

Native American Rights Fund

Indigenous Peoples' Rights

<https://www.narf.org/cases/curiung-v-alaska/>

Campaign and Advocacy

Alaska tribes successfully defend their ability to sue on behalf of themselves and their members to protect their civil rights.

Status: Archived

On June 6th, 2004 the Native American Rights Fund filed an amicus brief on behalf of a number of Alaska tribes in the Alaska Supreme Court in *Curiung v. Alaska*. The question presented in *Curiung* is whether federally recognized Tribes can bring suit under Section 1983 (the right to sue state government employees and others acting under color of state law for civil rights violations) in state court on behalf of themselves and their members to vindicate important statutory rights under the ICWA and other federal and state laws after the United States Supreme Court ruling in *Inyo County*.

Inyo County involved the core issue of whether the Paiute Shoshone Indian Community was immune from execution of a state search warrant of tribal employment records issued in connection with the investigation of potential off-reservation welfare fraud by certain unnamed tribal employees. The Tribe sought declaratory and injunctive relief against the county and its officers on the ground that they had exceeded their jurisdiction because the warrant interfered with the Tribes sovereign immunity and its right to self-government. The Tribe also sought compensatory damages under Section 1983 for violation of the Tribes rights. The Supreme Court held that Tribes are not persons for purposes of bringing Section 1983 claims against a state for damages for infringement of sovereign interests.

In *Curiung*, however, the amici tribes argue that *Inyo County* does not preclude their Section 1983 claims because the rights asserted are private rights that are grounded in statute. On December 15, 2006, we received a unanimous decision in our favor by the Alaska Supreme Court upholding a tribes right to bring a 1983 action on behalf of its members under a *parens patriae* theory. The case was remanded to the Superior Court for a trial on the merits.

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