

**SAN JUAN COUNTY, UTAH
RESOLUTION NO. 2022 - _____**

**RESOLUTION OF THE SAN JUAN COUNTY BOARD OF COMMISSIONERS
APPOINTING _____ AS THE
COUNTY ATTORNEY TO COMPLETE THE TERM VACATED MARCH 28,
2022 OF ELECTED COUNTY ATTORNEY KENDALL LAWS WHICH
EXPIRES DECEMBER 31, 2022**

WHEREAS, San Juan County has a long history of violating the civil rights of its Native American citizens.

WHEREAS, Native Americans residing on reservations in Utah, including Native Americans in San Juan County, were denied the right to vote until 1957.

WHEREAS, in 1983, the United States Department of Justice brought two actions against San Juan County in Federal District Court for violations of Section 2 of the Voting Rights Act, in which the County admitted it failed to comply with Section 203 of the Voting Rights Act, *United States v San Juan County*, C-83-1286 and C-83-1287 (D. Utah)

WHEREAS, the Court entered a permanent injunction against the County and required it to adopt single-member election districts for County Commissioners, and further ordered the County to implement language provisions including a bi-lingual registration agents for each precinct on the Navajo Reservation, bi-lingual poll officials, and to provide election information in the Navajo language on radio stations and in newspapers, and pursuant to the final Consent Decree and Settlement Order the County adopted remedial County Commission election districts in 1984, comprised of three single- member districts, one of which (District 3) was majority Native American.

WHEREAS, in 1986, the first Native American was elected to the San Juan County Commission.

WHEREAS, following the 1990, 2000 and 2010 census, the County had a duty to revise the County Commission and School Board election districts to ensure they complied with the Equal Protection requirements of the United States constitution. The County did not undertake such revisions.

WHEREAS, Craig Halls was the County Attorney from 1986 to 2014, with a responsibility to give legal advice to the County Commission regarding its duties to comply with the above-referenced voting rights requirements.

WHEREAS, in 2012, the Navajo Nation and several individual Navajo plaintiffs sued San Juan County in Federal District Court, *Navajo Nation v San Juan County*, Case No. 2:12-cv-00039, for violating the one-person, one-vote requirement of the Equal

Protection Clause of the U.S. Constitution for continuing to use the County Commission districts and School Board districts which had last been redrawn in in 1992, ignoring changes in population as reported by the decennial census and for intentional racial discrimination in the drawing of those districts.

WHEREAS, during the course of the litigation, when the County Attorney responsible for ensuring legal compliance by the County was Kendall Laws, the County developed race-based remedial plans in response to the on-going Equal Protection violations of Native American voting rights. The Court rejected these race-based remedial plans, finding that both the County Commission and School Board districts were unconstitutional and concluding County Commission District 3 was racially gerrymandered in violation of the Equal Protection Clause and the School Board election districts violated the one-person, one-vote requirement of the Equal Protection Clause.

WHEREAS, after rejecting the County's race-based remedial plans, the federal court developed election district plans for both the Commission and the School Board and ordered that those plans be used in the 2018 election.

WHEREAS, in 2018, the first Native American majority San Juan County Commission was elected, which, in turn elected the first ever Native American San Juan County Commission Chair.

WHEREAS, the voting rights litigation, which began when Craig Halls was the County Attorney and continued when Kendall Laws was the County Attorney, cost County taxpayer's nearly \$4 million.

WHEREAS, in June, 2018, current San Juan County Commission Chairman Willie Grayeyes was forced to seek injunctive relief in Federal District Court when he was illegally removed from the November 2018 ballot on which he was running for County Commissioner, *Grayeyes and Whitehat v. Cox, Neilson, Laws, et al.*, Case No. 4:18-cv-0004. Kendall Laws was the County Attorney when the County Clerk illegally removed Mr. Grayeyes from the ballot.

WHEREAS, in granting a Preliminary Injunction, the Federal Court found that the actions taken by the County violated Mr. Grayeyes' civil rights and ordered that his name be restored to the ballot.

WHEREAS, the cost to County taxpayers of the County's decision to violate Mr. Grayeyes' constitutional rights by illegally removing him from the ballot was approximately \$300,000.

WHEREAS, Kendall Laws, the San Juan County Attorney, resigned effective March 28, 2022.

WHEREAS, on March 17, 2022, the San Juan County Clerk, pursuant to UCA 20A-1-509.2 (1) and (2), sent a letter to each licensed, active member in good standing with the

Utah State Bar residing in San Juan County informing them of the vacancy and inviting them to apply for the vacancy within 10 calendar days to be considered for appointment as County Attorney.

WHEREAS, the Clerk received four responses, but did not receive any actual applications describing such things as the education, relevant skills and prior job experience of the respondents.

WHEREAS, on March 21, 2022, Alex Goble responded with a one-page letter of interest that stated he is the current Deputy County Attorney, he is aware of the work responsibilities of the County Attorney position and is interested in being appointed to fill the vacancy. Mr. Goble did not submit an actual application describing such things as his education, relevant skills and other relevant job experience.

WHEREAS, on March 23, 2022, Craig Halls responded “I would like to indicated [sic] my interest in being considered as a candidate to fill the remainder of Mr. Laws term as County Attorney made available by his resignation. I am a qualified candidate being a lifelong resident of San Juan County and a member in good standing of the Utah State Bar. Bar Num. 01317.” Mr. Halls did not submit an actual application stating his qualifications for the County Attorney position, describing such things as his education, relevant skills and relevant job experience.

WHEREAS, on March 24, 2022, Brittney Ivins responded with an expression of interest, stating only, “I would like to submit my name to be considered for the position of San Juan County Attorney.” Ms. Ivins did not submit an actual application stating her qualifications for the County Attorney position, describing such things as her education, relevant skills and relevant job experience.

WHEREAS, on March 26, 2022, Daniel Anderson responded “I am interested in the county attorney position resulting from the resignation of Kendall Laws.” Mr. Anderson did not submit an actual application stating his qualifications for the County Attorney position, describing such things as his education, relevant skills and relevant job experience.

WHEREAS, on March 28, 2022, the Clerk sent a letter to the San Juan County Democratic Party (hereafter “Party”) with the four names of the attorneys who had sent expressions of interest, but did not forward any actual applications containing the kind of information, such as education, relevant skills and relevant job experience education, that would have allowed the Party to engage in a meaningful evaluation of the four attorneys.

WHEREAS, upon request by the Party, the Clerk subsequently forwarded to the Party the four attorneys’ original responses. The Clerk did not forward any information, such as education, relevant skills and relevant job experience, that would have allowed the Party to engage in a meaningful evaluation of the four attorneys.

WHEREAS, on March 31, 2022, the Party, immediately contacted each of the four attorneys who had responded to the Clerk's letter, requesting that they submit actual applications by close of business Monday, April 4, 2022, including a letter of interest explaining why they were qualified for, and why they wanted to be appointed to fill, the County Attorney vacancy, as well as a current curriculum vitae or resume.

WHEREAS, prior to end of the April 4 deadline, the Party received letters of interest and associated curricula vitae from Alex Goble and Daniel Anderson. These contained sufficient information to constitute real and meaningful applications that would allow a full evaluation of these applicants.

WHEREAS, on April 5, 2022, one day *after* the April 4 deadline, the Party received a 2019 application for a judge position in the Grand County Justice Court from Craig Halls. This old application for a different position arguably contained sufficient information to meaningfully evaluate Mr. Halls' credentials.

WHEREAS, Brittney Ivins did not submit an application to the Party describing her education, relevant skills and relevant job experience. The only communication ever submitted by Ms. Ivins to anyone was her expression of interest sent to the Clerk. The Party therefore concluded that it did not have more than three applications.

WHEREAS, pursuant to UCA 20A-1-509.2(3) and (4), the Party notified the County Commission on April 7, 2022, that due to not receiving the statutory number of applications required by UCA 20A-1-509.2(3) ("more than three"), the Party has no authority to act, and therefore the Commission was required to move forward pursuant to the options set forth in UCA 20A-1-509.2(4); the Party forwarded to the Commission the materials the Party received from the attorneys.

WHEREAS, the Commission reviewed the materials forwarded by the Party to the Commission.

WHEREAS, pursuant to UCA 20A-1-509.2(4)(b)(i) "[i]f three or fewer attorneys who are licensed members in good standing of the Utah State Bar and are registered voters in the county or district submit applications, the county legislative body may publicly solicit and accept additional applications from licensed, active members in good standing of the Utah State Bar who are not residents of the county or prosecution district."

WHEREAS, due to the importance of the position of County Attorney and the statutory deadline imposed by UCA 20A-1-509.2, the Commission found it to be in the best interests of the residents of San Juan County to solicit additional applications for the County Attorney vacancy and voted to do so (2 in favor, 1 opposed) at its April 19, 2022 meeting.

WHEREAS, Craig Halls filed a Petition for Declaratory Judgement and Motion of Injunction against the San Juan County Commission, each County Commissioner, Commission staff, County Clerk and County Administrator, on behalf of himself,

Brittney Ivins and others, which was served on the County Clerk on April 27, 2022, alleging that, among other things, the County Commission has no authority to solicit attorney applicants from outside San Juan County to fill the County Attorney vacancy.

WHEREAS, the Petition was never served on the County Commissioners themselves.

WHEREAS, the 7th District Court of Utah issued an Order Granting Temporary Restraining Order against the defendants on May 3, 2022, ordering that defendants “are restrained . . . from appointing any person for the position of San Juan County Attorney except one of these four individuals who were the original applicants for the position: Craig C. Halls, Brittney Ivins, Alex Goble or Daniel Anderson.” In short, the Court concluded that the submissions from the four attorneys constituted applications as a matter of law. ORDER, May 3, 2022, Case No. 220700004.

WHEREAS, Craig Halls and Kendall Laws served as the County Attorney during the litigation of *Navajo Nation et al. v. San Juan County*, which was filed to correct civil rights violations by the County against Native American residents of San Juan County that occurred when Mr. Laws and Mr. Hall were the County’s chief legal officers, and which the County lost, costing the County millions of dollars in attorneys’ fees.

WHEREAS, Kendall Laws was the County Attorney at the time when the County violated Commissioner Grayeyes’ civil rights by illegally removing him from the 2018 ballot and during the pendency of *Grayeyes and Whitehat v. Cox, Neilson, Laws, et al.*, Case No. 4:18-cv-0004, in which now Commissioner Grayeyes had to resort to Federal Court to protect his rights to free speech, equal protection and due process under the First and Fourteenth Amendments of the United States Constitution after the County and its officials denied him access to the ballot as a candidate for the seat of Commissioner in District 2 on the San Juan County Commission.

WHEREAS, through the years San Juan County attorneys have been responsible for giving legal advice to the County on matters concerning the civil rights of Native American citizens of the County. How the County handled those matters lead to civil rights lawsuits being filed against the County, which the County then fought and ultimately lost, at significant cost to County taxpayers.

WHEREAS, San Juan County appreciates and acknowledges the significance and importance of the Office of County Attorney. The Commission believes it was necessary to have meaningful information about the background and experience of the attorneys who expressed an interest in the position. The Commission also believes that it is important to ensure that it appoint an attorney to the position who will respect the civil rights of *all* the County’s citizens and who will not exhaust the County treasury through litigation or other actions that would deprive some of those citizens of their basic civil rights.

WHEREAS, the vacancy and the issue of filling the county attorney vacancy was not created by the Commission and the Commission has sought to follow the statutory

process for filling the vacancy provided in UCA § 20A-1-509.2; however, the Commission has now been ordered by the District Court to make an appointment from the four attorneys residing in San Juan County who submitted expressions of interest in response to the Clerk's initial notice of vacancy letter.

NOW, THEREFORE, BE IT RESOLVED:

Section 1: The Board of San Juan County Commissioners appoints _____ to fill the vacancy of County Attorney to serve the remainder of the term through December 31, 2022.

PASSED, ADOPTED AND APPROVED by the Board of San Juan County Commissioners this _____ day of _____ 2022.

Those voting aye:

Those voting nay:

Those abstaining:

Absent:

Commissioners

Board of San Juan County

Willie Grayeyes, Chairman

ATTEST:

Lyman Duncan, County Clerk/Auditor