

Fundamentals of Researching Navajo Law

By Colin Wittman Bradley

Overview

Navajo Nation Code

- Titles 1-26
 - Note: There is no 25

Cases

- 1969 to Present
- 9 Reporters
- And slip opinions

Fundamental Law

- Since time immemorial, and possibly infinite!

Navajo Nation Code

Print

- The current version is from 2005
- Pocket Part is from 2009 (issued in 2010)
- Can be purchased from the Office of Legislative Counsel
 - ~\$800.00 (the price differs)
 - A new version may be out in 1 month

Online Resources

- Westlaw
 - Publisher of the print version
 - Meaning, it's not current either
- Navajo Nation
 - Navajo Nation Council
 - Navajo Nation Office of Legislative Services
 - The Judicial Branch also has some of the Code on their website

Navajo Nation Council Website

- <http://www.navajonationcouncil.org/Code%20Page.html>
 - Has the Code and amendments
 - Code
 - Through 2009
 - Amendments
 - Through 2014

- <http://dibb.nnols.org/PublicReporting.aspx>
- Online resource
- Begins in 2015
- “Eventually” will have all the legislative history prior to that as well
- → important to check for amendments

Navajo Nation Office of Legislative Services

- Also has the Code and amendments
- Legislative history
 - DiBB
 - 2015 to present
 - Call the Office for legislation prior to that
 - Can also provide the floor debates--audio and limited transcription services



Cases

Online

- Westlaw
- Versuslaw
 - I prefer this for searching Navajo cases
- Note:
 - It can be difficult to search Navajo Fundamental Law terms
- Navajo Nation Supreme Court Website
 - Contains the slip opinions from 2013 to present

The Navajo Nation Reporter

- 9 Reporters
 - from 1969 to 2012
- All of them may be ordered from the Navajo Nation Supreme Court
 - <http://www.navajocourts.org/NavRep.htm>
 - Can be bought at the Supreme Court or by mail
- Note: Volume 5 can only be purchased from the Diné College Bookstore

Bookstore

- <http://www.dinecollege.edu/bookstore/bookstore.php>
- Tsalie, Arizona
- 928-724-6750



Reporter Continued....

- Contains contact information for the courts
- Some contain a helpful section regarding topics
 - Similar to Am. Jur.
 - 1 & 2
 - 3
 - 8--Very extensive

Case Citation

Order Establishing a Uniform Citation System for Opinions, No. SC-SP-01-00 (2004)

Under the *Order*, “slip opinions” are cited differently

Slip opinions are on the Supreme Court website--from 2013 to Present

The Order can be found online or in the 9th Reporter

Also discusses citing lower court opinions

Other Types of “Opinions”

- All of the cases we discussed were *opinions*
- There are other orders--which are not binding precedent--also issued by the Navajo Nation Supreme Court
- The most common example is the “memorandum decision”
- While not binding, they may help you in your research
- A selection of these can be found on the Supreme Court website
 - <http://www.navajocourts.org/PRArchive1.html>

Diné Bi Bee Haz'áanii (Navajo Fundamental Law)

Most Difficult to Research!

- Why?
 - Where do you even start?!?
 - Can be difficult to know what—if any—concept applies to your case
 - Can be difficult to type correctly
 - <http://www.navajocourts.org/navfonts.htm>
 - Difficult to know how a court will (or will not) apply the concept
 - The application/interpretation of fundamental law has changed

Where to Begin?

- The difficult part of researching fundamental law is knowing where to begin!
 - I.e. which concept applies to your case
- Examples of Recurring Concepts
 - *K'é* (reciprocity in kinship)
 - *Nályééh* (making someone whole)
 - *Hazaad jidisin* (words are sacred)
 - *Bił ch'í náyá* (missed opportunity)

Finding Fundamental Law

1. Statutes

- a. 1 N.N.C. §§ 201-206 (<http://www.navajocourts.org/dine.htm>)

2. Cases

- a. Make sure to use the correct term and font

3. Treatises

- a. An excellent source is *Navajo Courts and Common Law* by Ray Austin

4. Online

“Experts”



Navajo Politics
@navajopb



Dine' Rights and
Politics



In re Estate of Belone, 5 Nav. R. 161 (Nav. Sup. Ct. 1987).

- Just like in other courts, an expert must be qualified in Navajo Courts
- Can be qualified from:
 - Reading and practice
 - Or from other experience
 - Familiarity with traditions by oral education
 - Adherence to a traditional way of life
 - Long-term interest in deepening his knowledge of Navajo custom

Pleading Fundamental Law

In re Estate of Belone (1987)

- The custom must be alleged in the pleading
- And the pleading must state how the custom supports the claim

Judy v. White (2004)

- Could be raised at any time
- But the parties had to be given time and opportunity to address the issue

Beceñti-Aguilar v. Begay (2016)

- Cannot raise new arguments on appeal
- Back to *Belone*?

Conclusion

Navajo Nation Code

- Find the relevant law

Cases

- Find cases that interpret/apply the law

Fundamental Law

- Helpful to argue; harmful to avoid!

Questions?

END!

Contact Info:

Colin@cwbradleylaw.com

602-361-2551