated for the elimination of harmful mascots for decades. As an organization whose mission is to improve the quality of life for Native people and communities, this sort of advocacy only makes sense. The Native American Guardian’s Association may have a different opinion on this issue, but differing viewpoints are not enough to form a conspiracy lawsuit. This suit is legally unsound and disappointing to see in a time when these mascots and images have been found to harm our youth.”

Learn more about [NARF’s long history of working to remove race-based mascots](#).

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## **Native Judges Belong on the Federal Bench**

**November 28, 2023**

*By Morgan Saunders, Staff Attorney at the Native American Rights Fund and Lena Zwarenstejn, Senior Director of the Fair Courts Program at The Leadership Conference on Civil and Human Rights.*

In his Native American Heritage Month proclamation this year, President Biden touted the “dozens of Senate-confirmed Native American officials, and over 80 Native American appointees serving across my Administration and in the Federal courts.” While Interior Secretary Deb Haaland stands out as a powerfully important example of Native representation in the federal government, Native judges remain severely underrepresented on our nation’s federal courts.



Before the Biden administration, fewer than 10 Native Americans, Alaska Natives, or Native Hawaiians total — out of thousands — have ever served as lifetime judges. This historical exclusion has long been unacceptable. And, while the Biden administration and this Senate have made some progress, much more is needed. To date, Native American lifetime judges have only served in six states (Arizona, California, Maryland, Oklahoma, Texas, and Washington), in addition to four Native Hawaiian lifetime judges who have only served on the District of Hawaii.

In 2021, Judge Lydia Kay Griggsby became the first Native American lifetime judge in Maryland and Judge Lauren King — who also possesses significant experience in tribal law — became the first Native American lifetime judge in Washington state and the first Muscogee Creek Nation citizen to serve in such a role. Last year, Judge Sunshine Sykes became the first Native American lifetime judge in California and the first Navajo Nation citizen appointed to the federal bench.

And last month, President Biden [nominated Sara Hill](#) to the U.S. District Court for the Western District of Oklahoma. Hill, who is a citizen of the Cherokee Nation, has deep experience in

Indian law. She would be the first Native American woman in Oklahoma to serve as a lifetime judge. Sara Hill's immense experience, having served as the Attorney General and the Secretary of Natural Resources for the Cherokee Nation, provides her with unique and deep experience necessary for the federal bench. And her legal experience—like that of Judges King and Sykes—demonstrates just how tremendous experience in Indian law is and how important it is that senators and presidents look to lawyers who are Native American and who have long practiced in and on behalf of Tribal Nations. When she is confirmed, she will become just the eighth Native American lifetime judge in our nation's history—and half will have been appointed by President Biden.

During her confirmation hearing before the Senate Judiciary Committee earlier this month, Senator Alex Padilla asked Ms. Hill what her confirmation would mean to her and to the people of Oklahoma. She noted, given the state's large Native population, that having a court that reflects the communities it serves "is a sign that your government is thriving, that the community is thriving, that things are working well." It's an opportunity, she said, "to reflect the community that is served by the Northern District. And it's a very humbling thought to be the first."

Additionally, President Biden nominated Judge Shanlyn Park in September to serve on the U.S. District Court for the District of Hawaii. Judge Park has shown an impressive commitment to equal justice throughout her career, including serving as a federal public defender for 20 years. When she is confirmed, she will be the only Native Hawaiian woman to ever serve as a lifetime federal judge and the fifth Native Hawaiian person ever confirmed to the federal judiciary.

This improved Native representation on the federal bench matters. But much more progress is necessary to ensure that our federal courts truly reflect the rich diversity of our nation and that our judges are well-versed in the issues facing their local communities. For example, many issues of daily life for people in Native communities are significantly affected by federal law, including federal common and criminal law. Cases involving Tribal Nations and their interests are heard primarily in federal courts. For these reasons, it is imperative that federal judges are well-versed in the unique political status, legal principles, and rights of Tribal Nations and Native individuals. Critically, there has never been a Native American judge on any federal appellate court in our nation's history—including the U.S. Supreme Court—despite the high number of cases those courts hear related to federal Indian law.

We celebrate the important progress we've made over the past three years, but we must not stop now. With nearly 100 judicial vacancies across the country, including in states where there are significant Native populations—including Arizona, Montana, and California—it is critical that we see additional Native nominees and nominees with experience in Indian law. Native nominees are underrepresented on the federal bench, and they are necessary to ensure that our federal courts and judges truly understand issues facing the communities they serve.



**The US Promised to Return Stolen Lands to Native Hawaiians a Century Ago. Most Are Still Waiting**

<https://www.rsn.org/001/the-us-promised-to-return-stolen-lands-to-native-hawaiians-a-century-ago-most-are-still-waiting.html>