

SUPREME COURT OF THE NAVAJO NATION

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In the Matter of Admission to Practice Law on the Navajo Nation and Admission to the Navajo Nation Bar Association, Inc. of:

**ROBERT FRANK GENTILE**

OPINION

Before JAYNE, J., Chief Justice; and SHIRLEY, E., Associate Justice.

The Court has received a Petition for Admission to Practice Law on the Navajo Nation and Admission to the Navajo Nation Bar Association, Inc. of the above named applicant. The Court denies admission based on the reports that this applicant was engaged in the unauthorized practice of law in the Navajo Courts while this petition was still pending.

I

This matter first came before this Court by Petition for Admission to Practice Law on the Navajo Nation and Admission to the Navajo Nation Bar Association, Inc. on June 4, 2018. The petition stated that Applicant, Robert Gentile (“Gentile”), had complied with the requirements for admission. By order of this Court, a hearing was set for June 11, 2018. Gentile did not appear.

Subsequently, a Motion to Withdraw the Petition for Admission was filed on August 10, 2018. This motion stated that Gentile had not completed the requirement for a Navajo Nation Bar Association (“NNBA”) approved course in Navajo law, culture, traditions, and history.

On January 23, 2019, the NNBA again urged this Court to grant admission through a Motion to Grant the Petition For Admission to Practice Law on the Navajo Nation and Admission to the Navajo Nation Bar Association, Inc..

The Chief Justice appointed a district court judge as Associate Justice by designation as the third member of the panel to hear the petition. Subsequent to the appointment, the Associate Justice was forced to withdraw, as she was presiding over a case in which the applicant for admission was appearing as counsel of record in a lower court proceeding.<sup>1</sup> This Court then stayed this admission matter while the District Court held a hearing and made its findings related to an Order to Show Cause hearing in which Gentile was responsible for establishing good cause that he was permitted to practice law before the Navajo Courts. The district court provided the order to the Supreme Court.

From the Order of that hearing, Gentile made an appearance, filed motions, and acted as legal counsel some months before he was issued a *pro hac vice* certificate. Per the District Court's findings, Gentile began filing motions on May 23, 2018. Gentile received a *pro hac vice* certificate from the NNBA Admission Committee in July 2018. This *pro hac vice* admission certificate was submitted to the district court at the order to show cause hearing.

The district court found Gentile in civil contempt for practice without admission to practice law in this jurisdiction, and for his failure to motion the district court for his appearance once he received a *pro hac vice* certificate.

## II

The question presented is whether, after a finding of civil contempt for the unauthorized practice of law, an applicant for admission to practice before the Navajo Courts can meet the high standards of the profession required to protect Navajo people who seek legal representation.

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<sup>1</sup> This Court may decide matters by a two Justice Panel in cases where three justices are assigned and one becomes unavailable. *Benally v. Mobil Oil*, 8 Nav. R. 365, 369 (Nav. Sup. Ct. 2003).

### III

We have previously determined that allowing the bar association to set admission standards is proper. *In re Practice of Law in the Courts of the Navajo Nation*, 4 Nav. R. 75 (Nav. Ct. App. 1983). The NNBA is a partner in the process of regulating the practice of law. *Id.*

This Court recognizes the difficult and time consuming work done by the members of the NNBA. The difficulty of these tasks is related to the exceptional opportunity of self-regulation of the practice of attorneys and advocates on the Navajo Nation.

The Supreme Court relies on the partnership with the NNBA for admissions, however, the Supreme Court of the Navajo Nation has the ultimate authority to regulate court processes and conduct of attorneys. *Corporation of the President of the Church of Jesus Christ of Latter Day Saints v. Window Rock District Court and Concerning BN, Real Party in Interest*, SC-CV-42-18, slip op at 5 (Nav. Sup. Ct. December 28, 2018) [hereinafter *LDS*]; *In re Seanez*, 9 Nav. R. 416, 416 (Nav. Sup. Ct. 2010), *Eriacho v. Ramah Dist. Ct.*, 8 Nav. R. 598 (Nav. Sup. Ct. 2004); *Navajo Nation v. MacDonald*, 6 Nav. R. 222 (Nav. Sup. Ct. 1990); *Boos v. Yazzie*, 6 Nav. R. 211 (Nav. Sup. Ct. 1990); *In re Practice of Law in the Courts of the Navajo Nation by Avalos*, 6 Nav. R. 191 (Nav. Sup. Ct. 1990); *In re Practice of Law in the Courts of the Navajo Nation, supra*; *In re Practice of Battles*, 3 Nav. R. 92 (Nav. Ct. App. 1982).

### IV

Despite the limited delegation of authority to the NNBA for the screening of applicants, the Court is still the ultimate source of authority to admit applicants to the practice of law before the Navajo Courts.

Admission to practice law before the Navajo Courts is a privilege not a right. *LDS, supra* at 6 (citing *In re the Admission to Practice of Wilson*, 4 Nav. R. 137 (Nav. Ct. App. 1983); *Boos*

v. *Yazzie*, 6 Nav. R. at 214 (an individual does not have an absolute right to practice law within Navajo jurisdiction)).

When this Court receives a petition from the Navajo Nation Bar Association it is more than a ministerial matter. The Supreme Court has delegated the responsibility of screening applicants to the NNBA. *In re Practice of Law in the Courts of the Navajo Nation by Avalos*, 6 Nav. R. at 193; *Alderman v. NNBA*, 6 Nav. R. 188 (Nav. Sup. Ct. 1990); *Tafoya v. NNBA*, 6 Nav. R. 141 (Nav. Sup. Ct. 1989). This delegation means that the Court relies on the information contained in the NNBA petition when determining whether to admit an applicant or to deny the application.

The Navajo Nation Supreme Court has ultimate authority to grant or deny a person the privilege to practice law within the Navajo Nation. *LDS, supra*. We take this responsibility seriously and act, in admissions and discipline matters, to uphold the high standards of the profession and protect Navajo people who seek out legal representation. *See In re Practice of Law in the Courts of the Navajo Nation*, 4 Nav. R. at 76. The regulation of attorney practice is essential to maintain professional and ethical practice before the Court and to protect the litigants who participate in the process. *Eriacho v. Ramah Dist. Ct.*, 8 Nav. R. at 602.

## V

The purposes of court regulation of attorney admissions and the practice of law are to guarantee that the public will have their cases presented properly and that it will receive adequate and accurate legal advice. *In re Practice of Law in the Courts of the Navajo Nation*, 4 Nav. R. at 76. When evaluating Bar applicants, the interest of the public is always paramount. *Tafoya v. NNBA*, 6 Nav. R. at 146. “An attorney is engaged in a highly specialized profession in which he is entrusted with the livelihood of a client.” *Id.* The Supreme Court has an obligation to the

public to ensure that those certified to practice law within the Navajo Nation have met the standards for admission. *Id.*

NNBA members are held to very high standards of professional conduct. *In re Bowman v. MacDonald*, 6 Nav. R. 101, 103 (Nav. Sup. Ct. 1989). Attorneys and advocates are officers of the court, who have a special responsibility to ensure the integrity of the Navajo legal system. *Perry v. Navajo Nation Labor Commission*, 9 Nav. R. 55, 57 (Nav. Sup. Ct. 2006). This maintains the integrity and competence of the legal profession, which improves the legal system. *See, Bowman, supra* at 103.

## VI

This case is particularly troubling because it appears that an applicant who was otherwise qualified appears to have elected to enter an appearance before the Navajo Courts prior to the issuance of the *pro hac vice* certificate, and certainly before he was admitted to practice law in this jurisdiction. The NNBA stated that Gentile had complied with the Requirements for Admission to the NNBA as provided NNBA Bylaws, section VI.

On any appearance by any attorney in Navajo courts (including those permitted to appear *pro hac vice*), the attorney is responsible to the Court for his actions. *Navajo Nation v. MacDonald*, 6 Nav. R. at 228. These actions include the applicant making inquiry to assure his or her eligibility to practice law. *In re Practice of Law in the Courts of the Navajo Nation by Avalos*, 6 Nav. R. at 192.

Here, there is a significant question as to the ability of an applicant to uphold the high standards required for admission to practice before the Navajo Courts. This court has previously determined that:

Every lawyer owes a solemn duty to uphold the integrity and honor of his profession; to encourage respect for the law and for the courts and judges thereof; to observe the Code of Professional Responsibility; to act as a member of a learned profession, one dedicated to public service; to cooperate with his brother lawyers in supporting the organized bar through the devoting of his time, efforts, and financial support as his professional standing and ability reasonably permit; to conduct himself so as to reflect credit on the legal profession and to inspire the confidence, respect, and trust of his clients and of the public; and to strive to avoid not only professional impropriety but also the appearance of impropriety.

*Bowman, supra* at 104 (internal citation omitted).

As we previously found by the Navajo Nation Council through the provision of civil and criminal sanctions, the unauthorized practice of law undermines the integrity of our legal system.

*Perry*, 9 Nav. R. at 57.

It is clear that the purpose of the admission's requirements is to ensure that the People receive competent legal representation. When an applicant for admission acts without regard to the customs and laws of this jurisdiction it raises significant questions as to his or her fitness to practice law. Moreover, it damages the integrity of the profession and the Navajo Court system.

The practice of law in the Navajo Nation is a privilege granted to individuals who comply with the standards imposed by the Supreme Court. An individual's failure to meet those standards will result in denial of the privilege to practice law. *Boos v. Yazzie*, 6 Nav. R. at 214 (citing *Tafoya, supra*; and *Bowman, supra*.) In this case, we see no alternative to the denial of this applicant.

## VII

This Court recognizes the need for high quality practitioners for the Navajo People. The need for attorneys does not create an exception to rule or law. We cannot approve admission of an applicant who acts without regard for the rules and customs of the Navajo Nation Courts. For the foregoing reasons, we DENY the Petition for Admission. This case is CLOSED.

Ordered, this 3<sup>rd</sup> day of July, 2019.

*William Jayne*  
Chief Justice

*Dee Sleep*  
Associate Justice