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Health, Education, and Human Services Committee applauds U.S. Supreme Court decisions pertaining to Indian Country

WINDOW ROCK – The Health, Education, and Human Services Committee applauded two key decisions issued by the U.S. Supreme Court last week that pertain to the Navajo Nation, as well as Indian Country as a whole.

Last Thursday, the U.S. Supreme Court voted 4-3 to uphold the affirmative action admissions process at the University of Texas, a case in which the court had to consider whether the race-conscious admissions program at the university is lawful under the U.S. Equal Protection Clause.

In 2013, Abigail Fisher brought suit against the University of Texas stating that she was not admitted to the school due to the affirmative action policy, alleging that the university discriminated against her because she is Caucasian.

HEHSC chair Council Delegate Jonathan Hale (Oak Springs, St. Michaels) said the U.S. Supreme Court's decision indicated that there is a recognition that race and culture play a significant role in promoting diversity at educational institutions.

"It is a good acknowledgement throughout Native America, especially pertaining to our Navajo citizens seeking higher education, it recognizes who they are, where they come from, and their culture. It is a win for the Navajo people," said Delegate Hale.

He added that the decision should prompt educational institutions to begin understanding diverse cultures, specifically Native American people, who should not be subjected to discriminatory actions such as being restricted from wearing traditional regalia including traditional hairstyles, feathers, and moccasins at graduations.

"We want other educational institutions to understand that when we wear our traditional regalia, it is of no disrespect to them, it is our Native people preserving our heritage which illustrates who we are and our cultural identity. It should not be held against us," said Delegate Hale.

HEHSC member Council Delegate Nathaniel Brown (Chilchinbeto, Dennehotso, Kayenta) said affirmative action policies allow for educational opportunities for Navajo people who may find it difficult to be admitted to universities, especially those that are considered "ivy league."

“Particularly in higher education, affirmative action policies help minorities. We do have a lot of Navajo students who are qualified, but there are other areas that they may not have an equal chance to participate in,” said Delegate Brown.

He said that the Navajo Nation should promote programs that can bridge relationships between Navajo schools and universities to ensure that students have a higher chance of being admitted into ivy league schools.

In a separate ruling, the U.S. Supreme Court voted 4-4 regarding a case filed against a non-Indian individual who sexually assaulted a Native American boy on an Indian reservation. The deadlocked decision will allow the case to move forward in the Mississippi Band of Choctaw Indians tribal court system.

In 2003, Dale Townsend, a manager at the Dollar General on the Choctaw reservation allegedly molested a 13-year-old Choctaw boy participating in the company’s youth-opportunity program. The boy’s family sued Townsend, a non-Indian, and Dollar General in the Choctaw tribal court. The defendants argued that the tribe did not have jurisdiction over them and filed injunctions.

EHSC member Council Delegate Amber Kanazbah Crotty (Beclabito, Cove, Gadi’i’áhi/To’Koi, Red Valley, Tooh Haltsooi, Toadlena/Two Grey Hills, Tsé ałnáoz’t’í’í) said the court’s tie decision upheld a critical component of tribal sovereignty in Indian Country.

“The makeup of the U.S. Supreme Court is vital. We need Justices that will recognize the sophistication of tribal courts and its system. Convictions at the tribal court level solidify that repeat offenders in Indian Country will receive appropriate sentences and that victims of violence are provided justice,” said Delegate Crotty.

She added that the next U.S. President must be well versed in understanding the government-to-government relationship between the Navajo Nation and the U.S. government, as well as with other Nations in Indian country.

By default, the Supreme Court’s tie-vote upholds a federal circuit court’s decision that Dollar General is subject to tribal jurisdiction because they agreed to participate in the youth-opportunity program. Under a 1981 Supreme Court ruling, *Montana v. United States*, tribal courts have the authority to prosecute a non-Indian defendant in civil cases based on “consensual relationships,” or cases that concern matters that directly affect the health and welfare of the tribe.

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