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SUPREME COURT ISSUES OPINION IN *HAUNGOOAH V. GREYEVES*

On June 4, 2013, the Supreme Court issued its opinion in *Dean Haungooah v. Delores Greyeyes, Director, Department of Corrections, No. SC-CV-06-13*, regarding a petition for writ of habeas corpus filed by a homeless, non-Navajo Indian who had been arrested on a bench warrant without first being served with a probation revocation petition, then ordered to be incarcerated after his probation was revoked. The Court had previously granted the writ and ordered the petitioner's immediate release following an expedited hearing.

The Court found an illegal detention because the court had issued a bench warrant for the defendant's arrest without the petition for revocation of probation having been served, and without making a probable cause determination of futility that defendant would respond to service. The Court held that otherwise, a defendant must be properly served with a summons and notice of proceedings. Additionally, the Court did not find the defendant waived his right to an attorney, which the Court stated is a fundamental right. There must be meaningful notice and explanation of the right to the defendant before a waiver is accepted, and the circumstances were not present in this case. Finally, defendant was detained prior to trial. The Court stated that for a temporary commitment order to be issued, there must be specific findings why it is necessary, which were absent in this case.

In regards to the defendant's homelessness, the Court stated that pursuant to Diné beenahaz'áanii, the judicial and legal system has options and obligations to offer assistance and to apply restorative justice rather than strictly applying punitive justice. When it is known that a defendant is in need of assistance, the Navajo justice system should help defendants obtain rehabilitative services for treatment.

The period for reconsideration having ended, the opinion is now available on the www.navajocourts.org website.

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