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Tribes Are Not Dancing In The Streets Yet Over Internet Gambling Victory

Florida Governor claims Seminole Compact will produce \$20bn in revenue

U.S. Appeals Court marginalizes Wire Act "intermediate routing" concerns

Ripple effect of Seminole Compact ruling on tribes in other states unclear

So far, Florida Governor Ron DeSantis seems more excited about last week's court decision upholding his 2021 gambling compact with the Seminole Tribe than the Seminoles do.

"While we are not surprised the lower court's perplexing ruling was unanimously overturned, this is great news for Florida," said Jason Mahon, a spokesman for DeSantis, who is campaigning for the 2024 Republican Party nomination for President of the United States.

"We will continue working with the Seminole Tribe of Florida to ensure the success of this historic compact — the largest gaming compact in U.S. history — which will lead to over \$20bn in revenues for the people of Florida," Mahon told VIXIO GamblingCompliance in an email on Wednesday (July 5).

The Seminole Tribe released a surprisingly subdued statement on Friday (June 30) after a three-judge panel of the U.S. Circuit Court of Appeals for the D.C. Circuit **unanimously rejected a 2021 decision** by U.S. District Judge Dabney Friedrich claiming the landmark compact violated the Indian Gaming Regulatory Act of 1988.

Along with expansion of traditional casino gaming, the 2021 compact included provisions exclusively authorizing the Seminole Tribe to operate mobile sports betting throughout Florida via servers located on tribal lands.

"We'll have more to say on the case after next week," Jason Giles, executive director of the

Indian Gaming Association (IGA), told VIXIO on Wednesday in an email.

“IGA is definitely more in line with [the] Seminoles’ decidedly quiet response,” Giles said.

Although the decision by the appeals court seems to open the door for tribes in other states to pursue state-wide mobile gaming through a compact, other factors must be considered, according to Behnam Dayanim, global head of digital commerce and gaming for law firm [Orrick](#).

“It is important to note that the Court of Appeals expressly disclaimed any view on the question of whether authorization of tribally sponsored mobile sports betting complied with Florida’s constitution,” Dayanim said.

“Many state constitutions impose limits on various forms of gambling, so whether or not tribes and state governors will be able to negotiate similar arrangements in their compacts will turn on the particulars of each state’s constitutional and legislative environment.”

But Dayanim said the decision delivered another blow against the relevance of the [U.S. Wire Act of 1961](#) as a potential constraint on internet gambling or sports wagering.

Referencing claims that the Seminole compact could violate the Wire Act because wagering transactions might be routed outside state lines while traveling from the player to the server, the court said: “There is no support for the novel and sweeping argument that the Wire Act poses such a broad obstacle to an Indian tribe’s ability to offer online gambling on its own lands.”

“The possibility that intermediate transmissions might trigger Wire Act prohibitions because they may cross state boundaries has hovered in the background as the mobile sports-betting industry has grown — never a serious threat, but always a point of theoretical concern,” Dayanim said.

“The D.C. Circuit decision offers one more reason to regard that concern as immaterial.”

Jeff Ifrah, founder of the internet gambling firm of [Ifrah Law](#) in Washington, D.C., as well as U.S. online gambling trade group iDEA, described the appeals court’s decision as “narrow.”

“The court merely held that the [Interior] Secretary was within her rights to act or not act on the Florida compact,” Ifrah said.

[Interior Secretary Deb Haaland](#) said the compact had been “deemed approved” on August 6, 2021, without affirmatively authorizing the agreement.

“The [appeals] court did not resolve or really even weigh in on whether state law permits persons off-reservation to place bets on servers located on [a tribal] reservation,” Ifrah said.

Iffrah said the decision is “unlikely to serve as any type of precedent elsewhere. Indeed, it may even be subject to further challenge in Florida.”

John Holden, an associate professor in the department of management at Oklahoma State University, said the appeals court’s decision is “Florida-centric as opposed to a broad ruling.”

“I think everyone who watches tribal gaming was watching the case and decision closely, but I am not sure it pushes tribes elsewhere a lot farther than they already were on the path to sports betting,” Holden said.

Elizabeth Homer, a tribal gaming attorney in the Baltimore-Washington, D.C. region and a former vice chair of the National Indian Gaming Commission, said the appeals court’s ruling “got it right.”

“I think the implications are that the courts will not likely disturb tribal/state compacts.” Homer said.

Joe Asher, the president of sports betting for IGT who was appointed in March by President Biden to lead the prestigious Wilson Center think tank, said the appeals court’s decision is “clearly a big win for the Seminoles.”

“I think the question now is whether there will be further court proceedings ... in the [U.S.] Supreme Court or in the Florida courts under state law,” Asher said.

“And the other and related question is how quickly do the Seminoles resume their sports-betting operation.”

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