

Native American Rights Fund

Indigenous Peoples' Rights

<https://sct.narf.org/>

Campaign and Advocacy

During its 2000 Term, the United States Supreme Court issued two devastating Indian law opinions: *Atkinson Trading Co. v. Shirley* (Tribes lack authority to tax non-Indian businesses within their reservations) and *Nevada v. Hicks* (Tribal Courts lack jurisdiction to hear cases brought by tribal members against non-Indians for harm done on trust lands within their reservations). These opinions were devastating in that they struck crippling blows to tribal sovereignty and tribal jurisdiction -- the most fundamental elements of continued tribal existence. These losses were indicative of the Court's steady departure from the longstanding, established principles of Indian law and were among a string of losses suffered by Indian tribes over the past two decades.

In response, in September 2001, Tribal Leaders met in Washington, D.C., and established the Tribal Supreme Court Project (Project) as part of the Tribal Sovereignty Protection Initiative. The purpose of the Project is to strengthen tribal advocacy before the U.S. Supreme Court by developing new litigation strategies and coordinating tribal legal resources, and to ultimately improve the win-loss record of Indian tribes. The Project is staffed by attorneys with the Native American Rights Fund (NARF) and the National Congress of American Indians (NCAI) and consists of a Working Group of over 200 attorneys and academics from around the nation who specialize in Indian law and other areas of law that impact Indian cases, including property law, trust law and Supreme Court practice. In addition, an Advisory Board of Tribal Leaders assists the Project by providing the necessary political and tribal perspective to the legal and academic expertise.

The U.S. Supreme Court is a highly specialized institution with a unique set of procedures that includes complete discretion on whether it will hear a case, and a much keener focus on policy consideration than the lower federal courts. The Tribal Supreme Court Project is based on the principle that a coordinated and structured approach to tribal advocacy is necessary to preserve tribal sovereignty. The Project performs the following functions in an effort to make better tools available to enhance the overall quality of tribal advocacy before the Supreme Court: