

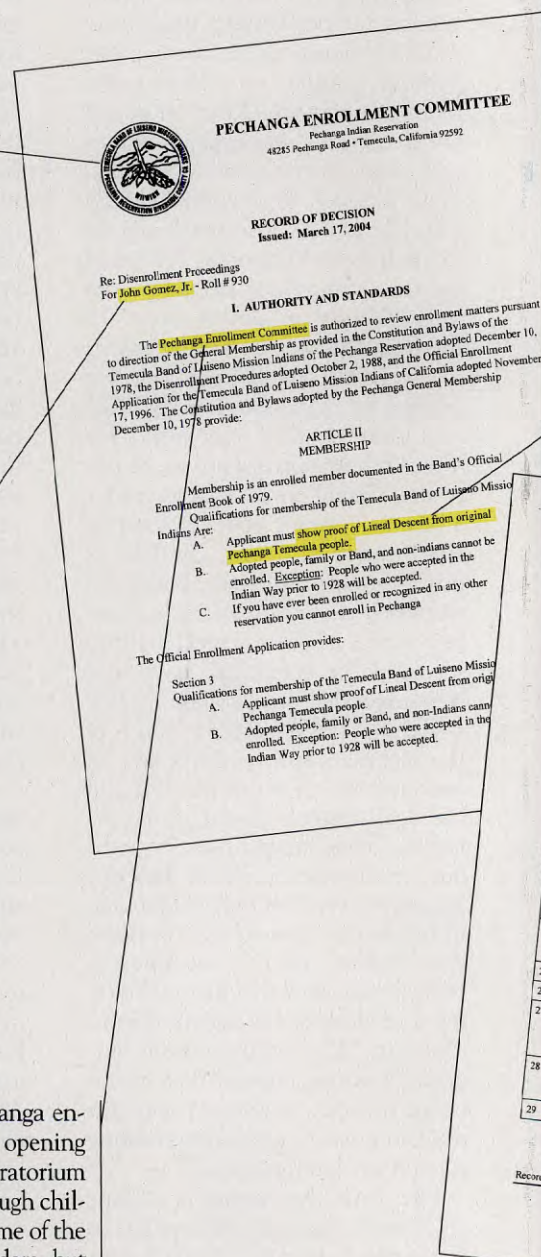
# A PAPER TRA

How casino-rich tribes are deali

For many Native American tribes, the success of their gambling operations ends a run of misfortune and dispossession that dates back to when white men first dubbed them Indians. Since full-scale reservation gaming was sanctioned by Congress in 1988, its annual take has grown to some \$20 billion, with more than one hundred tribes doling out profits directly to their members. The Pechanga (the tribe's insignia is shown here), whose reservation is a patch of largely useless scrub-and-rock desert southeast of Los Angeles, rake in well over \$200 million a year from a 522-room casino/resort with eight restaurants and 2,000 slot and video-poker machines. The cut for each Pechanga adult: \$290,000. But if being an Indian has taken on the imprimatur of wealth, high stakes have also led tribes to deal some of their people out. Bands from California to Connecticut have expelled thousands of long-standing members, often on flimsy grounds of inadequate Indian ancestry. By thinning their numbers, casino-operating tribes have figured out how to split the pot fewer ways.

This decision concerns the disenrollment of John Gomez Jr., whose entire extended family, consisting of 135 adults and all of their offspring, was declared in 2004 no longer to be Pechanga. Gomez and his relatives are descended from Manuela Miranda, who all sides agree was part of the Temecula tribe from which the Pechanga originate. Decades after the federal government established the Pechanga reservation in 1882, Miranda's granddaughter—Gomez's grandmother—left the impoverished area. But Gomez's people never stopped identifying themselves as Pechanga. Gomez's father returned to the reservation every summer when he was a boy, and later he took his children there for family occasions. In 1998, Gomez settled his own family a few miles from the reservation, in the town of Temecula, and he soon went to work for the tribe as its legal analyst. His brother has served as the executive chef of the casino's restaurant, his cousin was the casino's head of human resources, and other relatives helped draft the tribe's constitution.

In 2002, Gomez and a cousin were elected to the Pechanga enrollment committee. Deluged with applications after the opening of its first gambling hall in 1995, the tribe imposed a moratorium the following year on accepting new adult members, although children of existing members were still permitted to apply. Some of the new applicants were undoubtedly opportunistic pretenders, but others had lived their entire lives as unquestioned tribal members and simply never had reason to formally enroll. According to Gomez, he and his cousin found that the committee was not processing applications filed before the moratorium and was failing to enroll some members' children. Only after he called for an investigation, says Gomez, did questions about his own ancestry arise.



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# IL OF TEARS

ing members out, by Vince Beiser

The Pechanga authorities say they are just belatedly enforcing long-standing rules regarding descent and historical residence, the specifics of which are outlined here. Most tribes require that members show proof of a blood quantum: a minimum of one full-blooded grandparent or great-grandparent. But with so much at stake, how that Indian status is proven has become a matter of intense dispute. The Meskwaki tribe of Iowa last year began requiring DNA tests for all would-be members. A North Carolina band is spending nearly \$1 million on outside consultants to authenticate birth and death certificates. When a former chairman of California's Redding Rancheria tribe and seventy-five members of his extended family were disenrolled in 2004, they dug up the remains of two ancestors for DNA testing. Three experts agreed that the genetic evidence confirmed that they were bona fide Redding Rancherias. Yet the tribal council stuck to its decision—meaning that the roughly \$3 million in casino payouts that had been going to the ousted clan now gets divided up among the tribe's remaining 230 members.

This memo, from a group that calls itself the Concerned Pechanga People, contained the first claims that Gomez's family did not meet the criteria for membership. (Several of these "concerned" Pechanga just happen to be related to the enrollment committee members Gomez had accused of stonewalling applications.) When it was presented to the full committee in December 2002, the memo set off a series of accusations and counter-accusations about the illegitimacy of other members' Pechanga roots. At one point seven of ten members on the enrollment committee were forced to step down pending reviews of their own status. In other tribes, too, disenrollment has been used as a club to settle scores and to protect political power. An entire family was expelled from one California band after its members pushed for a recall election of the tribal council. Part of the impetus for the Redding Rancheria disenrollments, according to the tribe's own lawyer, was "all kinds of interpersonal things. There were a lot of things family members did to others that were resented."

Forced to prove their Pechanga lineage, Gomez and his family searched through government archives and boxes tucked away in homes, eventually amassing hundreds of historical documents, many as old as the baptismal record from 1864 catalogued here. But using such documentation to "authenticate" Indian ancestry is dubious at best. In the late nineteenth century, census takers simply eyeballed those living on reservations to determine whether they were one-quarter, half, or full-blooded Indian. Indians themselves, fearing that their land would otherwise be confiscated, often felt compelled to say they were white or Mexican. Indeed, California municipalities offered bounties on Indian scalps until the late nineteenth century, giving their owners an obvious incentive to hide their true identity.

15	Document entitled "Previously Submitted Documents, Correspondence with the Enrollment Committee, And other mailings/handouts" asserting legal and factual positions of members who are the subject of this order.
16	Patent issuance record for Nellie Miranda (Marando) (an Indian) dates from January 20, 1915 to August 19, 1920
17	Letter to Superintendent, Pala Indian School, Pala, California from CG Larrabee, Acting Commissioner, Office of Indian Affairs, Department of the Interior—Subject: Purchase of Land from Philip Pohman dated June 15, 1908
18	United States Pension Agency, Department of the Interior document listing persons with and without allotments undated
19	Certification of Degree of Indian Blood for Manuela Miranda signed by John Rydzik, Acting Superintendent dated April 7, 2003
20	Manuela Desierto Miranda's transcript from probate record "In re estate of Antonio Alvaros, deceased Mission (Pechanga Band), Allottee, No. 32, Pala School, California, dated May 16, 1916. One copy with thumbprint and one copy without.
21	Memorandum to Enrollment Committee and Tribal Council—Pechanga Indian Reservation from The undersigned concerned Pechanga Tribal member signed by William Salinas, undated
22	Memorandum to Enrollment Committee and Tribal Council—Pechanga Indian Reservation from Barbara (Bobbi) Candelaria on behalf of Descendants of Manuela Miranda, subject: "Memorandum dated December 10, 2002—Request to commence disenrollment proceedings, dated December 15, 2002"
23	Memorandum to The Pechanga Enrollment Committee from John A. Gomez, Sr. on behalf of the Descendants of Manuela Miranda, subject: Response to documents presented on December 10, 2002 alleging lack of lineal descent for the descendants of Manuela Miranda, dated June 5, 2003
24	Document entitled Enrolled Members of the Temecula Band of Luiseno Mission Indians, Pechanga Reservation Riverside County, California, with handwritten date of 1979
25	Certificate of Baptism for Maria Manuela Azis born on December 1, 1864
26	Letter to Pechanga Enrollment Committee from Theresa Spars, dated June 26, 2003
27	Paulina Hunter to Enrollment Committee from On behalf of the descendants of Source recuse themselves from participating in pending issues of possible disenrollment, dated June 26, 2003
28	Memorandum to The Pechanga Enrollment Committee from Descendants of Manuela Miranda, subject: Additional documents and information regarding Manuela Miranda, dated July 24, 2003
29	Note of homestead record for Manuela Miranda, undated

Decision: John Gomez, Jr.

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PECHANGA ENROLLMENT COMMITTEE

John Gomez's case hinges not on his ancestor's blood but, as the ruling examines here, on where precisely Manuela Miranda lived at a specific time. In 1875, the Temecula were forced off their land by neighboring ranchers backed by San Diego County sheriffs. Many of them drifted away to towns; others resettled in the nearby Pechanga valley, which the government eventually designated as the Pechanga reservation. Over the years most residents abandoned this inhospitable land, and the reservation began to be repopulated only after the community finally got electricity in 1970. The tribe's constitution, passed in 1978, says that members must prove "descent from original Pechanga Temecula people." But in 1996 the tribal council tightened the rules, declaring for the first time that members had to have an ancestor from the subset of Temeculas who relocated to the Pechanga valley. Gomez and his family point to minutes from the 1996 meeting indicating that the more stringent qualifications were not meant to be applied retroactively to established members such as themselves.

Manuela Miranda was born in 1864 in the Temecula village. She never knew her father, and her mother died when she was five, at which point she went to live with an older half-sister. After the ranchers pushed them out of the village, the half-sister moved to the Pechanga valley and a teenage Miranda was soon married off to a non-Indian, with whom she settled and eventually had ten children in nearby San Jacinto. As is indicated here, the enrollment committee acknowledges that Miranda identified herself as an "Indian of the Pechanga Reservation" in a 1916 probate record. But at the age of sixty-four, when applying to have her name added to a new federal listing of California Indians, she said otherwise. Miranda's complicated relationship to her tribe is far from exceptional. Large numbers of Indians have moved off their reservations, often with the encouragement of government programs. And marriage outside the tribe and race has been commonplace since the late nineteenth century. In fact, today fewer than half of all Indians even claim full-blood status.

Unfortunately for Gomez, the enrollment-committee members with ties to the Concerned Pechanga People were reinstated before his case was considered: in resuming their positions, they were able to rule against him. The committee states here that Miranda never relocated to the Pechanga valley, and therefore her progeny are not Pechangas. Yet Gomez's family insists that Miranda kept in close contact with her relatives on the reservation, and in affidavits elderly tribal members have sworn that they always viewed her as one of their own. Even though Miranda's half-sister also lived off the reservation for many years, the committee decided that her living descendants are members in good standing. (One of these descendants, Frances Miranda, is among the enrollment-committee members who voted to remove Gomez.) For her people and for each of the remaining 850 adults in the tribe, the ouster of Gomez's clan raised their individual share of casino money by some 15 percent.

At the time of the ejection of the Temecula Band, Manuela Miranda would have been 12 years old. Therefore, prior to her moving to San Jacinto at age 12, she must have lived at Temecula, not the Pechanga Valley. This is consistent with her statements that she was living at that time with her sister who then lived at Temecula. Doc. No. 20. These facts place her at Temecula as part of the Temecula Band, but do not place her with the remainder of that Band that moved to the Pechanga Valley and become known as the Pechanga Band. In addition, at the time of creation of the Pechanga Reservation in 1882 she would have been 18 years of age — a time when the record indicates she was living in the San Jacinto area.

Manuela Miranda's name does not appear on the Pechanga Reservation census documents. No documents have been submitted which show that Manuela Miranda ever resided at the Pechanga Reservation at or near the time the Pechanga Band relocated to the Pechanga Valley or when the Reservation was established. Manuela Miranda's half-sister Candelaria Flores does appear on the Pechanga Reservation census roles and evidence indicates that she was part of the Temecula Band that located at Pechanga Valley and was on the Reservation at or near the time of the creation of the Reservation. The Committee has previously held that Candelaria Flores is an "original Pechanga Temecula person." Doc. No. 67.

Manuela Miranda's Application for enrollment with the Indians of the State of California under the Act of May 18, 1928 indicates that she was half-blood of the Temecula Band of San Luiseno Indians; it does not indicate whether she was part of the remnant that located at Pechanga. Doc. No. 155. Other than one instance in 1916 where she stated she was an Indian of the Pechanga Reservation, the historical record reflects her and her descendants as being either of Temecula, San Luiseno, or San Luis Rey descent. Doc. Nos. 89, 90. The one statement in 1916 is contradicted by her statement in the same document that she never lived on the Reservation and her 1928 application which indicates the closest she lived to Pechanga was in Temecula at her residence there ceased prior to or at the same time the remnant of the Temecula Band moved to the Pechanga Valley. Doc. Nos. 20, 155. The records consistently show Manuela Miranda and her descendants historically lived in the San Jacinto area. Doc. Nos. 81, 86, 90, 105.

The Constitution and Bylaws require that to qualify for membership an "[a]pplicant must show proof of Lineal Descent from 'original Pechanga Temecula people'." The Constitution does not say "original Temecula people." Consequently, the Committee is of the view that descent must be traced back to our ancestors that were a portion of the Temecula Band that relocated to the Pechanga Valley. Otherwise, there would have been no need for the General Membership to have inserted the word "Pechanga" in the Constitution. The Committee's position is further supported by the definition of Lineal Descent in the Official Enrollment Application which was approved by the General Membership in 1996. Section 4G of the Official Enrollment Application provides "[t]he chain of 'Lineal Descent' means . . . an ancestor from an 'Original Pechanga Temecula People' on the Pechanga Reservation." This language makes it clear that to show lineal descent you must establish that the ancestors you claim are

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Record of Decision: John Gomez, Jr.

PECHANGA ENROLLMENT COMMITTEE

Record of Decision

Gomez's disenrollment does not mean he is not an Indian (as is made clear here), but it does put him outside the Pechanga tribe, costing him more than his monthly casino check, his job, and the health and life insurance that came with it. He is now barred from visiting his ancestors' gravesite. His grandmother is no longer allowed to attend classes at the reservation's senior-citizen center. And his cousins' children have been expelled from the Pechanga elementary school, where they were learning the tribe's language. (Members of Gomez's family also made up the core of the tribe's softball team, and their expulsion forced the Pechanga to withdraw from intertribal play.) For others, disenrollment does mean that they are declared no longer to be Indians of any sort. Thus they lose government scholarships, job training, and other benefits reserved for Native Americans. Most federal programs require that recipients be at least one-quarter Indian, but a tribe's judgment is frequently the only proof of that blood quantum. Members of Gomez's family can attest to this dilemma: since being disenrolled many of them have lost their federally funded Indian health care.

There are now more than one thousand people fighting ejections from California tribes alone, and far more are embroiled in similar disputes nationwide. Yet for the disenrolled there is little recourse. Gomez followed the protocol specified here and appealed this decision to the tribal council, which, predictably, also ruled against him. Next he turned to state and federal courts, hoping they would be able to settle conflicting interpretations of tribal law and historical record. But the same sovereignty that allows Indian tribes to run casinos and sell fireworks on their lands also puts them largely outside the jurisdiction of the courts. A federal judge, ruling last September on another California case, wrote, "These doctrines of tribal sovereign immunity were developed decades ago, before the gaming boom created a new and economically valuable premium on tribal membership." Although the judge was unwilling to challenge the 1978 Supreme Court decision that made membership an internal tribal matter, she nevertheless found the case "deeply troubling on the level of fundamental substantive justice."

Gomez recently helped form the American Indian Rights and Resource Organization, which is calling on Congress to address the current spate of disenrollment abuse. The group has staged a series of protests, including one in January at the annual Western Indian Gaming Conference in Palm Springs. As Gomez and a few dozen others picketed outside, their former tribal compatriots were inside the city's capacious exhibition hall, cutting deals with slot-machine manufacturers and sampling cakes from prospective caterers. Soon more protesters may join Gomez's side: in March the Pechanga started disenrollment proceedings against another ninety of its adult members. American Indians, it appears, are still being driven from their lands, their heritage stolen from them. But today the ranchers are other Indians, and bounties can exceed \$290,000 a head. ■

- because you assert your lineal descent through Pablo Apis, Casilda Apis, Juana Apis, or Manuela Miranda, none of whom are original Pechanga Temecula people, you fail to meet the qualifications for membership in the Pechanga Band. As of the date of this Record of Decision, your membership is revoked. In accordance with Part 8 of the Disenrollment Procedures, you and all of your lineal descendants claiming lineal descent through you lose all privileges and rights of a member.
- During the course of proceedings, a question arose whether a falsified certificate of Indian blood for Manuela Miranda had been submitted to the Committee. The Committee has determined that a falsified certificate of degree of Indian blood has not been submitted.
- Information in documents in the record before the Committee inconsistent with the conclusions was rejected on grounds that it either lacks authenticity, is inaccurate, lacks supporting documentation, or conflicts with more credible evidence.
11. Nothing in the Committee's findings shall be construed or interpreted that the Committee is making a determination of the "Indian" or "Native American" status of Manuela Miranda or her descendants. The Committee's decision is limited to whether you meet the qualifications of membership under the Pechanga Band's laws by showing lineal descent from "original Pechanga Temecula people" on the Pechanga Reservation.
  2. Pursuant to § 9 of the Disenrollment Procedures, you may appeal this decision to the Tribal Council. You were previously provided a copy of the Disenrollment Procedures. If you no longer have a copy of these procedures, you may contact the Committee for a copy. You are reminded that tribal law, custom, and procedure provide that enrollment records, including this decision, are confidential and you must provide a waiver for release of your records in order for your appeal to be considered by the Tribal Council.