*Ray v. Office of Navajo and Hopi Indian Relocation*, 2023 WL 4761789 (D. Ariz., July 26, 2023).

- **Holding**: In determining eligibility for relocation assistance, Hearing Officer was required to consider testimony of numerous witnesses of Navajo Plaintiffs' alleged occupation of lands later partitioned to the Hopi Tribe, even if inconsistent with the BIA's 1974-75 Enumeration of occupants in the then-Joint Use Area.
- **Summary**: Plaintiffs are enrolled members of the Navajo Nation, who claimed that their family maintained a traditional Navajo 'customary use area' that extended into the Hopi Partitioned Lands ("HPL"), as designated in the court-ordered partition of land previously referred to as the Joint Use Area ("JUA")—occupied by both Navajo and Hopi residents, as authorized by the Navajo–Hopi Settlement Act, Pub. L. No. 93-531, § 12, 88 Stat. 1716 (1974). The Plaintiffs claimed that they maintained a summer camp and cornfield in the HPL at the time of portioning in 1976, and therefore were entitled to relocation assistance funds. The Office of Navajo and Hopi Indian Relocation denied the claims, and the denial was upheld by an Independent Hearing Officer. The Plaintiffs sought legal review under the APA.

  The court found that the Hearing Officer gave too much weight to the Bureau of Indian Affairs' 1974–75 Enumeration of residents of the JUA, which did not include any reference to Plaintiff's cornfield or other summer use of lands in the HPL, noting that in prior decisions nearly indistinguishable from this case the Hearing Officer had not considered the Enumeration to be "absolutely determinative" of residency. And, while the Hearing Officer had deemed the Plaintiffs' witnesses to not be credible due to their conflict with the Enumeration, the Hearing Officer "failed to meaningfully explain how the Enumeration, on its own, was sufficient to entirely undermine the credibility of such a large amount of consistent testimony from individuals who had direct knowledge of Plaintiffs' whereabouts in the early 1970s." "Given the IHO's failure to satisfy the substantial evidence standard with respect to the credibility determination and the residency issue," the matter was remanded to the Hearing Officer for further proceedings.
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