



- HOME
- COMMUNITY
- POW WOVES
- GENEALOGY
- DATECATCHER
- CLASSIFIEDS
- OBITUARIES
- RSS FEEDS
- SHOP
- NEWS
- POLITICS
- A&E
- THING ABOUT
- SPORTS
- BUSINESS
- PHOTOS
- HEALTH
- ENVIRONMENT
- CANADA
- MORE



Archaeological Claims to Kumeyaay Ancestral Remains

STEVEN NEWCOMB | 4/15/14

SHARE THIS STORY

Like 34 people like this.

34 0 0

Share Tweet +1 Email

GET NEWS ALERTS

Submit this Story

On December 3, 2013, oral arguments took place in San Francisco as part of a lawsuit that had reached the Ninth Circuit Court of Appeals. A decision in the case is expected any time now. The suit was initiated by three professors who have sued in an effort to prevent the University of California system from handing over to the Kumeyaay Nation ancestral remains dating back more than 9,000 years. The UC system

had agreed to hand over the remains the Kumeyaay prior to the lawsuit.

The Kumeyaay Cultural Repatriation Committee (KCRC) was formed by resolutions from the various Bands of the Kumeyaay Nation, and Steven Banegas (Barona) is the KCRC Spokesperson. The UC system has argued that the Kumeyaay Cultural Repatriation Committee is indispensable to the case but cannot be compelled to join the case because of Indian nation sovereign immunity. The situation has the potential to form a Catch-22 for the professors.

Since the Bands of the Kumeyaay Nation have sovereign immunity, the argument is that the KCRC--as an arm of the Kumeyaay Nation Bands--is immune from such a lawsuit, and therefore cannot be compelled to be a party to the case. The UC system has argued that the case cannot proceed without KCRC. A U.S. District Court ruled in favor of the UC system's argument, and the case is now being reviewed by a three judge panel of Ninth Circuit Court of Appeals.

The deadly historical context of this dispute over ancestral remains is well illustrated by a quote from Reverend J. L. Burhcard. The quote appeared in the *San Francisco Call* newspaper in January 1878: "Many people are inclined to put on a sentimental air and charge that the white man has been the cause of all this decimation among their [the Indians'] ranks. Such, however, does not appear to be the case. The truth is that they [the Indians] have served their purpose in the great economy of God, and the fullness of time for their [the Indians'] disappearance from the earth has come and they are going to go." (*People of the Valley: The Concow Maidu*, Don M. Chase, 1973, p. 31). Additional evidence of this genocidal historical context is found in Brendan Lindsay's *Murder State*:

follow

This Week From Indian Country Today
eNewsletter is now Free!

Free & Easy!

SUBSCRIBE NOW

California's Native American Genocide, 1846-1873.

“Not much has changed in their way of thinking; it's still, ‘their time has come and gone,’” says KCRC Spokesperson Banegas, referring to the attitudes of dominant society when it comes to the original nations of the Americas, and particularly when it comes to Kumeyaay ancestral human remains.

The Kumeyaay ancestral remains were unearthed some four decades ago in an area of the Kumeyaay territory now commonly called La Jolla, California. They were uncovered during excavations that were part of renovations to the Chancellor's House at the University of California at San Diego (U.C.S.D.). Part of the backdrop for the professors' lawsuit is an assumed right by the non-Kumeyaay society to take possession of Indian ancestral remains based on what, in 1823, the U.S. Supreme Court called “the right of discovery.”

This so-called "right of discovery" emerged during the 15th and later centuries. It emerged as a result of the Spanish crown, and other imperial monarchies of Christendom, claiming the right to take possession to any non-Christian lands they were able to locate. (See generally, Steven Newcomb, *Pagans in the Promised Lands: Decoding the Doctrine of Discovery*, 2008).

Behind the lawsuit by the three professors is the assumption that the dominating society has, in the name of science, the right to take possession of unbaptized human remains of great antiquity, unearthed anywhere in the geographical area now commonly called ‘the United States.’ Additionally, there is a presumption, traced to the imperial-colonial mind-set of past centuries, that non-Indian archaeologists are best qualified to judge whether or not ancestral remains found in the territory of a particular Indian nation are “culturally affiliated” with that nation.

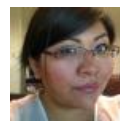
It makes sense to assess the professors' lawsuit in the context of the *origin* of the field of archaeology, which has been called “a branch of anthropology” (Charles Winiick, *Dictionary of Anthropology*, 1956, p. 35), or a “subdiscipline” of anthropology” (Fred W. Voget, *A History of Ethnology*, 1975, p. 389). The significance of the lawsuit over the Kumeyaay ancestral remains is accurately interpreted in the context of Claude Lévi-Strauss' description of anthropology as part of the history of domination that grew out of the “Age of Discovery.” “Anthropology,” said Lévi-Strauss:

“...is the outcome of a historical process [of domination] which has made the larger part of mankind subservient to the other, and during which millions of innocent human beings have had their resources plundered and their institutions and beliefs destroyed, whilst they themselves were ruthlessly killed, thrown into bondage, and contaminated by diseases they were unable to resist. Anthropology is daughter to this era of violence...” (Cited in the article “The Use of Anthropology” by Dell Hymes, in *Reinventing Anthropology*, Ed., Dell Hymes, 1974, p. 61)

In the aftermath of this historical process of such domination and dehumanization, in 1990 the U.S. Congress passed the Native American Graves Protection and Repatriation Act (NAGPRA). Pursuant to NAGPRA the University of California at San Diego in the last couple of years was preparing, after forty years of stonewalling, to hand over the 9,000 + yr. old ancestral remains to the Kumeyaay. That's when the three professors filed suit in an effort to block the transfer. The Kumeyaay are now waiting to see what the 9th Circuit Court of Appeals decides.



MORE COLUMNS



Snyder's Redsk*ns Hush Money and KTNN's Questionable B

Sometimes you don't realize the magnitude of an issue until it hits close to home. On Tuesday, April 8, 2014, I opened an email and to my...



Archaeological Claims to Kumeyaay Ancestral Remains

On December 3, 2013, oral arguments took place in San Francisco as part of a lawsuit that had reached the Ninth Circuit Court of Appeals. A...



We, the Native Peoples

Our Creator, Wakan Tanka, endowed our Lakota people with life and liberty. As Sitting Bull said, “We are free. We choose our own path.” We...



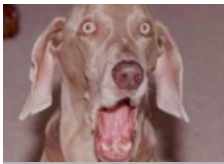
Walk on Water, Walk for Water

Soon, we begin the third of our River Water Walks. The Ohio River Water Walk begins April 22 in Pittsburgh. The Ohio is the most polluted...

Steven Newcomb (Shawnee, Lenape) is co-founder and co-director of the Indigenous Law Institute, and author of *Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery (Fulcrum, 2008)*.

Like 34 Tweet 0 g+1 0 

You need to be logged in in order to post comments
Please use the log in option at the bottom of this page



HOW'D I MISS THAT?

How Did I Miss That? Sanctions...
How Did I Miss That? Dog Defies...
How Did I Miss That? Ancient Fish...



ICTMN LISTS

Rock, Rattle & Drum: 5 Native...
Tax Day: 10 Things Native People...
Rock, Rattle and Drum: 5 Native...



REDSKINS

*Snyder's Redsk*ns Hush Money...*
Redskins Sponsorship Taints Navajo...
Navajo Nation Officially Joins...



ICTMN VIDEOS

Video: Man on the Street: Who Was...
Model Owee Rae: Being Herself and...
Video: Time-Lapse of Timeless...

READ MORE

Steven Newcomb | Kumeyaay Cultural Repatriation Committee | Age of Discovery | Levi Strauss | NAGPRA | Native American Graves and Repatriation Act

RELATED STORIES

'And No Opposition Was Offered to Me' My Rebuttal to Steven Newcomb: A Worthy Debate
The Never-Ending Crusading Tradition, 2014
On Dina Gilio-Whitaker's Column, "Moving From Sovereignty to Autonomy"

AROUND THE WEB

Obamacare launch hits early hitch as online traffic snarls up sites

'It was just a deafening roar': storm-chaser James Reynolds on

Attention Magazine Print Subscribers!

Important! We need your email address to activate your exciting new eNewsletter issues.

[CLICK HERE*](#)

*Click if you haven't already given us your email address

Safari Power Saver
Click to Start Flash Plug-in

