

Indians, state vie again for hunting-fishing right

United Press International WASHINGTON — The Supreme Court will hear arguments today in a 5-year-old controversy over the rights of states vs. rights of Indians on reservations within those states.

New Mexico, supported by briefs from eight other states and Rocky Mountain states, argues it has the right to regulate hunting and fishing on state reservations. The state also contends it is entitled to animals who are off reservations onto state lands.

On behalf of the Indians of the Mescalero Apache Tribe, living on a 460,000-acre reservation near the resort town of Lordsburg, N.M., attorneys counter that a treaty gives them sovereignty over all hunting,

fishing and wildlife on the reservation.

Today, Tom Dunigan will argue the state's rights case before the Supreme Court. He said the court's final decision will apply to New Mexico's 26 reservations and to all other reservations in the United States.

"It's a recurring case of interest to other states nationally," Dunigan said. "You're not talking about a little piece of land in southern New Mexico. You're talking about numerous states that have the same problem."

Challenging New Mexico will be federal lawyers who side with the Indians.

"The tribe is concerned that state enforcement of conflicting laws will injure the tribe's reputation, damage its good will and result in lost income due to a

decline in the sale of tribal hunting licenses," one of the attorneys said.

The government also said the state's interest in the case is "at least partially financial" because of fears it could lose federal funding distributed on the basis of number of acres and number of hunting licenses.

The 2,000-member tribe, which entered the resort business with federal aid to compensate for declining revenues from lumber interests, gets hunting and fishing revenues of at least \$260,000 yearly.

In the nearly six years since the controversy developed, the case has been debated twice before a federal district court, twice before the 10th Circuit Court of Appeals and once before the Supreme Court.

Every time, the Indians won.

The controversy began after the tribe built a deluxe resort in 1977 and, with the approval of federal officials, issued reservation regulations saying no state licenses were required. The tribe also set fish and game seasons and bag limits which conflicted with state regulations.

At least 97 percent of the visitors to the Inn of the Mountain Gods are non-Indians and many have bought "package hunt" deals.

When New Mexico Game and Fish officers began arresting non-Indians who had followed the reservation regulations while hunting on Indian lands, the tribe filed suit.

Officials in Arizona, California, Montana, Nevada, South Dakota, Utah, Washington and Wyoming have filed court documents on behalf of New Mexico.

Air Force blamed for defects

Court rejects boy's case

United Press International WASHINGTON — The Supreme Court Monday rejected an appeal from a boy, 5, who suffered severe birth defects because his mother, then in the Air Force, was given a measles vaccination while pregnant.

Without comment, the justices refused to hear Charles Scales' request to reinstate a \$25,000 judgment holding the government responsible for the child's ailments.

Rubella, or German measles, cause serious birth defects if a woman is exposed to the disease while pregnant.

Scales is mentally and physically

retarded, has hearing and vision impairments, a heart murmur and respiratory problems. He has undergone open heart surgery and two cataract operations so far, and probably will need care all his life, a court found.

The boy's lawyers contend the government is at fault for not checking Judy Renee Scales for pregnancy before giving her a rubella vaccination when she joined the Air Force in 1977.

In addition, they say, doctors at Lackland Air Force Base in San Antonio later failed to tell Scales she had contacted probable rubella when she was hos-

pitalized a month later for a rash, nausea and stiff joints.

And after her transfer to Keesler Air Force Base in Biloxi, Miss., doctors did not request her earlier medical records when they found out she was pregnant and failed to warn her of the effects of rubella on unborn children.

Scales testified she would have had an abortion had she known.

Attorney for her son sued the government in a federal court in Texas, citing a law that holds the government liable for personal injury or property damage caused by the negligence of any

government employee.

The trial judge awarded the boy \$625,000 in damages.

But in September 1982, the 5th U.S. Circuit Court of Appeals in New Orleans reluctantly overturned the award.

It found the boy's claim was barred by one major exception laid down by the Supreme Court in 1950 to government liability — injuries to military personnel.

In this case, the court held, the injury was to an infant but the treatment causing it was provided to the mother.

Scales was discharged from the Air Force after Charles was born in March 1978.

Man holds aunt hostage

United Press International SAN ANTONIO — A woman was held hostage in her home for more than 15 hours by a nephew who tried to escape through a front door, allowing police to enter and apprehend the knife-wielding man.

No one was injured.

The man, identified only as a 30-year-old in his mid-30s from Mexico City, was arrested about

2:15 a.m. Monday after having held his aunt at knifepoint since Sunday morning.

Police answered a disturbance call at the small woodframe house in west San Antonio about 10:30 a.m. Sunday and were met at the front door by a man holding a knife to the woman's throat.

Police said the woman, in her late 40s, tried to escape through

the front door, which was barricaded with a sofa, at about 2 a.m. while the man was in a bathroom in the back of the house.

Officials said the man returned and apparently wrestled with the woman and they both fell through the screen door. A police SWAT team apprehended the man on the front porch about 2:15 a.m.

Authorities said the suspect

was taken into custody and charges of making terroristic threats were pending.

Reporters at the scene estimated between 25 and 35 people had been evacuated from the block surrounding the house during the day.

Authorities said the woman lived in the house and her nephew had stayed there on previous occasions.

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