

No. 15-641

IN THE
Supreme Court of the United States

UINTAH COUNTY, UTAH,
AND DUCHESNE COUNTY, UTAH,
Petitioners,

v.

UTE INDIAN TRIBE OF THE UINTAH AND OURAY
RESERVATION,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

1. Does a party that is not aggrieved by a decision of a court of appeals nonetheless have standing to seek certiorari review of that decision by this Court?

2. Was the court of appeals correct in enjoining Wasatch County, where the County's actions were directly contrary to the court's prior ruling regarding the Ute Indian Tribe's jurisdiction over the Forest lands, and where neither the holding nor the logic of this Court's decision in *Hagen v. Utah*, 510 U.S. 399 (1994), addressed the status of those lands?

CORPORATE DISCLOSURE STATEMENT

No corporate entity is a respondent.

REASONS TO DENY CERTIORARI

In their petition for certiorari, Petitioners Uintah and Duchesne Counties (“Petitioners”) offer no meaningful grounds for granting their petition beyond those offered by Wasatch County in its separate petition. *See* Petition for Writ of Certiorari, *Wasatch Cty. v. Ute Indian Tribe*, No. 15-640 (Nov. 13, 2015).¹ For the reasons stated in Respondent’s Brief in Opposition to the Wasatch County petition, the present petition should be denied as well. *See* Brief in Opposition, *Wasatch Cty. v. Ute Indian Tribe*, No. 15-640 (Feb. 16, 2016).

This petition should be denied for an additional reason: Petitioners do not have standing to seek review of the Tenth Circuit’s preliminary injunction order—the only aspect of the decision below they urge this Court to review—because that order does *not* apply to them.

In the district court, the Tribe sought an injunction only against the State and Wasatch County, to prevent the unlawful prosecution of tribal member Lesa Jenkins. Wasatch Pet. App. 8a; *see also* Motion for a Preliminary Injunction, *Ute Indian Tribe v. State of Utah*, No. 13-cv-1070 (D. Utah Dec. 3, 2013), Dkt. 3. Petitioners were not parties to that case, and they did not seek to intervene in the Tribe’s appeal from the district court’s denial of that injunction.

¹ In this brief we cite to this petition as “Pet.” and Wasatch County’s petition appendix as “Wasatch Pet. App.”

The Tenth Circuit also addressed issues arising in a consolidated appeal and cross-appeal from a separate district court proceeding, in which the Tribe sought injunctive relief against the State and Duchesne and Uintah Counties precluding them from attempting to relitigate the Reservation's status via their own unlawful criminal prosecutions. *See Ute Indian Tribe v. State of Utah*, No. 75-cv-408 (D. Utah Apr. 17, 29, 2013), Dkts. 153, 154, 176. In connection with those separate appeals, the Tenth Circuit held that the Tribe possessed sovereign immunity against the Counties' counterclaims alleging interference with their regulatory and criminal jurisdiction, and affirmed the district court's conclusion that Uintah County was not immune from the Tribe's suit. Wasatch Pet. App. 25a-26a.

Petitioners, however, do not ask this Court to review those rulings addressed to them. Rather, they ask the Court only to revisit the preliminary injunction the court of appeals ordered against Wasatch County. Pet. 5-6.

This Petitioners cannot do. Under this Court's rules, a party to the proceeding below is not "entitled to file documents in this Court" if it has "no interest in the outcome of the petition." Supreme Court Rule 12.6. This rule makes eminent sense: A party who is "not aggrieved" by the judgment of an inferior court cannot appeal from that judgment, *I.N.S. v. Chadha*, 462 U.S. 919, 930 (1983) (quoting *Deposit Guar. Nat'l Bank v. Roper*, 445 U.S. 326, 333 (1980)), and this Court has "authority to adjudicate legal disputes only ... [when] litigants demonstrate a 'personal stake' in the suit," *Camreta v. Greene*, 131 S. Ct. 2020,

2028 (2011) (quoting *Summers v. Earth Island Inst.*, 555 U.S. 488 (2009)). As Petitioners have no stake in the Tenth Circuit’s ruling that Wasatch County should be enjoined from pursuing its prosecution of Ms. Jenkins, this petition should be denied.

Petitioners’ complete lack of interest in the ruling they seek to reverse likewise disproves their assertion that this petition must be granted to “resolve the important, broader conflict over the Reservation’s boundaries.” Pet. 7. As the Tribe explains in opposing Wasatch County’s petition for certiorari, Wasatch County’s unlawful prosecution of Ms. Jenkins—and the Tenth Circuit’s order enjoining that prosecution—implicates only the status of the Forest lands. Brief in Opposition 29-30. Contrary to Petitioners’ assertion, Pet. 6-7, granting this petition would not expand the potential scope of this Court’s review, because the Tenth Circuit made no ruling addressing the reservation status of other lands or Petitioners’ lack of jurisdiction over them.

For the foregoing reasons, the Counties’ petitions should be denied.

Respectfully submitted,

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