

MONDAY, MAY 10, 2021

PERSPECTIVE

Outside Impartiality

Judge Joseph Wiseman finds it easy to not take sides in Tribal Courts.

By Malcolm Maclachlan

Daily Journal Staff Writer

DAVIS — Joseph J. Wiseman isn't a member of any of the Indian tribes he serves as a judge. But he said his family history is still part of his motivation for going into tribal justice work.

"I'm the son of two survivors of the Holocaust," Wiseman said. "Because of my family's experience, I was always attracted to the underdog."

His parents, Jews from Poland and Germany, met in the aftermath of World War II and found their way to St. Louis and later Los Angeles, where Wiseman grew up. He never met his grandparents, two of whom died in the Holocaust. He said there is also a "shameful history" of how tribes in California were treated by the state and local governments, yet there remain more than 100 federally recognized tribes in the state.

A growing number of tribes have established their own courts in recent years. Wiseman is the chief judge for the Round Valley Indian Tribes in Covelo and the Tule River Tribe in Porterville. Each job takes up about two days of each week, he said. Wiseman also serves as a pro tem, appellate or other part-time judge for other tribes and intertribal councils.

Covelo and Porterville are about 430 miles apart, and are also hours away from Wiseman's home in the college town of Davis. He said the pandemic has made one aspect of holding down multiple judge positions easier.

"My travel schedule was pretty jam-packed," he said. "If there is any silver lining to this whole thing, I think it's the sense the justice system, whether federal, state or tribal, can do a lot of our work through virtual platforms."



Malcolm Maclachlan / Daily Journal

'Some tribes want someone outside — outside of tribal politics, even outside of the local area, to come in so there are no questions about impartiality.'

— Jed J. Parr

California Indian Legal Services

It's not unusual for one judge to work for multiple tribes. While there are differences between tribal courts, judges deal with many of the same issues. These can include jurisdictional and tribal sovereignty disputes, as well as interactions between members of the tribe and the general public.

"Tribal law is a very specialized area," said Costa Mesa attorney Robert M. Hartmann, who said he has appeared before Wiseman in San Manuel Court in Highland. "When an attorney takes a case in that court, they have to attest they are familiar with the procedures and the different laws.

They are definitely different from what most criminal attorneys are used to in state or federal court. His knowledge of the laws and the subject matter is really excellent."

Hartmann has only appeared in front of Wiseman in virtual hearings. But he said virtual does not mean casual. While Wiseman listens to both sides and gives attorneys plenty of space to make their arguments, his courtroom may at times be more formal than what attorneys are used to in superior court, Hartmann said.

"If a non-Indian came into my court and observed, I think they



Joseph J. Wiseman

Appellate Judge, Chief Judge, Judge Pro Tem, Judge Tribal Court
(Eureka, Porterville, Highland, Covelo, Valley Center, Sonoma)

Career Highlights: Appellate Judge, Northern California Tribal Court Coalition, Eureka, 2018-present; Chief Judge, Tule River Tribal Court, Porterville 2017-present; Judge Pro Tem, San Manuel Band of Mission Indians Tribal Court, Highland 2017-present; Chief Judge, Round Valley Indian Tribes, Covelo 2016-present; Pro Tem Judge, Intertribal Court of Southern California, Valley Center; Judge, Dry Creek Rancheria of Pomo Indians Tribal Court, Sonoma 2014-present; Wiseman Law Corp. PC, Davis, 1985-2016

Law School: University of Oregon School of Law, 1982

would see a court that's quite similar to any western model," Wiseman said. "I wear a robe. Down in Tule River we have a beautiful courtroom where I sit behind a bench. I have a bailiff. I have a clerk. Every tribe I work for has laws the tribes apply. I have rules of court that are published. People know exactly what to expect."

Retired Newhall attorney Kim B. Puckett praised Wiseman's professionalism.

"I've tried a number of cases throughout Southern California ranging from Bakersfield to San Diego," Puckett said. "I would certainly place him in the list of probably the top five judges I had to deal with in my 40-year career. Very, very patient. You get the idea right from the beginning he wants to get to the truth about a case. He puts a lot of effort into researching an issue."

"I'm seeing more judges with a tribal membership background, but it wasn't an issue with him because he was very familiar with the laws and customs of the tribe," said Bree R. Black Horse, an associate with Kilpatrick Townsend in Seattle, and an enrolled member of the Seminole Nation of Oklahoma. "I like trials before him because they're very organized."

"He is extremely professional and balanced," said attorney Jed J. Parr. "One thing that really stands out about him is he will not show favoritism to anyone, even people who are there on behalf of the tribe."

Parr is a directing attorney with California Indian Legal Services, a Sacramento-based legal aid organization. He and Black Horse noted that many tribes structure their laws and legal procedures most closely to the federal model. Parr said Wiseman's long experience appearing in federal courts was good preparation for his work. While some tribes want a tribal member as a judge — either someone directly elected from the tribe by its members, or a member of another tribe — Parr said this isn't universal.

"Some tribes want someone outside — outside of tribal politics, even outside of the local area, to come in so there are no questions about impartiality," Parr said. "It varies greatly from tribe to tribe."

Wiseman said being a non-Native America offers some advantages in the job.

"I don't have a dog in the fight," Wiseman said. "For me it has been a benefit being a nonnative and not being a member of any of the communities I work for. That's not to say I ignore the community or don't understand. I try to be very sensitive and learn as much as I can about the value and traditions of the community."

Wiseman earned his undergraduate degree at UCLA. He knew he wanted to become a criminal defense attorney, but circumstances limited his law school choices.

"My parents didn't have any money, so I needed to go to a state law school," he said. "I looked at a map of the United States and said,

'I think I want to stay west of the Rocky Mountains.' The summer before I started law school I took a road trip to several of the places where I applied. When I got to Eugene, Oregon I just felt at home. It was one of those epiphanies."

The lush green college town appealed to his love of the outdoors. To this day, Wiseman said, he loves to run, bicycle and camp "anywhere there are mountains." He also loves getting out on his BMW 1200 GSA touring motorcycle.

He was intrigued by Oregon's environmental law program. He took several classes, though eventually went back to criminal law.

Wiseman thought he might end up staying in Oregon, but fate and an internship with a U.S. attorney's office brought him to San Francisco. He said he decided to take the California bar exam first due to its reputation for being one of the hardest in the nation. After he passed, Wiseman took up criminal defense work. He ended up in Sonoma and later in Sacramento, where he served on the state and federal criminal defense panels and also did white collar criminal defense work.

His path into tribal law began by chance. While in Sonoma, he did some work for the Dry Creek Rancheria after the tribe opened one of the state's first casinos in 2002. Later, when the tribe started to pull together its own court system, some of its leaders asked him if he was interested in being a judge.

It was a part-time job. The tribe of a few hundred doesn't have many cases, according to a court representative. But the role brought him to the attention of several other tribes. About four years ago, he said he took up being a judge full time.

"I started to get more requests to work in Indian country as a judge," he said. "I made the decision I wanted to devote more of my time to that." ■

Here are some of Judge Wiseman's cases. Tribal court case information is not public and complete details could not be verified.

- *Guyer v. Jackson, Hoopa Valley Tribal Court (2018), 17 NICS App. 22 — removal of vice chairman For plaintiff: Thomas P. Schlosser, Morisset, Schlosser, Jozwiak & Somerville APC For defendant: Bree R. Black Horse, Galanda Broadman, PLLC*

- *In re: D.H.R., Tolowa Dee-Ni' Nation Court of Appeal (2019) Perline Thompson et al. v. Rodney Mike, et al., Inter-Tribal Court of Appeals of Nevada (2019)*

- *Rubio v. Hunter, Tule River Tribal Court (2019)*

- *People v. Racimo, CVPT18-433 malcolm_maclachlan@dailyjournal.com Mike, et al., Inter-Tribal Court of Appeals of Nevada (2019)*

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