

Abuse Of Power - Federal Judge Orders Black Judge to Jail for performing his Tribal Court Duty

Federal Magistrate Judge questioned by Tribal Court Judge on legal rights to jail a black Judge for doing his job (original story @<https://tinyurl.com/101022b>)

SAN JOSE, CALIFORNIA, UNITED STATES, November 8, 2022 /EINPresswire.com/ -- On September 15, 2022, Costanoan Tribal Court Judge, Cary Lee Peterson, an African-American Muslim male from San Jose, was arrested at his South San Jose residence by the San Benito County Sheriff Department for allegations related to his work for the Costanoan Indian Tribal Community of Indian Canyon. The sheriff's warrants referenced State laws violated within the Indian reservation. He has been held in custody at the Santa Rita jail in Alameda County since that time on a federal detainer issued by the United States Marshal Services.

On October 24, 2022, the United States District Court for the Northern District of California denied Peterson's request for release a second time. The court based its ruling on the same reasons why Peterson was initially arrested: Peterson, in his role as a Tribal Court Judge, allegedly issued orders from a Tribal Court that were fraudulent and that he abused his judicial power.

Testimony of Federal Probation Officer Anthony Cardenas

Among the five court hearings in this criminal action that United States Magistrate Judge Nathaniel Cousins declared to be "extraordinary," a federal probation officer, Anthony Cardenas, testified that he filed a criminal complaint against Peterson in September based on Cardenas "feeling" that there was something suspicious about Peterson, a probation client of his, being employed as a judge and chief counsel for an Indian Tribal Government.

Peterson's defense attorney, Jesse Ortiz, spent hours cross-examining Cardenas about his



concern for Peterson's work as a Tribal Judge for the Costanoan-Chualar Indian Tribal Community of Indian Canyon. Cardenas's testimony contradicts claims that he made against Peterson in the federal complaint.

Cardenas admitted he had investigated and confirmed that Peterson did in fact work for the Indian Tribal Court and Tribal Council. However, Cardenas testified that he did not believe that Peterson should be making so much money working for an Indian tribe, should not be allowed to serve as a tribal court judge, should not have the right to consolidate an old student loan so he could study law at Harvard, and should not have the right to contact the local police to report a break-in at his San Jose home and also report trespassing violations of a non-Indian at the Indian reservation where Peterson works.

At the most recent bail hearing, U.S. attorney Stephanie Hinds conceded that much of the complaint was "hyperbole," and that Cardenas's initial concern was that Peterson "was acting as the law on behalf of an Indian Tribe."

After Cardenas completed his testimony, Peterson's attorney asked the court to release Peterson from federal custody.

Judge Cousins denied this request stating that Cardenas's evidence and testimony concerning Peterson's "judicial abuse" were related to the arrest and search warrant issued by the Superior Court of San Benito County. The court made this ruling even though the warrants have not resulted in criminal charges, but the allegations remain under investigation.

There has never been any legal action taken by the judiciary ethics board concerning Peterson's action as a Tribal Judge.

At the hearing, Tribal Court Judge Peterson was able to discuss with Magistrate Judge Cousins Peterson's concern that he had been dropped from his law courses at Harvard since he missed classes due to being "unlawfully jailed" for the past 45 days.

Peterson told Judge Cousins he believed Cousins had abused his discretion and did not have the power to sanction, prohibit, detain, or remove another judge for conducting his duties in an official capacity for an Indian tribal government. The discussion between Judge Cousins and Judge Peterson began after Judge Cousins repeatedly mentioned that there was an "abuse of judicial power" when Peterson issued an arrest warrant from the Tribal Court. Cousins used this as the primary reason he ordered Peterson to remain in jail under federal custody.

Magistrate Judge Cousins did not respond to Peterson's challenge concerning the authority of a U.S. District Court to sanction a Tribal Government's Court. Peterson called Cousins' attention to Judge Davila's court orders issued this past summer that acknowledged the existence of both the "Costanoan Tribal Court" and the "Costanoan-Chualar Indian Tribal Government of Indian Canyon."

Follow-up Actions

This case is scheduled for a hearing before United States District Court Judge Beth L. Freeman at the U.S. Courthouse in San Jose on November 15, 2022.

On October 27, 2022, Tribal Chief Judge Cary Peterson, in federal custody pursuant to allegations that he committed fraud and abused his judicial power, attempted to file a motion in accordance with Federal Rule of Civil Procedure 24(b) that legally allows a Tribal Government official to intervene in a court case. Judge Cousins denied the Tribal Government's filing stating such an intervention will not be allowed.

U.S. Attorney's Remarks

In September, the U.S. attorney told the court that "this complicated issue boils down to the fact that Peterson is acting as the chief of law and order for an Indian Tribe."

At the most recent court hearing, the office of Bay Area's U.S. Attorney Stephanie Hinds, stated that the fact that Peterson hired licensed and armed security guards on behalf of the Tribal Community to patrol the Indian reservation road, Peterson should be considered a threat of harm to the community and refused bail, primarily because Peterson is "Acting like he's the law... and that's a big problem."

The U.S. Attorney's office has not responded to repeated attempts to obtain answers to questions about this unusual case and Cardenas's contradicting testimony.

Of interest, Peterson sued attorney Hinds last year in a civil action heard by Judge Cousins.

News content by Rebecca Donaldson, J.D.

Supporting Media Sources:

Racial Injustice?: White Fed Judge unlawfully sanctions black Judge (<https://emwnews.com/racial-injustice-white-fed-judge-unlawfully-sanctions-black-judge/>)

Transcript (United States v. Cary Lee Peterson, US-CAND-22-cr-0338-BLF, OCT. 24, 2022) & Kanyon-Sayers Roods v. Marlene Rita Machado, Doc 20, 06/10/20 (<https://tinyurl.com/56936z6d>)

Court Order - Nathanael Cousins - US-CAND (United States of America vs Cary Lee Peterson, Case No. 22-cr-0338-BLF) (<https://bit.ly/3RMKSUG>)

Bay Area Judge Release 2 White Murder Defendants & Deny Bail For 2 Non-Violent Black

Defendants (<https://emwnews.com/bay-area-judges-release-2-white-murder-defendants-deny-bail-for-2-non-violentblack-defendants>)

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