



Contact: Karen Francis, *Judicial Liaison Officer*
Administrative Office of the Courts
JUDICIAL BRANCH OF THE NAVAJO NATION
Office: 928-871-7018
Facsimile: 928-871-6761
E-mail: karenfrancis@navajo-nsn.gov
<http://www.navajocourts.org>

FOR IMMEDIATE RELEASE

DATE: Thursday, December 29, 2011

SUPREME COURT ISSUES OPINION IN BITSIE V. GREYEVES

The Navajo Nation Supreme Court has issued a writ of habeas corpus in Bitsie v. Greyeyes, No. SC-CV-55-11 in which a defendant at a pre-trial conference was verbally charged by the prosecutor with an additional crime of interfering with judicial proceedings, arrested on that new charge, then denied bail later that day at his arraignment.

The petitioner filed for habeas corpus alleging he was wrongfully detained because he was denied bail without a separate hearing and without specific findings by the district court justifying his pretrial detention.

On the issue of whether the denial of bail at arraignment without a separate bail hearing violates a defendant's right to due process, the Court stated that 17 N.N.C. § 1807(A) mandates that a defendant must have an opportunity to be released from bail within 18 hours. Practically, this means that pretrial release by bail must be considered at defendant's earliest court appearance, namely, at the defendant's arraignment.

On the issue of lack of specific findings by the district court in denying bail, the Court stated that reasons to deny bail must be made part of the district court record so that a defendant is able to challenge them and the Supreme Court may review them. If the Navajo Nation does not provide the district court's reasons for denying bail, the defendant's release is justified. Such reasons were not presented to the Supreme Court as part of the record in this case.

"Without a record, we cannot determine whether the district court judge clearly and adequately explained his or her reasons for denying release to the defendant and whether the district court's denial of bail was sustained by clear and convincing evidence," the Supreme Court stated.

Finally, the Court addressed the issue of whether pretrial detention is permitted when the underlying charge does not specify incarceration as a possible sentence. The Court stated that in cases where the underlying charge or charges do not include incarceration as a possibility, the district courts shall consider alternatives to detention as a first option and provide a clear and

adequate explanation on record why alternatives to pretrial detention are not appropriate in the given case.

###