

**RESOLUTION
OF THE LAW AND ORDER COMMITTEE**

OF THE 23rd NAVAJO NATION COUNCIL - First Year, 2015

**AN ACTION
RELATING TO LAW AND ORDER; DESIGNATING JUDGE ALLEN SLOAN AS
ACTING CHIEF JUSTICE FOR THE NAVAJO NATION SUPREME COURT**

BE IT ENACTED:

Section One. Findings

- A. The Navajo Nation Council established the Law and Order Committee (LOC) as a Navajo Nation standing committee and as such gave the LOC oversight over the Navajo Nation Judicial Branch. 2 N.N.C. §§ 164 (A)(9), 600 (A), 601 (C)(1) (2012) see also CJA-03-13, 22nd Navajo Nation Council (2013).
- B. The Law and Order Committee's purpose is "[t]o improve the administration of justice on the Navajo Nation by ensuring a justice system that is independent from political influence and that is accountable and responsible to the Navajo Nation in its administration and operations. The justice system includes the Judiciary Branch..." and "[t]o protect the rights and interests of the Navajo People by improving the quality and effectiveness of the justice system within the Navajo Nation. 2 N.N.C. § 600 (C)(1) and (2) (2012) see also CJA-03-13, 22nd Navajo Nation Council (2013).
- C. The Navajo Nation Council gave the Law and Order Committee "all prudent powers necessary and proper" to exercise their above stated purpose. 2 N.N.C. § 601(A) (2012) see also CJA-03-13, 22nd Navajo Nation Council (2013).
- D. On May 12, 2015, then Chief Justice Herb Yazzie issued Administrative Order 22-2015 designating Associate Justice Eleanor Shirley as Acting Chief Justice until a successor is duly confirmed. EXHIBIT A.
- E. In the May 2015 Administrative Order, then Chief Justice Herb Yazzie cited 7 N.N.C. § 372(A) as his statutory authority to designate an Acting Chief Justice.

- F. However, 7 N.N.C. § 372 does not apply to a Chief Justice vacancy. In 1977, the Chief Justice could designate a trial court judge to act as Chief Justice when the Chief Justice was "absent from the territorial jurisdiction of the Trial Court, is on vacation, ill, or otherwise unable to perform the duties of his office, or **whenever the office of Chief Justice is vacant.**" 7 N.N.C. § 372 (1977). The Navajo Nation Council amended this section in 1985 to state that a Chief Justice could designate an Associate Justice from the Supreme Court to act as Chief Justice when the Chief Justice is "absent from the territorial jurisdiction of the Navajo Nation, is on vacation, ill, or otherwise unable to perform the duties of his office." 7 N.N.C. § 372 (1995).
- G. The Navajo Nation Council, in 1985, specifically took away the Chief Justice's authority to designate an acting Chief Justice when a vacancy exists. Since the 1977 vacancy provision was separate from the "otherwise unable to perform the duties of his office" provision; vacancy cannot be defined now as "otherwise unable to perform the duties of his office" like the Chief Justice attempted to accomplish in his May 2015 Administrative Order.
- H. On October 11, 2004, Chief Justice Claudeen Bates Arthur designated Associate Justice Lorene B. Ferguson when the Chief Justice went on sick leave. EXHIBIT B. This designation fits with in the statutory language because the Chief Justice was absent due to illness. 7 N.N.C. 372(A) (2003).
- I. On November 27, 2004, Chief Justice Claudeen Bates-Arthur succumbed to her illness; creating a Chief Justice vacancy. As stated in paragraphs F-G above, the Navajo Nation Council expressly removed vacancy as an authority for a sitting Chief Justice to designate an Acting Chief Justice.
- J. The Navajo Nation Council Judiciary Committee reaffirmed the Honorable Lorene B. Ferguson's designation as Acting Chief Justice of the Navajo Nation Supreme Court. JCD-10-04. EXHIBIT C.
- K. The Judiciary Committee possessed the authority to reaffirm the Honorable Lorene B. Ferguson's designation as Acting Chief Justice because the Navajo Nation Council gave the Judiciary Committee "powers necessary and proper" "to improve the administration of justice on the Navajo Nation by ensuring an independent judiciary free from political

influence in its deliberative process that remains accountable and responsible to the Navajo Nation for its administrative and operational activity." 2 N.N.C. §§572(A) and 574 (2009).

- L. On December 26, 1991, the Navajo Nation Council Judiciary Committee designated the Honorable Homer Bluehouse to serve as Acting Chief Justice. EXHIBIT D. The Navajo Nation Council gave the Judiciary Committee authority to appoint an Acting Chief Justice because a Chief Justice vacancy existed on January 1, 1992. CO-66-91.
- M. In 2010, Navajo Nation voters reduced the Navajo Nation Council size from 88 to 24 delegates. CAP-10-11, 22nd Navajo Nation Council, sec. 2 (A) (2011). With the Navajo Nation Council's reduced numbers, the number of Navajo Nation Council standing committees was also reduced. *Id.* Navajo Nation Council standing committees went from 11 to 5: Law and Order, Resources and Development, Health, Education and Human Services, Budget and Finance and Naabik'iyáti' Committees. Public Safety and Judiciary Committees became the Law and Order Committee. CJA-03-13, 22nd Navajo Nation Council, sec. 5(C) (2013).
- N. The Law and Order Committee kept the same purpose as the Judiciary Committee. See ¶¶ B and K.
- O. As stated in paragraph F, 7 N.N.C. § 372 does not apply to a Chief Justice vacancy. The Navajo Nation Council removed the vacancy provision. However, a Chief Justice vacancy provision was not addressed in Title 7, nor in any other Navajo Nation Code Title, like the vacancy provision for the Navajo Nation President and Speaker. 2 N.N.C. §§ 1006 and 286 (2012). Therefore, the Law and Order Committee shall exercise "all prudent powers necessary and proper" to ensure the quality and effectiveness of the Navajo Nation justice system. 2 N.N.C. 601(A) and (600)(C)(2) (2012) see also CJA-03-13, 22nd Navajo Nation Council (2013).
- P. The Law and Order Committee's designation of an Acting Chief Justice ensures the administration of justice for the Navajo Nation.

Section Two. Designating an Acting Chief Justice

The Navajo Nation Council's Law and Order Committee designates Judge Allen Sloan to serve as Acting Chief Justice with

authority to exercise all authorities and duties delegated to and consistent with the Chief Justice position at 7 N.N.C. § 371, until the Navajo Nation Council confirms a Chief Justice in accordance with the procedural process in 7 N.N.C. § 355.

CERTIFICATION

I, hereby certify that the forgoing resolution was duly considered by the Law and Order Committee of the 23rd Navajo Nation Council at a duly called meeting at Tolani Lake Chapter House, Tolani Lake, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 2 in favor, 0 opposed, 0 abstained this 27th day of July, 2015.


Edmund Razzie, Chairperson
Law and Order Committee of the 23rd
Navajo Nation Council

Motion: Honorable Kee Allen Begay, Jr
Second: Honorable Otto Tso