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**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DARLENE YAZZIE, CAROLINE BEGAY,
LESLIE BEGAY, IRENE ROY, DONNA
WILLIAMS and ALFRED MCROYE,

Appellant,

v.

KATIE HOBBS, in her official capacity as
Secretary of State for the State of Arizona,

Appellee.

Case No. 20-16890

**APPELLANT'S MOTION FOR
EXPEDITED REVIEW ON APPEAL
BY OCTOBER 7, 2020
PURSUANT TO RULE 27-3
AND ATTACHED FORM 16
CERTIFICATION**

Appellants, DARLENE YAZZIE, CAROLINE BEGAY, LESLIE
BEGAY, IRENE ROY, DONNA WILLIAMS AND ALFRED MCROYE, by and
through THEIR attorney, hereby move for an expedited hearing of the appeal of
the District Court's Order denying preliminary injunction against Defendant

KATIE HOBBS in her official capacity as Secretary of State on the following grounds:

1) Appellants are all enrolled members of the Navajo Nation and each is a resident of the Navajo Nation Reservation, in the County of Apache, State of Arizona.

2) Appellants, as Members of the Navajo Nation, are part of a constitutionally protected class and the State of Arizona has a history of discrimination against and attempts to limit their voting rights.

3) Under the State of Arizona's current election system, absent the injunctive relief requested herein, Navajo Nation Tribal Member Plaintiffs will not have equal opportunity, as compared to other Arizona voters, to Vote By Mail (VBM) at the November 3, 2020 general election because of disparate mail delivery times.

4) Section 2 of the Voting Rights Act of 1965 guarantees that every eligible voter have the same opportunities to vote as other voters in their County and State.

5) Tribal Members on Arizona's Permanent Early Voting List, will have ballots mailed on October 7th along with a "Publicity Pamphlet" stating "ballots must be received by 7:00 pm on Election Day to be Counted." (Doc. 42-1 paragraph

5). Further, the “AZVoteSafe Guide for Native American Voters” (Doc. 42-1 paragraph 6) references slower mail service in rural areas. Hence, Appellants will not know the deadline for mailing back their ballot without the Court clarifying same.

6) The “AZVoteSafe Guide for Native American Voters” further provides that “Tribal members historically participate in voting on Election Day as a civic and community event, and **many tribal members face challenges to voting by mail due to limited mail service** and language assistance needs. However, because of current public health concerns, it’s more important than ever to plan ahead and have back-up options available.” (*emphasis added*).

7) Finally, the “AZVoteSafe Guide for Native American Voters” states on the last line of Step 4: “[i]f you need to mail your voted ballot back, make sure you mail it early enough to arrive at the County Recorder’s office by 7:00 p.m. on Election Day. The state’s recommended last day to mail back a ballot is October 27, **but if you live in a rural area with slower mail service, you should build in more time.**” (*emphasis added*).

8) The typical voter residing on the Navajo Nation Reservation has fewer days and thus less opportunities to consider their vote by mail ballot, mark their selections and return the ballot in a timely manner as compared with other voters in their county and state.

9) Appellants will be irreparably harmed in that their vote by mail

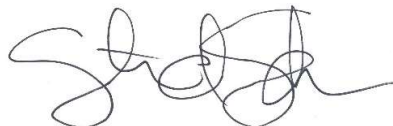
ballots have a high probability that it will not arrive in time to be counted and they will be disenfranchised.

10) There remains and urgent need for the Court of Appeals to hear the instant Appeal and render its decision so that Appellants may obtain the requested relief and have the same opportunity to vote by mail in the November 3, 2020 election.

Thus, there is a definite need for the Court of Appeals to hear Appellant's appeal with considered urgency.

Dated: September 29, 2020

STEVEN D. SANDVEN LAW OFFICE PC



By _____

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ATTORNEY FOR APPELLANTS

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 16. Circuit Rule 27-3 Certificate for Emergency Motion

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form16instructions.pdf>

9th Cir. Case Number(s)

Case Name

I certify the following:

The relief I request in the emergency motion that accompanies this certificate is:

Emergency appeal of the District Court's denial of Preliminary Injunction against the Arizona Secretary of State requiring that she count all vote by mail ballots mailed from the Navajo Nation Reservation and postmarked no later than Election Day, and received by November 13, 2020.

Relief is needed no later than *(date)*:

The following will happen if relief is not granted within the requested time:

October 7, 2020 is the first day counties in the State of Arizona can mail ballots. The Ballots will need to include the requirement that vote by mail ballots mailed on the navajo Nation Reservation must be postmarked no later than on November 3, 2020.

I could not have filed this motion earlier because:

The Court denied Appellant's request for Preliminary Injunction on September 25, 2020 and Appellant filed this appeal as soon as was possible.

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

I requested this relief in the district court or other lower court: Yes No

If not, why not:

Due to the time sensitive nature of the requested relief, it was not appropriate to move for reconsideration of the District Court's ruling.

I notified 9th Circuit court staff via voicemail or email about the filing of this motion: Yes No

If not, why not:

I have notified all counsel and any unrepresented party of the filing of this motion:

On *(date)*: September 29, 2020

By *(method)*: emailed at 1:31 pm 9/29/2020

Position of other parties: no response as of filing

Name and best contact information for each counsel/party notified:

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I declare under penalty of perjury that the foregoing is true.

Signature s/Steven D. Sandven

Date 9-29-2020

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov