

Navajo

I'm still working on my first case. Well not exactly, rather I'm working on the aftermath of that case.

After graduating from YLS, along with four others from our class, I took a job on the Navajo Indian Reservation with an OEO-funded legal services program. I figured I'd stay a couple of years and then move on to a traditional law practice or teach.

The case involved the arbitrary closing of a remote public school serving a mixed Navajo and non-Navajo student body at a small place called Ramah, NM. Without the school, the Navajo children would be sent to federal Indian boarding schools. The lawsuit failed.

I began searching for non-litigation remedies when out of the blue Cal Grant called me asking for suggestions for seed money projects for a new Indian-oriented private foundation he was representing. I suggested giving the Ramah Navajos some money to see if they could open their own school from scratch. His client liked that idea and sent a check to the community for \$2,500.

In March 1970, with in-kind help from the Robert F. Kennedy Memorial Foundation and the \$2,500, the new School Board and I traveled to Washington, DC. With inside help from the White House engineered by White House Fellow Bobbie Kilberg (Greene), YLS '69, we received bipartisan support from the White House and the Hill and walked away with a written commitment for \$360,000 to open a brand new Indian-run school for the community.

That success electrified Indian country.

In July 1970, President Nixon mentioned Ramah in an historic White House Message to Congress calling for a radical change in Indian policy called Indian Self-Determination. From now on Indian tribes would have the right to contract to operate their own federally funded Indian services. The Act was enacted into law in late 1974.

Ever since I have been working with Native communities around the country implementing the new Indian Self-Determination and Education Assistance Act of 1975. The policy was grand, its implementation was slow as Federal bureaucrats fearing loss of jobs opposed it. My career has focused on overcoming that resistance.

Two successful trips to the US Supreme Court followed, the first against the State of New Mexico holding that ISDA contracts could not be burdened by indirect state sales taxes; the second, a class action including every Indian tribe in the country and dozens of their suborganizations for underpayment of required contract sums to

contractors. Our final claim went to the US Supreme Court resulting in a 5–4 victory in June 2012.

After nearly four years of negotiations, we reached an unopposed settlement of nearly a billion dollars. I am now writing up the saga.

& Zyg: "And have you ever checked out Mike Gross's story of avoiding Vietnam? The first week of law school he told us all he was on presidential appeal. It went up and down, and then he lost and got his draft notice. As I remember it, there was a clambake party thrown for him on the East Haven beach where somebody was house-sitting, and they had a touch football game and Mike fell and cracked a leg bone (the story is best if he does so clutching the winning touchdown throw).

And when the doctor said 'All it needs is a tight wrap, though I could put in pins,' Mike yelped, 'Put in pins!' = 4F = Goodbye, General Hershey. At least this affiant remembers nothing exactly to the contrary."