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Supreme Court rules injured tribal casino worker cannot seek benefits through state workers' compensation program

SANTA FE – The state Supreme Court ruled today that tribal sovereignty precludes an Isleta Pueblo casino employee injured on the job from bringing a claim against the Pueblo or its insurer under the state workers' compensation program.

In a unanimous opinion, the state's highest court reversed a decision by the Court of Appeals to allow Gloria Mendoza to proceed with a claim for benefits filed with the New Mexico Workers' Compensation Administration (WCA).

Ms. Mendoza injured her knee while pushing chairs at the casino on Aug. 24, 2015. The Pueblo's third-party workers' compensation insurance administrator denied a claim by Ms. Mendoza. She then filed for benefits through the state program, but the WCA dismissed the claim because the pueblo cannot be sued in a state court or administrative proceeding without its consent under the doctrine of tribal sovereign immunity.

Ms. Mendoza appealed the decision. The Court of Appeals ruled in favor of Ms. Mendoza, determining that the Pueblo had waived sovereign immunity under a 2015 tribal-state gaming compact to allow workers' compensation claims in the state program and that Ms. Mendoza could bring a claim solely against the Pueblo's insurer and insurance administrator if there was no waiver of sovereign immunity.

The Supreme Court disagreed in an opinion written by Justice C. Shannon Bacon. The justices concluded that the compact "contains no express and unequivocal waiver of the Pueblo's immunity from suit in the WCA." Therefore, Ms. Mendoza could not bring claims against the Pueblo in state court.

Under the gaming compact, the Pueblo is to provide workers' compensation coverage, including an appeal procedure for denial of benefits, or it could agree to participate in the state program. The Court said, "There is no evidence in the record that such an agreement exists."

The Court also held that Ms. Mendoza could not pursue a claim against the Pueblo's insurer without the Pueblo participating in the legal action.

"The Pueblo is an indispensable party to an action against its insurer because its interests would be affected absent its joinder, and sovereign immunity protects the Pueblo from litigating in state court," the justices concluded.

However, the justices cautioned that its holding was limited to the facts of the case involving the Pueblo and said there was a lack of information about some matters in the legal record submitted to the Court. "We caution parties, such as an insurer, against adopting a presumption that a tribe's involvement in a case will always necessitate dismissal," the Court wrote.

The justices acknowledged that Ms. Mendoza may be left without compensation for her workplace injuries. However, the Court determined that she has no legal right to challenge whether the Pueblo was complying with the gaming compact's requirement to have a workers' compensation program. The WCA has no authority to resolve disputes involving the compact, the Court said.

"It is concerning that employees such as Worker have no redress for work-related injuries suffered at Isleta Casino, and the Attorney General's office has seemingly overlooked this deficiency, leaving New Mexico residents who choose to work for Isleta Casino without a remedy," the Court wrote.

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To read the decision in *Mendoza v. Isleta Resort and Casino*, No. S-1-SC-37034, please visit the New Mexico Compilation Commission's website using the following link:

https://decisia.lexum.com/nmos/nmsc/en/item/459600/index.do