



## The Navajo Nation Council — Office of the Speaker

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**FOR IMMEDIATE RELEASE**

### **Speaker Morgan, Council react to Nelson vs. Initiative Committee to Reduce Navajo Nation Council and Joe Shirley hearing**

*Chief Justice Herb Yazzie explained more time was needed to render a decision.*

**WINDOW ROCK, Ariz.** – The Navajo Supreme Court heard Nelson vs. Initiative Committee to Reduce Navajo Nation Council and Joe Shirley today at the Navajo Nation Museum.

Nelson was represented by Attorney John Trebone. Amicus briefs or friends of the court briefs were filed with the court as well and they were given time to present their support or opposition to the case. Chief Legislative Counsel Frank Seanez, Levon Henry from DNA, Regina Holyan from the Navajo Department of Justice and Attorney Jim Fitting for Eddie Arthur were allowed to present their briefs in the court.

Attorney Trebone and Joe Shirley Jr.'s attorney Albert Hale were allowed 20 minutes to present their case. In addition to his filed appeal, Trebon argued Nelson's due process was violated. He asked the justices, "What would happen if N.N.C. Section 102 (A) was totally struck down?"

The lead plaintiff, Tim Nelson from Leupp, Ariz., represented the Diné for Fairness in Government. Nelson appealed his grievance to challenge the Dec. 15 special election results to the Navajo Nation Supreme Court after it was dismissed by the Office of Hearings and Appeals.

In the appeal, Nelson challenged two initiatives sponsored by President Joe Shirley Jr. The initiatives were voted on by the Navajo people during a special election to reduce the Navajo Nation Council from 88 to 24 members and to grant the President line-item veto power.

Nelson challenged the election results arguing it violated 2 N.N.C. (A) and §101 of the Navajo Nation Election Code. The code specified the governmental structure cannot be changed unless it is approved by "all" registered voters in "all" precincts.

According to the law, "all" precincts must have majority vote, which means every single agency must have voted in favor of council reduction in order for it to be lawful. In the Western Navajo Agency alone, where Nelson is from, 12 of the 18 chapters or 70 percent of the chapters voted against council reduction. This is not in accordance with the "all" precincts rule.

This violation in 2 N.N.C. (A) and §101 of the Election Code ignited grassroots opponents of council reduction and they challenged the election results.

"My view is that if people understood the laws more properly, the laws that govern us, then the people would know where the law is circumvented," Nelson explained. "The people in office are manipulating the media to their benefit. We know we won't be heard because we are a small part of the political machine. Fortunately, we have an understanding of what needs to be done."

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After nearly two hours of debate and presentation, the Navajo Supreme Court Justices concluded the hearing. Chief Justice Herb Yazzie explained more time was needed to render a decision. He requested all parties meet again when the decision is ready. He said proper notice will be given and he admitted the request for more time is not the normal process, but he felt it was needed in this instance.

Council Delegate Thomas Walker Jr. (Birdsprings/Leupp/Tolani Lake) said all elected officials take an oath before accepting office and swear to uphold the laws of the people whether codified or statutory.

"The recent election results are not in compliance with 2 N.N.C. (A) and §101 of the Navajo Nation Election Code – the simple majority rule," Walker said. "We have to maintain that. We are a nation built on laws. If we circumvent or not comply with laws we made, then that has an adverse affect on our sovereignty and integrity of the Navajo Nation."

The Council's enactment of Resolution CJA-08-10, which limits the use of Diné Fundamental Law, has also impacted the proceedings of the case. The specialization and enactment of the law's amendments prohibits manipulation.

In response to the hearing, Speaker Morgan remained concerned.

"We will see what happens," Speaker Morgan said. "The Navajo peoples' voice deserves to be heard, especially the ones who voted against reducing the council. Tim Nelson and the more than 16,000 people that voted against the reduction of council also need to be heard. If we are talking about Diné Fundamental Law, then we also need to consider the infringement on voters who voted against council reduction. Timothy Nelson also has the right to his vote, he has a fundamental right to contest this election and he has a fundamental right to choose how his government is structured."

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