



CHIEF JUSTICE OF THE NAVAJO NATION

ADMINISTRATIVE ORDER 18-99

IN THE MATTER OF FILING COMPLAINTS AND PETITIONS

Recently, two situations have been brought to the Chief Justice's attention involving: (1) delays in the filing of court actions which require prompt action by a judge and (2) responding to written documents submitted to the court by jail inmates.

I have been informed that complaints or petitions submitted to the court for filing get rejected before they are filed. The danger of this practice includes the possibility that a statute of limitations may not be tolled because an action is not considered "filed." Thus, individuals may be denied of their right to appeal since there is no final order or judgment and there are problems of proof if a petition for a writ of mandamus is filed with the Navajo Nation Supreme Court.

This administrative order clarifies the court's administrative procedure and implements the case management policy concerning these two situations. This order is not intended to interfere with judicial discretion.

Accordingly, the Chief Justice establishes a policy pursuant to Title 7, Section 371 of the *Navajo Nation Code* (1995) in resolving these matters.

It shall be the policy of the Courts of the Navajo Nation that:

A. Filing of Actions

1. All complaints, petitions, applications and documents which commence a civil action pursuant to Rule 3 of the Navajo Rules of Civil Procedure, including all papers which state a claim for relief under Rule 8(a) of the Navajo Rules of Civil Procedure, shall be filed as a civil action. A party's failure to pay a filing fee at the time of filing a complaint may result in the rejection of the complaint by the court clerk through the issuance of a letter informing the party or counsel.
2. No clerk of the court may reject a document for technical deficiency. Clerks of the court are ministerial officers and do not have the authority to reject a civil action. Only judges can reject an application for judicial relief by issuing a judgment or order.
3. After an action has been filed, a judge may utilize his/her discretionary authority under the Navajo Rules of Civil Procedure to correct defects in form or procedure and to require a party or counsel to file the necessary documents.
4. The only exception to this policy involves suits against the Navajo Nation which are filed without compliance according to Title 1, Section 552(A) of the *Navajo Nation Code*. Under the Navajo Nation Sovereign Immunity Act, notice of intent to suit is required prior to bringing an

action against the Navajo Nation President and the Navajo Nation Attorney General by filing a proof of compliance. 1 N.N.C. Section 552(A).

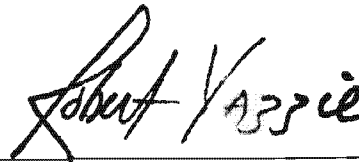
5. While the court has the inherent power to dismiss an action on its own motion, where a jurisdictional defect (not including the statute of limitations) is apparent on the face of the complaint, petition or application, the proper procedure is to file the document and to issue a final judgment or order, which preserves a party's right to appeal of the final judgment or order.
6. All complaints, petitions, applications and other documents seeking relief must be filed no less than one hour upon receipt by the court. This includes assigning a docket number and entering the action in the appropriate docket book or program.
7. Applications for emergency and extraordinary relief must be immediately taken to the presiding judge or to an acting presiding judge. Such applications include petitions for domestic violence restraining orders, petitions for a temporary restraining order, petitions for the repossession of personal property, and all matters which require a judge to issue an order to show cause or citation for a thirty day civil summons by a court clerk. If the presiding judge is not present in the court, he/she must be contacted by telephone to be advised of the

situation and the necessity of issuing an appropriate order.

B. Letters from Prisoners

Letters and other documents sent to the court from jail inmates which contain a short and plain statement of facts and appear to make a claim for relief, should be treated as a petition for a writ of habeas corpus or other appropriate relief where it appears that an inmate is requesting the court's assistance in its judicial (and not administrative) capacity.

Dated this 13th day of September, 1999.

A handwritten signature in black ink, appearing to read "Robert Yazzie". The signature is written in a cursive style with a large initial "R".

CHIEF JUSTICE OF THE NAVAJO NATION