



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

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SALT RIVER TRIBAL COURT
FILED 2022 APR 1 AM 10:29

MB

GLORIA VASQUEZ,

Appellant,

-V-

In the Matter of:

**M. WELLINGTON-BORQUEZ,
(DOB: 2/18/2005)**

Appellee.

Case No.: **APJ-22-0001**

**ORDER GRANTING MOTION
FOR CLARIFICATION and to
EXCEED PAGE LIMIT**

Appellant has filed a motion requesting, first, clarification of what is included in the page limitation found in Rule 12(b) of the Rules of Civil Appellate Procedure. The motion for clarification is GRANTED. Rule 12(b) limits an opening brief on appeal to 35 pages. Rule 12(c) describes the contents which shall be included in that brief. Because of the specificity with which they are listed, the Court finds that each of the items in Rule 12(c)(1) – (7) is included within the permitted 35 pages for appellant's principal brief. Not included within the 35 page limit are the brief's front cover page (which is set out in a separate portion of Rule 12), a page containing just signatures and distribution details and any appendix (which are not listed in the rule at all).

Appellant's Motion also requests leave to file a principal brief of no more than 40 pages. This motion is also GRANTED.

ISSUED this 1st day of April, 2022.

S E A L

Electronically approved

/s/

Mary E. Guss, **Justice**

Electronically approved

/s/

Siera Russell, **Justice**

Justice Robert N. Clinton, concurring in part and dissenting in part.

I concur insofar as the Order Granting Motion for Clarification and to Exceed Page Limit (Order) grants leave to file a principal brief of no more than 40 pages. I also concur insofar as the Order excludes the cover and any appendix from the 35 page limitation. I dissent, however, from the majority's excessively rigid interpretation of Rule 12 to include within the 35 page limitation the Table of Contents, Table of Authorities, and any page containing only a signature block or a certificate of service. That interpretation, which is based solely on the placement of references to such items within or without Rule 12(c), as opposed to other subsections of the Rule, seems to conflict with the purposes of Rule 12,

to operate counterproductively to the intent of requiring briefs, and to place this Court in opposition to most other appellate jurisdictions deciding what counts toward page or word limitations for briefs. I therefore dissent from that interpretation and would exclude the Table of Contents, the Table of Authorities and any page containing only a signature block or a certificate of service from the 35 page limitation.

First, the purpose of the Rule 12 requirement of submitting briefs is to permit litigants to educate this Court within a reasonably concise framework regarding the nature of their arguments and the authorities supporting such positions. All material contained in the Table of Contents and Table of Authorities, whether headings or authorities, is also included within the remainder of the required brief sections. That material is therefore duplicative, adding nothing whatsoever to the arguments. Furthermore, any page containing only a signature block and/or a certificate of service adds nothing whatsoever to the argument. To count any of that material within the 35 page limitation merely because they are referenced in the same subsection of Rule 12 subtracts from the number of pages available to a litigant to educate this Court, thereby diminishing the basic purpose of any brief required by Rule 12 – to educate this Court.

Second, counting the Table of Contents and the Table of Authorities within the 35 page limitation is counterproductive for two reasons. The Table of Contents

provides an organizational roadmap to the party's arguments. Counting it as part of the 35 page limitation encourages parties to shorten the number of headings and subheadings they utilize in a brief, thereby providing this Court less guidance as to the nature and organization of their argument. Worse still, counting the Table of Authorities within the 35 page limit may encourage litigants to cite fewer authorities in their brief to shorten the Table, particularly where it might otherwise span more than one page, thereby undermining both their own arguments and the educational function of their brief for this Court.

Third, while certainly not controlling of this Court's interpretation of Rule 12, the majority's view places this Court in opposition to the approach of most appellate courts that by rule impose page or word counts. Most such jurisdictions do not count the preliminary tables, signature blocks, or certificates of service as part of the page or word limitation. *See, e.g.*, Federal Rules of Appellate Procedure, Rule 32(f); Winnebago Rules of Appellate Procedure of the Winnebago Supreme Court, Winnebago Tribal Code, Title I, Art. III, Rule 28(g). Such exclusions are the reason most appellate briefs generally employ roman numerals for the page numbers of such preliminary materials, starting the arabic number page count only with the Introduction or Statement of the Case. Since some practitioners before this Court also practice in other jurisdictions and forums, such as federal courts, adopting an approach to dealing with the page limitation that is not required by the explicit language of Rule 12, that is inconsistent with the purpose

of that Rule, and that conflicts with the approach of most other jurisdictions is likely to produce unnecessary confusion and potentially delay the expeditious disposition of appeals before this Court, as it has done here.

For all these reasons I dissent from the majority's excessively wooden interpretation of the brief page limitation as including, rather than excluding, the Table of Contents, the Table of Authorities, and any page containing only a signature block and/or a certificate of service.

Electronically approved

/s/
Robert N. Clinton, **Justice**