



**SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY
COURT OF APPEALS**

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FILED
SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY COURT
2018 AUG 24 AM 9:16

IN THE MATTER OF

Case No.: **APC-18-0011**

DORA J. RODRIGUEZ,

Appellant,

-V-

**SALT RIVER PIMA MARICOPA
INDIAN COMMUNITY,**

Appellee.

**ORDER VACATING DECISION
and REMANDING FOR
ADDITIONAL FINDINGS**

This case involves the amount of child support payments to be paid by the biological mother to the permanent guardian for a minor child. The mother filed documents with the court requesting a modification of the child support payments, to which the guardian/appellant filed an objection and a Notice of Change of Judge. Despite its timely filing the Change of Judge was denied, on the basis that the judge had previously ruled on substantive matters. No details of the previous ruling were provided in that denial. The factual finding in the Trial Court's order stated, "This court finds that Ms. Burns [the child's mother] was a party under related cases; and that this court (the undersigned judge) has ruled on substantive matters in the above referenced related cases, which included Ms. Burns."

Ms. Rodriguez (the permanent guardian) appealed the judge's denial of her Change of Judge request and timely filed her opening brief.

After giving this issue careful consideration and for the reasons stated below the Court of Appeals vacates the January 18, 2018 Order and remands the matter for a new hearing on the Notice of Change of Judge.

DISCUSSION

Salt River Ordinance 4-36 deals with a party's right to a change of judge. The ordinance states that a Notice of Change of Judge shall be granted if timely filed, unless "the assigned judge has ruled on any substantive matter in the proceedings or has ruled in an earlier related case or proceeding." This court finds that for the second exemption to apply, any ruling in an earlier related case or proceeding must also be on a substantive matter.

This court further finds that the legal standard it is to apply in ruling on a change of judge issue is abuse of discretion. While such a standard gives the trial court broad deference, that deference is not unfettered. Nor does the bare fact that the earlier case or proceeding is in a different division of the trial court mandate that it can never be related to the case in which the Motion for Change of Judge is made.

All this requires that the Motion for Change of Judge must be determined on the basis of the facts before the court at the time the motion is made. Unfortunately, there is a scarcity of factual detail provided in the January 18 order denying the requested Change of Judge. The trial court was concerned about the confidentiality of juvenile proceedings and that is one reason little factual detail appears in the written order.

This Court believes that the Ordinance 4-36 question can be addressed by providing sufficient facts from which the Court of Appeals can rule while still protecting the confidentiality of the parties involved. Details such as the parties' names, the case number, whether the real party in interest (i.e., the child) is the same and what the ruling involved can and should be given in the order on the Notice of Change of Judge when the exception is invoked without breaching the confidentiality of juvenile court cases.

Therefore, this case is remanded to the trial court to conduct a hearing on the Notice of Change of Judge and enter an order with sufficient factual detail to inform the Court of Appeals of the basis for the conclusion that the denial of that change was justified under Ordinance 4-36.

ISSUED this 24th day of August, 2018.

Electronically approved 8/24/2018

/s/

Judith Dworkin, Justice

Electronically approved 8/24/2018

S E A L

/s/

Mary Guss, Justice

Electronically approved 8/24/2018

/s/

Jan Morris, Justice