

Supreme Court Decision in *Denezpi v. US* Aligns with Jenner & Block Amicus Brief

News

June 13, 2022

The US Supreme Court ruled on June 13 that federal prosecution following prosecution of a tribal offense in a federally funded Court of Indian Offenses does not constitute double jeopardy. This decision in *Denezpi v. US* aligns with an amicus brief filed by Jenner & Block on behalf of professors and scholars of federal Indian law and its history. The brief was drafted in collaboration with the NYU-Yale American Indian Sovereignty Project and cited at oral argument by Justice Stephen Breyer.

In the brief urging the Court to affirm the Tenth Circuit decision, the amici provided an in-depth history of the Courts of Indian Offences (also known as CFR Courts), which was largely ignored by the petitioner's interpretation of the case. That interpretation sought "to freeze federal Indian policy at its assimilationist apex--at the expense of the sovereignty of those Tribes, like the Ute Mountain Ute, who have chosen the C.F.R. Courts as the mechanism for exercising their authority today," read the brief.

Associate Leonard R. Powell led the Jenner & Block team representing the amici. "The amici curiae in this case provided the Court with an invaluable understanding of the history of the Courts of Indian Offenses as tribal instrumentalities," said Mr. Powell. "An accurate understanding of this history is essential if tribal sovereignty is to be preserved." He discussed the decision with *Law360*.

Other members of the team include Partners Ian Heath Gershengorn, Amb. Keith M. Harper, and Zachary C. Schauf. 2022 Summer Associate **Ethan Fairbanks** contributed to the brief as a member of the Sovereignty Project. Mr. Fairbanks discussed the project work in a *YaleNews* article.

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