

RINCON: Supreme Court declines to hear Rincon gambling case

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The U.S. Supreme Court handed the Rincon Band of Mission Indians a victory Monday when it declined to review a lower court's decision that said the state could not make the Valley Center tribe pay casino revenues into California's general fund.

Rincon filed the lawsuit in 2004 after negotiations for a new gambling agreement with then-Gov. Arnold Schwarzenegger fell apart. The tribe said the governor was violating federal law by insisting that tribes pay money into the state's general fund in exchange for more slot machines.

"Regrettably, Gov. Schwarzenegger chose to thumb his nose at the federal law and the tribe's interest in reasonable compromise, costing the state and the tribe money and time, money better spent in creating jobs and providing much needed services," said Rincon Chairman Bo Mazzetti.

Evan Westrup, a spokesman for Gov. Jerry Brown, said the governor will abide by the court's decision.

"We respect the court's decision and will proceed with negotiations that further the interests of the people of California and the state's tribes," Westrup said.

Because the 9th Circuit Court of Appeals opinion remains intact, it could be harder for the state to demand payments from tribes.

Under the Indian Gaming Regulatory Act, states are only allowed to get compensation for costs related to tribal gambling, such as regulation and gambling addiction, and to offset the effects of casinos on neighboring communities.

Rincon operates its Harrah's Rincon Casino and Resort in Valley Center under a gambling agreement negotiated with the state in 1999. In 2003, the tribe told the state it wanted to renegotiate the agreement, also called a compact.

The tribe wanted to operate more slot machines. The state originally offered to allow hundreds of new machines on top of the 1,600 the tribe already operated. In exchange, the state wanted 10 percent of the casino's net revenue on the existing machines and 15 percent of the revenue on any new machines.

An analysis of the deal disclosed during the lawsuit showed that the state would get about \$37 million through such an agreement, leaving the tribe with just \$1.7 million in profit on the new machines.

"No business would be asked to take this type of deal, let alone agree to it," Mazzetti said.

The Supreme Court's decision not to take up the case is a blow to the state, said Cheryl Schmit, director of the gambling watchdog group Stand Up for California.

"This makes the governor's role in tribal state compact negotiations much more difficult (in) an effort to collect revenue-sharing funds for the state," Schmit said.

The case will be returned to San Diego, where the district court will preside over a 60-day period of negotiations between the state and the tribe. If the two cannot reach an agreement, the tribe and the state will each submit a final offer to a court-appointed mediator, who will choose one of the proposals.

Rincon said in a news release Monday that it is optimistic it can reach an agreement with the Brown administration.

The Supreme Court did not issue an explanation for its decision not to hear the case.

Earlier this year, the justices asked the Obama administration to weigh in on the case. Then-Acting Solicitor General Neal Katyal issued an opinion siding with Rincon last month.

During his tenure, Schwarzenegger was able to convince persuade several tribes to enter into agreements paying casino revenue into the state's general fund.

One of those tribes, the Pauma Band of Mission Indians in Pauma Valley, which has struggled to build a larger casino, successfully sued the state last year to stop making the payments.

Another tribe that agreed to pay into the state's general fund, the Viejas Band of Mission Indians in East County, said its agreement "has worked well for Viejas and the state."

"That compact was negotiated in 2004 and is valid through 2030, so we don't expect any immediate, direct impact on Viejas from this decision," said the tribe's spokesman Bob Scheid.