

Court sides with Navajo Nation over B.I.A. funding debacle

Written by Staff Reports
Friday, 07 April 2017 03:37

WINDOW ROCK – The United States Court of Appeals for the District of Columbia held on April 5, that the Bureau of Indian Affairs (BIA) owes the Navajo Nation approximately \$15.6 million plus interest in funding it withheld from the Nation's Judicial Branch operations in 2014.

In doing so, the Court of Appeals reversed the District Court's March 2016 decision denying the Nation's motion for summary judgment under the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. §450 *et seq.*

The BIA awarded the Nation only \$1.3 million in 2014, but the Nation argued that the denial of the majority of its funding request by the BIA was untimely. Under the ISDEAA, the BIA has 90 days to deny a tribe's funding proposal, or the proposal is automatically approved.

Although a BIA employee accepted and time-stamped the Nation's proposal on October 4, 2013, the BIA argued that due to a partial government shut-down the 90-day clock did not start running until October 17, 2013.

The Court of Appeals disagreed with the BIA, holding that both the ISDEAA and federal case law supports the Nation's assertions that the 90-day deadline began running on October 4, 2013.

The Court chastised the BIA for arguing that the Nation's failure to respond to correspondence prior to the BIA's final denial of funding should preclude the Nation from seeking the denied funding, saying:

"The government itself has consistently taken the position that estoppel does not apply against the sovereign United States. It thus ill-behooves the government to seek to impose such an uncommon action against another sovereign, especially one to which it owes a 'distinctive obligation of trust.'"

"The Begaye-Nez administration commends the U.S. Court of Appeals decision to hold the BIA

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accountable for trust responsibilities to the Navajo Nation,” Navajo Nation Vice President Jonathan Nez said. “Withholding funding from our tribal courts was not only ill-advised, but a repudiation of government-to-government relationship between sovereign entities. We appreciate the reversal by the court to rectify this injustice.”

Navajo Nation Chief Justice Allen Sloan stated: “We look forward ultimately to bringing this case to a favorable resolution so that we may provide much needed services to our Dine people.”