

07-1410 UNITED STATES V. NAVAJO NATION

DECISION BELOW: 501 F. 3d 1327

LOWER COURT CASE NUMBER: 2006-5059

QUESTION PRESENTED:

The Indian Mineral Leasing Act of 1938 (IMLA), 25 U.S.C. 396a et seq., and its implementing regulations authorize Indian Tribes, with the approval of the Secretary of the Interior, to lease tribal lands for mining purposes. In a previous decision in this case, *United States v. Navajo Nation*, 537 U.S. 488 (2003) (Navajo), this Court held that the Secretary's actions in connection with Indian mineral lease amendments containing increased royalty rates negotiated by the Navajo Nation did not breach a fiduciary duty found in IMLA or other relevant statutes or regulations. The court of appeals held on remand that the Secretary's conduct breached duties linked to sources of law that had been briefed to this Court but not expressly discussed in Navajo. The questions presented are:

1. Whether the court of appeals' holding that the United States breached fiduciary duties in connection with the Navajo coal lease amendments is foreclosed by Navajo.
2. If Navajo did not foreclose the question, whether the court of appeals properly held that the United States is liable as a matter of law to the Navajo Nation for up to \$600 million for the Secretary's actions in connection with his approval of amendments to an Indian mineral lease based on several statutes that do not address royalty rates in tribal leases and common-law principles not embodied in a governing statute or regulation.

CERT. GRANTED 10/1/2008