

RESOLUTION OF THE
LAW AND ORDER COMMITTEE OF THE
24th NAVAJO NATION COUNCIL -- First Year, 2019

AN ACTION

RELATING TO LAW AND ORDER; DENYING RECOMMENDATION FOR PERMANENT
APPOINTMENT OF VICTORIA R. YAZZIE AS NAVAJO NATION DISTRICT
COURT JUDGE; RECOMMENDING REMOVAL BY PRESIDENT

BE IT ENACTED:

Section One. Authority

- A. The Navajo Nation established the Law and Order Committee as a Navajo Nation standing committee. 2 N.N.C. § 600(A). The committee, pursuant to 2 N.N.C. § 601(C)(1), serves as oversight over the Judicial Branch of the Navajo Nation.
- B. Pursuant to 2 N.N.C. § 601(B)(3), the Law and Order Committee has the statutory duty "to review and evaluate the performance of probationary and permanent judges and justices."

Section Two. Findings

- A. Victoria R. Yazzie was confirmed by the Navajo Nation Council as a probationary District Court Judge on January 30, 2013. CJA-07-13, incorporated herein by this reference.
- B. All appointed Navajo Nation District Court Judges are required to serve a probationary period of two years. 7 N.N.C. § 356. "[A]t the conclusion of the two-year probationary term, the Law And Order Committee "reviews the record and qualifications" of the probationary Judge to determine whether he or she has "satisfactorily completed the probationary term." In the event the Law and Order Committee determines that the probationary judge has not satisfactorily completed this probationary term, the judge is not recommended for permanent appointment. The law states, probationary judges must "successfully complete[] a course of training accredited for judges and ... receive[] a satisfactory performance evaluation from the Chief Justice and the [Law and Order]

Committee of the Navajo Nation Council at the conclusion of the probationary Justice's or Judge's two-year probationary term." 7 N.N.C. § 355(E). According to the Navajo Supreme Court, "the committee makes an independent determination of the training requirement and whether the probationary judge has performed satisfactorily over the two-year probationary term." *In re: Certified Questions II*, 6 Nav.R. 105, 108 (Nav.Sup.Ct. 1989).

- C. Victoria R. Yazzie has completed her two-year probationary term as District Court Judge. Pending probationary proceedings and the determination of whether or not she would be recommended for permanent appointment, she continued her duties serving as judge.
- D. The Law and Order Committee of the Navajo Nation Council has completed its review of the record and its evaluation of Victoria R. Yazzie as probationary District Court Judge. The committee has also concluded public hearings on the matter, hearings in which sworn testimony was provided by community members. See, LOCJY-08-13 (*Hearing Rules on Evaluation of the Performance of Probationary Judges and Justices*), incorporated herein by this reference. Public hearings are necessary as "the public [has] an overwhelming and compelling interest in" the selection of judges. *In re: Certified Questions II*, 6 Nav.R. 105, 107 (Nav.Sup.Ct. 1989). Further, "Navajo sovereignty is strengthened by a strong and independent judiciary." *Id.*
- E. Under Navajo Nation law, "the President shall not appoint to a permanent position any probationary ... judge not recommended by the [Law and Order] Committee." 7 N.N.C. § 355(E). The Navajo Supreme Court has held that a probationary District Court judge who is not recommended by the committee "must be removed" by the President. *In re: Certified Questions II*, 6 Nav.R. 105, 106 and 107 (Nav.Sup.Ct. 1989). The President is "required to follow the Committee's recommendation of denial," and, "[n]o further removal proceeding is required." *Id.* at 108.
- F. Upon review of the record, the documents submitted and the sworn testimony provided at the public hearings conducted, the Law and Order Committee finds the performance of Victoria R. Yazzie as probationary District Court Judge to be unsatisfactory.

Section Three. Denial of recommendation for Permanent Appointment; Removal

- A. The Law and Order Committee hereby denies the recommendation of permanent appointment of Victoria R. Yazzie as Navajo Nation District Court Judge. Pursuant to Navajo Nation law, the President shall provide notice of this action of the committee and remove Victoria R. Yazzie as District Court Judge.
- B. The Office of Legislative Services shall immediately submit all documents containing the record to the Office of the President, Navajo Nation. Such documents contain personnel matters and confidential information, such as social security numbers. For this purpose, it shall be deemed confidential, unless appropriate consent for disclosure is provided. Testimony obtained through public hearings shall be deemed public information (except any portions protected by law).

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Law and Order Committee of the 24th Navajo Nation Council at a duly called meeting in Kayenta, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 02 in Favor, and 00 Opposed, on this 02nd day of December 2019.



Honorable Vince James, Protem Chairperson
Law and Order Committee

Motioned: Honorable Eugene Tso
Second : Honorable Eugenia Charles-Newton

LAW AND ORDER COMMITTEE
Special Meeting
December 02, 2019

VOTE TALLY SHEET:

Legislation No. 0343-19: An Action Relating to Law and Order; Denying Recommendation for Permanent Appointment of Victoria R. Yazzie as Navajo Nation District Court Judge; Recommending removal by President – Sponsor: Honorable Eugenia Charles-Newton

Main Motion: Eugene Tso

Second: Eugenia Charles-Newton

Vote: 2-0-1

VOTE TALLY:

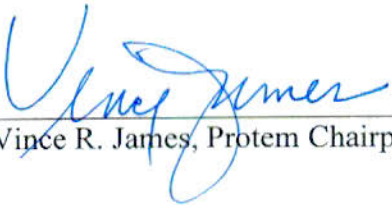
Yea: ETso/EC-Newton

Nay:

Excused: OTso

Not Voting: VJames

Absent: EYazzie



Vince R. James, Protem Chairperson



Laureen Spencer, Legislative Advisor
Law and Order Committee