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**FOR IMMEDIATE RELEASE**

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**SUPREME COURT REVERSES DISMISSAL IN JOHN DOE V. DIOCESE OF GALLUP**

The Navajo Nation Supreme Court issued its opinion in Joe Doe BF v. Diocese of Gallup, et al., No. SC-CV-06-10 on September 9, 2011, in a case in which a Navajo member had filed a personal injury action against a Catholic priest and diocese alleging that the priest had sexually abused him twenty years ago when he was a teenager.

The case was filed long after the two-year time limit for filing personal injury actions. However, 7 N.N.C. 602(A)(4) permits the court to accept late filings in such actions if the plaintiff can show he was not able to discover sooner the nature and cause of the injury, or the identity of the person who committed the injury. The plaintiff had stated that he was unable to know the nature of the injury or make the connection between the abuse and the injury for many years. The district court had dismissed the case because it found that the statutory conditions that would allow the court to accept a late filing were not met. The Navajo member had appealed the dismissal.

The Supreme Court reversed the dismissal after determining that the district court impermissibly required argument and witnesses at a status conference and furthermore, applied the wrong standard and procedure in reaching a decision on a motion to dismiss for failure to state a claim. The Court stated that a pretrial conference may not be converted into a motion hearing requiring argument and witnesses. Furthermore, the Court stated that linking injury to an abuse that occurred so many years ago is a factual issue for a jury to consider, not for a judge to weigh in a preliminary motion.

The Court also stated that the courts have a duty in *parens patriae*, or duty to protect the health and welfare of the people, "to ensure allegations of harm to our children are fully heard and not dismissed on mere technicalities." The case has been remanded for further proceedings.

Finally, the Court stated that the district court had made no factual findings in holding that it had

jurisdiction on the basis of inherent sovereignty as recognized by the Treaty of 1868. It stated that the courts cannot make such cursory jurisdictional determinations because federal courts are more and more infringing on the civil authority of tribal nations over non-members in ways that have become "erratic and standardless," without consulting Congress or tribes.

Noting the burden on our courts in having to make complex factual and legal findings to meet changing jurisdictional tests established by the federal courts, the Supreme Court stated that tribal jurisdiction is under increasing attack, and therefore our courts, with the help of our Nation's lawyers, are required to make a detailed inquiry and address those tests out of "our responsibility to protect the sovereignty of the Navajo Nation."

The Court exhorted the Navajo Nation to pass legislation that would ensure the assistance of Navajo Nation lawyers in all cases where the civil jurisdiction of the Navajo Nation courts is challenged by non-members.

The Supreme Court opinion may be accessed on the [www.navajocourts.org](http://www.navajocourts.org) website.

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