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A Testament to Power: Mary Woolsey and Dolores Rodriguez as Trial Witnesses in Arizona’s Early Statehood

Katrina Jagodinsky

In 1913, two women made history when they testified before the all-white, all-male jury of the Superior Court of Yavapai County in the State of Arizona v. Juan Fernandez murder trial. Mary Woolsey, an elderly Yavapai widow, and Dolores Rodriguez, a Mexican single mother of three, established the legal precedent for allowing non-English-speaking, non-citizen women to testify in state courts in Arizona when many other western states still did not grant such privileges to indigenous residents. Woolsey and Rodriguez showed that Arizona’s indigenous population were competent, if somewhat problematic, members of Arizona’s body politic, and their historic involvement in the Arizona v. Fernandez trial is an important chapter in American Indian citizenship history.¹

Some aspects of this story are difficult to interpret, which may explain why scholars have not chosen to feature Woolsey and Rodriguez in their own studies of racial and legal history in the Southwest. For instance, although Woolsey and Rodriguez’s testimony in the Arizona v. Fernandez trial established the right to testify in court for all Arizona non-citizens, both

¹Porter v. Hall, 34 Ariz. 308 (1928).

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women were actually forced to testify under subpoena against their will, making a depiction of the women as civil rights actors problematic. Mary Woolsey and Dolores Rodriguez also lived largely undocumented lives, making it difficult to cast them as significant historical actors. Finally, judicial commentary regarding the landmark decision to turn away from legal precedent denying non-English speaking and non-citizen witnesses the right to testify in court is strangely silent, making it difficult to interpret Arizona justices' motives for upholding Mary Woolsey and Dolores Rodriguez as competent legal figures within the Arizona body politic. Despite these evidentiary hurdles, a compelling story emerges from the Arizona v. Fernandez transcripts and the case law submitted in the subsequent conviction appeal, Fernandez v. Arizona (1914). What follows is an essay that features a pivotal, if often overlooked, event in Arizona's legal history through the lenses of critical legal theory.

**Mapping Loyalties**

When Prescott police officials began their investigation in the murder trial of Juan Fernandez, they first had to establish jurisdictional authority over the Granite Creek community in which he lived. As a primarily indigenous community established on the periphery of a military fort, the Granite Creek camp where Mary Woolsey and Dolores Rodriguez lived—and where the murder occurred—rested under federal jurisdiction. However, under the terms of the 1848 Treaty of Guadalupe Hidalgo, Juan Fernandez and his victim were legally Arizona citizens under state and county jurisdiction. Then again, most of the witnesses were indigenous and undocumented refugees living outside of the Prescott municipal district and beyond the purview of state laws. The history of Granite Creek and Prescott bears out these jurisdictional questions and illustrates the strategies that Mary Woolsey, Dolores Rodriguez, and their Granite Creek neighbors used to maintain their autonomous status as non-citizens.

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3"Murder Case to Be Handled by State," Prescott Journal-Miner, September 5, 1913. Prosecutors' efforts to secure the case under state jurisdiction are discussed below.
Granite Creek cuts through the middle of Yavapé territory in central Arizona, and flows through modern-day Prescott. The Yavapé comprised one of the four bands of Yavapai claiming territory throughout large portions of central Arizona that bordered Pai, Navajo, and Apache territories. As a whole, the Yavapai lived largely undisturbed by white settlers until the 1863 discovery of gold near Granite Creek. Although Anglo animosity toward Arizona tribal members gained its greatest rhetorical strength against neighboring Apaches, the Yavapé band felt the effects of gold-fever as well: “From the beginning, the citizens of Prescott posed a serious threat to the Yavapé subsistence economy that extended beyond Granite Creek. They also posed an intense physical threat to Yavapé survival, organizing Indian-hunting expeditions as part of their genocidal activities.” The Yavapé refused to yield to Anglo claims on their homelands, but after a series of violent encounters with civilian militias and federal troops, many surrendered in 1873 and settled on the Camp Verde reserve along with other Yavapai bands under military surveillance. In 1875 Indian agent John Clum authorized a forced relocation of the Camp Verde Yavapai to the Western Apache Reservation at San Carlos. On both reserves, Yavapé were grouped with Apache tribal members as enemies of the state. Mary Woolsey does not appear in the Camp Verde or San Carlos census records during this period, but her elderly status in 1913 means that she would have remembered these acts of violence against indigenous Arizonans and their forced removal to guarded reservations. Her absence from agency records may also indicate that she had successfully evaded federal capture throughout her lifetime.

As reservation conditions at San Carlos worsened, many Yavapé families decided to jump the reservation border and return to their homelands near Granite Creek. By 1900, the federal government stopped tracking these refugees and officially released them from confinement at San Carlos. Clearly demonstrating the tension between western settlement as progress or conquest, the indigenous families that returned to Granite Creek found the town of Prescott growing into a well-established Anglo community, home to a railroad depot, telegraph lines, and a moderate mining economy. Yavapé families settled near Granite Creek and just north of Prescott, because by 1900 the creek still remained within the boundary of the Fort Whipple military post, a federal jurisdictional sanctuary against

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local white intrusions that allowed Granite Creek residents some degree of autonomy.\(^5\)

Prior to the discovery of gold in 1863, few Mexicans had settled within Yavapai territory near Granite Creek. Prescott-area Anglo miners immediately protested their presence, however, and passed resolutions barring ethnic Mexicans from staking mine claims. Nineteenth- and early twentieth-century census data for Yavapai County includes Mexicans as whites, making it difficult to determine their numbers, but historian Paul T. Hietter estimates that Mexicans comprised between 4 and 15 percent of the Yavapai County population.\(^6\) Chicana studies scholar Martha Menchaca notes that although the 1848 Treaty of Guadalupe Hidalgo made citizens of Mexicans in Arizona and legally constructed women such as Dolores Rodriguez as “white,” members of the Arizona legislature enacted legislation to restrict the participation of Mexican men and women in the Arizona body politic.\(^7\)

Miscegenation laws also made interracial relationships criminal in Arizona until 1955, and although these laws did not officially affect “white” Mexicans, Yavapai County Anglo residents had begun to disapprove of interracial liaisons by the end of the nineteenth century. The Mexican residents of Granite Creek seemed to embody Menchacha’s description of “Chicano Indianism,” which affected non-English-speaking, mestizo Mexicans in Arizona, legally and socially shunned by Anglos as indigenous non-citizens. Historian Susan L. Johnson’s study of Mexican and Anglo women’s domestic arrangements in central Arizona mining towns reveals that intercultural relationships

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The Yavapai and Apache Indian Claims Commission Report offers an extensive history of Anglo-Indian relations in the late nineteenth century. This narrative emphasizes the repeated and failed attempts by Yavapai County and Fort Whipple officials to restrict Yavapai tribal members to reservations. In 1935 Yavapai County officials yielded to Yavapai persistence and established a postage stamp-sized reservation near Granite Creek; see “The Yavapai; The Yavapai-Apache Indian Community; The Fort McDowell Mohave-Apache Community, Petitioners v. The United States of America, Defendant,” Indian Claims Commission Decisions, vol. 15, docket no. 22-E (March 3, 1965), 68.

Readers familiar with the ambiguous nature of American Indian legal status at the turn of the twentieth century will no doubt recognize the significance of Yavapai choices in seeking federal, rather than state, jurisdiction when no reservation lands were available in their homelands.


were not particularly common, but that Mexican women such as Dolores Rodriguez, living within the constraints of a Chicano Indian category, often secured economic stability through domestic and non-marital relationships with Mexican men such as defendant Juan Fernandez. Dolores Rodriguez, in joining Juan Fernandez among the Granite Creek residents, seems to have been typical of Mexican women in Yavapai County who formed their own community ties beyond the prejudicial scrutiny of Anglo society.

With the discovery of gold near Granite Creek in 1863, the federal government established Fort Whipple to protect federal and private mining interests against tribal land claims in the region. Local miners and ranchers formed the Prescott community under the military shadow of Fort Whipple in the same year. In its early years, Prescott enjoyed the prestige of being the territorial capital, as well as the Yavapai County seat.

While the United States military supported Prescott development by rounding up Yavapai and Apache families, miners and entrepreneurs (who often assisted with military roundups of Indian “renegades”) worked to develop Prescott infrastructure. Because some Yavapé men served as scouts for the Fort Whipple and Camp Verde troops, Mary Woolsey and her indigenous family members later found refuge in those sites of federal authority. Granite Creek residents became familiar with interracial relationships that could be both violent and fruitful.

By 1900, Prescott boosters had managed to secure a railroad line through their town, a telegraph office, an electric company, and phone service. Prescott was well connected to the state and national community. A series of fires at the turn of the century had not depressed Prescott’s growth, but instead had prompted a progressive drive for modern and managed downtown development that manifested itself in the rows of uniform red brick buildings marking the commercial center of the community. The courthouse emerged as the tallest building in Prescott; its cupola could be seen from the hills surrounding Prescott.

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9It is unknown to the author whether Dolores Rodriguez and Juan Fernandez were Mexican nationals, citizens of Mexico living in Arizona, ethnic Mexican citizens of the United States, or naturalized Mexican citizens of the United States. Legal records refer to them simply as “Mexicans.”

10Phoenix and Prescott competed for territorial capital until Phoenix won the title permanently in 1889.
Prescott, and even from the Granite Creek community a mile-and-a-half away.\textsuperscript{11}

Despite the cultural and political distance between Prescott and Granite Creek citizenship identities, the geographic and social proximity between these communities ensured frequent interactions, most of which were economic. Although some members of the Granite Creek refugee community worked for Prescott employers, others engaged in small-scale industry and agriculture to construct a diverse and interdependent economy. Juan Fernandez worked as a cobbler when he could, and scavenged for scrap metal when work was scarce. Other male Granite Creek residents worked at the Prescott railroad depot as laborers. Some Granite Creek women such as Maria Gonzalez worked in Prescott’s service industry, while others dealt in indigenous arts and crafts, distributing tribal baskets to Prescott residents.\textsuperscript{12} Granite Creek residents’ testimony revealed that their living quarters were simple, often described as tents and wickiups, a stark contrast to the solid brick structures that composed Prescott’s downtown during this period. Many residents traveled frequently to visit friends and family on nearby reservations and to seek out seasonal employment opportunities. The ability of Mary Woolsey, an elderly widow, and Dolores Rodriguez, a single mother, to draw support from the Granite Creek community serves as a testament to the interdependence practiced within the community and its capacity to support all of its members, young and old, married, single, and widowed.

THE MURDER OF JESUS ESPARCIA

Yavapai elder Mary Woolsey rose with her dogs in the predawn light of September 2, 1913. She worked quietly to collect kindling, her daily contribution to the tightly knit tent community composed of Yavapé and Mexicans who regularly crossed the border between the U.S. and Mexico. As she stooped to gather wood, wet from the overnight rains, she also ducked the authority of federal military and Indian agents,

\textsuperscript{11}Nancy Burgess, \textit{Photographic Tour of Prescott, Arizona 1916} (Jefferson, NC, 2005).

\textsuperscript{12}Juan Fernandez, testimony offered before coroner’s inquest, September 2, 1913 (records of Yavapai County, 1913), SG3 Coroner, microfilm 50.25.5, case no. 769, 56-57; Jacob Blumberg, testimony offered before coroner’s inquest, September 2, 1913, 2; J.M. Cooksy, testimony offered before coroner’s inquest, September 2, 1913, 41-43; and Dinah Hood, testimony offered before coroner’s inquest, September 2, 1913, 38.
Yavapai County jurors, and law enforcement. Woolsey continued along the surging Granite Creek, carefully choosing her steps on the slick bank, and came across her neighbor, Juan Fernandez, burying the body of a strange Mexican man. Woolsey retreated back to the camp, still in sight of the shallow grave, and told no one what she had seen.

Dolores Rodriguez lived a few tents away from Mary Woolsey and boarded with her friend Juan Fernandez while her husband served a prison sentence for forgery. Rodriguez provided domestic services such as laundry and food preparation in exchange for her board. Fernandez returned to his canvas tent, in clothes covered with blood, shortly after being seen by Woolsey on the morning of September 2. He promptly opened a bottle of wine and swilled from it until he passed out, clinging to the half-empty bottle in his small cot. When Rodriguez emerged from her tent and warmed herself at the fire built by Mary Woolsey, the two women must have known their tenuous autonomy had been threatened by Fernandez's apparent violent behavior.

A.J. Oliver, the only white man living within earshot of Granite Creek, had heard noises on the night of September 1, but he had ignored the disruption as an insignificant dispute among the Granite Creek squatters. On the morning of Sep-
tember 2, an Indian couple traveling through Prescott to trade baskets stopped at Oliver's home on their way out of town and informed him of Jesus Esparcia's murder. Once Oliver was notified, he reported the crime to Prescott authorities, who then investigated the report. Now Granite Creek residents were forced to explain the abundance of evidence, including a blood trail and multiple footprints that cut through their camp and ended at Esparcia's shallow grave a quarter of a mile away. The entire Granite Creek community seems to have been made up of less than fifteen individuals, including young children, yet few of them admitted even knowing Fernandez's name when first asked the question. As a largely refugee, non-English-speaking community, Granite Creek residents demonstrated that their loyalties were to each other despite state efforts to impose jurisdictional authority over them.

A handful of Granite Creek residents testified willingly at first, their statements translated for the coroner's jury (which was hastily called together in a matter of hours on the day the crime was discovered) by Dinah Hood, a thirty-two-year-old Yavapai woman with family at Granite Creek and at nearby Camp Verde. Dinah Hood's cousin Kelly Wilson testified that he saw Fernandez and Esparcia arguing the day before the murder and that Esparcia and another, unidentified Mexican male attacked Fernandez. Maria Gonzales, a waitress in a Prescott restaurant and an intimate acquaintance of Jesus Esparcia, testified that Fernandez had made unwanted advances toward her and that Esparcia had "championed" her honor the day before his death. Prescott resident J.C. Stephens described this quarrel between Fernandez and Esparcia as taking place "in the Mexican saloon" where Gonzales worked.

Witnesses gave their first round of testimony before the coroner's jury just hours after Oliver had been notified of the crime. A little after noon, jurymen and Prescott officials returned to Granite Creek to explore the crime scene for themselves. For many, this would prove a rare opportunity to scrutinize recently pacified Indians' homes and domestic relations. Social and language barriers had limited the contact between

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13Dinah Hood, ibid.
14Ibid., 35–36.
Anglo photographers take photos of Yavapai Indian dwellings, Prescott, Arizona, c. 1900. This scene is similar to those described in the coroner’s account of the Granite Creek encampment. (Courtesy of Sharlot Hall Museum, Prescott, Arizona, iny2101p)

Anglo Prescottonians and Granite Creek residents to economic transactions, but, as jurors, these white men gained full access to their employees’ domestic and private domains. Investigators found men’s and women’s tracks between the tents and Esparcia’s shallow grave and footprints matching Fernandez’s shoes, and they noted piles of wine bottles outside of Rodriguez’s and Fernandez’s tent.

In their invasion of Granite Creek residents’ privacy, Prescott citizens entered a zone overshadowed by the federal military presence of nearby Fort Whipple and largely unknown to Prescott municipal officials. Here the Yavapai and Spanish languages predominated, and justice of the peace Charles McLane, Sheriff Keeler, and their jurors encountered the stares of Mexican and Yavapai men, women, and children who had never fully surrendered to white patriarchy but had instead established their own geopolitical boundaries around the Granite Creek camp. Not surprisingly, Justice McLane and his jurors found sufficient evidence to indict Juan Fernandez for the Granite Creek murder and sent the case to superior court judge Frank O. Smith. Yavapai County officials consulted attorney general Joseph Morrison in Phoenix when they realized that the murder “was committed upon government ground” and that the primary witnesses were indig-
enous wards of the federal government, but Morrison waived jurisdictional authority, and the trial proceeded into Judge Smith’s courtroom.\textsuperscript{17}

The Yavapai County coroner had relied on indigenous and Mexican witnesses in previous investigations, but the jurists’ decision to introduce those witnesses into trial marked a significant deviation from state law and jurisprudence. In the trial held in December 1913, three months after Esparcia’s murder, county attorney P.W. O’Sullivan and assistant county attorney Joseph H. Morgan called seventeen Anglo witnesses, one Mexican witness [Dolores Rodriguez], and three Yavapai witnesses [Mary Woolsey, Harry Hood, and Kelly Wilson] to testify against Juan Fernandez. Defense attorneys J. Ralph Tascher and Neal Clark added three Anglos and their Mexican defendant to that list of witnesses. Three of the Anglos testifying for the prosecution included A.J. Oliver and his family, all of whom had heard sounds indicating a violent disturbance from their residence on the grounds of Fort Whipple.

Defense attorney Tascher conducted a voir dire examination of Rodriguez, Woolsey, Hood, and Wilson, the only non-English-speaking witnesses for the prosecution, through a Spanish interpreter and a Yavapai interpreter. Tascher and Clark failed to conduct voir dire examinations [most commonly applied to assess juror biases, but also used to determine the legal and mental competency of minor and otherwise vulnerable witnesses] of any English-speaking witnesses. That at least two Anglo witnesses were under the age of eighteen, and voir dire proceedings applied to minor witnesses as well as Indian wards of the federal government suggests the racially motivated nature of Tascher’s examinations. More interesting, neither the prosecution nor the defense conducted a voir dire examination of Fernandez, who seemingly enjoyed the fullest potential of his legal whiteness only as a defendant for murder even as he testified in Spanish through a translator. Such tactical decisions by the defense, highly touted in the press coverage of the trial, suggests that Tascher and Clark

aimed to defend Fernandez's claim to white patriarchy as a means to trump Indian and female witnesses.\textsuperscript{18}

Anglo witnesses in the trial, all of middle-class or elite status in the Prescott community, delivered rather non-controversial testimony throughout their interrogations, showed a relative degree of familiarity with legal proceedings, and conformed to the expectations of them held by Judge Smith, the prosecution, and defense teams. Likewise, defense and prosecuting attorneys questioned the Anglo witnesses respectfully, prodding for details but not insulting their morality or intelligence. Rodriguez, Woolsey, Hood, and Wilson, on the other hand, showed signs of resistance, confusion, and frustration during testimony that revealed fundamental differences in worldview between themselves and the Anglos present in the courtroom. Furthermore, the defense, showing utmost respect for their defendant, attacked Dolores Rodriguez's credibility on the grounds of her alleged promiscuity. Tascher and Clark also challenged Kelly Wilson and Mary Woolsey's mental competence because of their inability or unwillingness to testify in English and to submit fully to an oath of loyalty to the state and God. Wilson and Hood exhibited embarrassment and shame, while Woolsey's frustration and hostility were so evident that reporters included it in their coverage of the trial.\textsuperscript{19}

Rodriguez testified to very little, admitting only that Fernandez indeed spent the evening of September 1 away from home and returned with bloodied clothes. She corroborated Fernandez's story, however, that the blood was her own expelled during menstruation. Attorneys failed to press the matter, and reporters declined to print such lurid details despite both parties' otherwise aggressive interrogation and sensational reporting. Rodriguez sustained herself by living with Fernandez and doing laundry for unnamed Prescott residents, but reporters suggested that she augmented her income through sexual

\textsuperscript{18}Newspaper coverage of the trial suggests that bilingual prisoners served as Spanish-language translators, although trial records name Joseph Calles as the court's translator. "Fernandez Is Guilty; Life Imprisonment; Jury Brings in Verdict at the Midnight Hour, Following the Taking of Two Ballots," Prescott Journal-Miner, December 17, 1913. The Yavapai-speaking translator was referred to as "Indian Dick," a frustratingly ambiguous name, but Mike Burns describes a "Mohave Dick" who served as a translator in Yavapai County, and this may have been the same man. Burns also sometimes served as Yavapai County interpreter, but his name is not included in the trial transcripts. Mike Burns, All of My People Were Killed: The Memoir of Mike Burns (Hoomothya), a Captive Indian (Prescott, AZ, 2010), 97.

\textsuperscript{19}"Saw Him Cover up Grave, Squaw Swears: Prosecution Springs Surprise in Fernandez Murder Trial by Putting New Witness on Stand," Prescott Journal-Miner, December 11, 1913.
commerce. Rodriguez's children each had different fathers; the youngest, named after his father Jose Reinosa, was released from the Arizona State Prison in Florence just two days before Jesus Esparicia's murder. Although lawyers chose not to call Reinosa as a witness in the trial and Justice McLane and Judge Smith chose not to pursue him as a defendant, some witnesses implicated Reinosa as the possible third man seen by Kelly Wilson and Harry Hood fighting with Fernandez and Esparicia before the murder.20

The Prescott Journal-Miner suggested some sort of lover's quarrel involving Dolores Rodriguez, who lived with Fernandez but had a child with the senior Jose Reinosa, and Maria Gonzalez, linked to Esparicia, but pursued by Fernandez. Because Maria Gonzalez fled the state after the coroner's inquest and never appeared in the Arizona v. Fernandez trial, lawyers could not implicate her in their questioning of Rodriguez and Fernandez, but the defense chose to suggest that Rodriguez's alleged promiscuity might have caused Esparicia's violent death, or at least had made her an unreliable witness. The press reported on her testimony:

On cross-examination, Mr. Tascher made the witness admit that she was telling untruths. . . He also brought out facts to show that the woman had lived with Jose Reinosa, the father of three boys and that they had not been married. . . She admitted also that after the end of her residence with Fernandez she went to live with a man named Ventura and that she had never been married. While the evidence she offered is highly incriminating, the character of the witness offset the strength of the testimony.21

Maria Gonzalez likely fled to protect herself from a similarly hostile interrogation, but Rodriguez failed to defend her claims to privacy, a white woman's right, and held her tongue against Fernandez as much to protect her and her children's reputation as to protect his.

Mary Woolsey, elderly and widowed, gave Tascher and Clark little opportunity to question her sexual morality, so they challenged her mental competence instead. Woolsey first gave her name as Chachawawa; it was her Yavapai interpreter who fur-

20In the coroner's inquest and during the trial, Rodriguez described the blood as the result of her "monthlies."
nished an English name for the court. Woolsey plainly stated that she was prepared to tell the truth regarding her knowledge of the murder, but defense attorney Tascher proved unwilling to accept her oath because Woolsey would not explicitly confirm that she knew she could be jailed for perjury. Woolsey's testimony revealed a fundamental commitment to the truth, but also a radically different worldview from that held by members of the court. To the frustration of the court, Woolsey articulated a sense of time based on a seasonal, lunar calendar, rather than the Gregorian calendar, and defined her living quarters in relation to the crime scene only through locative description, not in reference to known spatial referents.

Woolsey refused to say that she saw Fernandez burying Esparcia's body and admitted only that she saw the defendant moving brush and debris from one place to another; an omission that would have served defense attorneys better had they chosen not to batter her on the witness stand. Although she answered the questions put to her, Woolsey's resentment of her rough treatment came through even in the trial transcripts, but an observant reporter summarized her testimony best: "[Mary Woolsey's] testimony was offered through an interpreter and the witness became at times frustrated, especially when asked whether she knew what the truth meant." Even prosecuting attorney Morgan became frustrated with Tascher's insistence that Woolsey define truth, as this exchange from the voir dire examination shows:

Mr. Tascher: Do you know what the truth is?
Mary Woolsey through Indian Dick: She say yes, sir.
Mr. Tascher: What is it?
Mr. Morgan: Now, if the court pleases, that question cannot be answered. People have been trying to determine an answer to that question for thousands of years.

Female witnesses were not the only ones badgered by defense attorneys. Kelly Wilson, a twenty-five-year-old Yavapai man from Camp Verde, endured a hostile interrogation as well. Although Wilson testified through an interpreter during the coroner's inquest and during his first round of trial testimony, the defense objected to an interpreter during Wilson's subsequent voir dire examination, insisting that he knew enough


23Mary Woolsey testimony, submitted to Arizona Court of Appeals, Division One; Criminal Files, Briefs and Records, microfilm, case no. 360 (Phoenix, AZ, 1914), 190-92.
English to testify. The transcripts captured Wilson’s linguistic helplessness as Tascher fired questions the young man did not fully comprehend and demanded answers he could not articulate. After prosecuting attorney Morgan suggested the court involve interpreter Mojave Dick in the voir dire proceeding, Tascher interjected, “We object to an interpreter. The witness was put on the stand to speak English. If the witness is competent to tell his story in English he is competent to state whether or not he is competent to testify as a witness.”

It seems the defense felt justified in expecting English fluency from Wilson because of his Anglicized name and his experience as a laborer in the Prescott vicinity, but when they found his language skills lacking, the defense challenged his competency through a voir dire examination that barraged Wilson with legal terminology regarding perjury and sworn oaths and drove him into silence.

Eventually, county attorney Morgan convinced Judge Smith to provide an interpreter, and the interrogation proceeded. As in the case of Woolsey’s testimony, which did not actually describe Fernandez engaged in a murderous act, Wilson’s testimony could have helped the defense. Wilson testified that he saw Fernandez fighting with Esparcia and another Mexican and that the forty-two-year-old Fernandez actually might have been the victim of the younger men’s harassment. As noted earlier, reporters gathered that the third man might have been Jose Reinosa, the father of one of Rodriguez’s sons, but, as noted, Justice McLane and Judge Smith chose not to hear evidence against Reinosa, and neither legal team subpoenaed him for testimony.

The all-white, all-male, all-English-speaking jury found Fernandez guilty of Esparcia’s murder, and Judge Smith sentenced him to life in prison. Tascher and Clark appealed the conviction on the grounds that the court erred in accepting Woolsey and Rodriguez’s testimony—the defense attorneys did not mention the male, non-English-speaking witnesses called by the prosecution. Tascher produced a body of case law demonstrating that in similar instances of testimony provided by Indian witnesses, courts ruled such witnesses incompetent because of their incapacity to understand the obligations of an oath. That Tascher and Clark considered both Rodriguez and Woolsey incompetent witnesses is evidence that they and other Yavapai County jurists classified the Mexican woman as a non-citizen, non compositus witness. According to the defense, such exclusionary rulings were in the best interest of witnesses incapable of determining truth from falsehood and

24Kelly Wilson testimony, submitted to Arizona Court of Appeals, Division One, ibid., 369–83.
fantasy from reality because the rulings protected them from charges of perjury.

Court transcripts make it clear that Fernandez’s attorney had conducted his voir dire examinations of Woolsey and Rodriguez strategically in order to present his case for appeal, since his voir dire interviews quoted, nearly verbatim, previous cases that excluded witness testimony.\textsuperscript{25} Although it would not bolster Fernandez’s appeal, Woolsey’s and Rodriguez’s responses to voir dire questions had also followed the same patterns as those of witnesses excluded for incompetence. Local press coverage of the jury’s verdict and Judge Smith’s delivery of a life sentence against Fernandez included Tascher’s declaration that he and Clark intended to appeal to the state’s supreme court. Within a year, they prepared their arguments and claimed that “the court erred” when it accepted the testimony of “Mary Wolsey [sic], an Apache-Mohave Indian squaw . . . for the reason that upon voir dire [she] did not show that she understood the obligation of an oath . . . and was therefore incompetent to testify as a witness.”\textsuperscript{26} Tascher and Clark protested Dolores Rodriguez’s testimony on the same grounds of incompetency.

Justice Henry D. Ross of the Arizona Supreme Court wrote the opinion; he and justices Alfred Franklin and Donald L. Cunningham unanimously affirmed Judge Smith’s ruling. Without explaining their decision to dismiss the case law presented before them, the three original members of Arizona’s supreme court accepted Woolsey’s and Rodriguez’s loyalty oaths and sworn testimony, recognizing both women as legally competent actors in Arizona’s body politic. Ross acknowledged in his opinion that Rodriguez had been “a very unwilling witness,” but he went on to describe both women as able to meet the minimum standards of Arizona witnesses, “who, having organs of sense, can perceive, and, perceiving, can make known their perceptions to others . . .”\textsuperscript{27} The justices made no acknowledgment of the historic precedent of their racially progressive ruling in affirming the testimony of indigenous and non-citizen women against white defendants in Arizona. Later

\textsuperscript{25}In the case of Arizona v. Fernandez, the defense conducted voir dire examinations of all witnesses from Granite Creek, but not of any of the Prescott witnesses, despite the fact that some of the Prescott witnesses, including A.J. Oliver’s daughter, were minors. These voir dire proceedings became the basis for Tascher’s appeal after the jury found Fernandez guilty of murder.

\textsuperscript{26}Apache-Mojave is a misnomer for Yavapai from the period. Assignment of Errors, submitted to Arizona Court of Appeals, Division One; Criminal Files, Briefs and Records, microfilm, case no. 360 (Phoenix, AZ, 1914), 8.

\textsuperscript{27}Fernandez v. State 1914 16 Ariz. 269; 144 P. 640, 1914 Ariz. Lexis 130.
justices of the Arizona Supreme Court would deny American Indian legal competency when they withheld indigenous suffrage in 1928, and then would cite this 1914 ruling as evidence of Native competency when they enfranchised Arizona Indians in 1948. It is important to note that Justice Ross served on the 1914 court that upheld indigenous testimony but filed a dissent in the 1928 decision to disenfranchise Arizona Indians. He died in 1945, three years before the state supreme court would return to his view of Native residents as competent legal actors. Such juridical ambivalence, in addition to Mary Woolsey's and Dolores Rodriguez's "unwillingness" to testify, makes it difficult to interpret these justices' decision as an affirmation of indigenous and marginalized women's civil rights. Looking to some of the foundational writings on postcolonial and critical race theory offers some insights into the complex nature of Natives' and non-citizens' legal status during Arizona's early statehood.

THE "NERVOUS CONDITION" AND "COMBAT BREATHING"

In his book *The Wretched of the Earth*, Frantz Fanon provides a number of psychoanalytical and historical insights that may explain Juan Fernandez's seemingly random murder of Jesus Esparcia, as well as Dolores Rodriguez's and Mary Woolsey's apparent acceptance of the superior court's authority. In particular, Fanon's description of the psychosis brought on by violent colonialism might explain Fernandez's brutal behavior. Fanon's charge that colonized peoples overcome their fear of the colonizer and breach colonial institutions (such as the law) also helps to explain Rodriguez and Woolsey's presence in the courtroom.

Before accepting that Fernandez, Woolsey, and Rodriguez acted under colonial conditions, readers should recall a few crucial aspects of Yavapai County history. Contemporary Yavapai County is the territorial homeland of the Yavapai. In 1863, white prospectors discovered gold near Granite Creek and established the town of Prescott. Shortly thereafter, Yavapai and Apache families were rounded up at gunpoint and placed on federal reserves. At the close of the nineteenth century, many Yavapai families fled the reservations and returned to Granite Creek, only to find that Prescott had become a progressive settler town of red brick storefronts and homes.

This sequence of events exemplifies a number of critical points from Fanon's description of colonial societies. Prescott was founded to extract resources from the region, and the Yavapais were exploited to this end. As in Fanon's observa-
tions of the African encounter with French colonists in Algeria, white Prescott settlers’ and Arizona Natives’ "first encounter was marked by violence and their existence together—that is to say the exploitation of the native by the settler—was carried on by dint of a great array of bayonets and cannons." Territorial journals, newspapers, and official records from the 1870s and 1880s abound with descriptions of violent encounters, both private and state-sponsored, between white settlers and indigenous Arizonans.

Prescott settlers terrorized Mary Woolsey, Dolores Rodriguez, and Juan Fernandez by murdering non-white residents, occupying Native lands, and forcibly segregating Indians on reservations and Mexicans in ghettos in newly established towns. Federal and state officials in Arizona also forcibly removed Yavapai children and placed them in boarding schools throughout the Southwest. Mary Woolsey’s niece had been removed to the Santa Fe Indian Industrial School in the 1880s and returned in 1900, although the school superintendent had tried to have her expelled for being a disruptive student in the 1890s. The local press recognized signs of colonial distress in Dolores Rodriguez during the Fernandez murder trial. Rodriguez had been detained in the state mental hospital during the three months between the murder and the trial, and she no doubt feared the loss of her children because of her association with a suspected—and then convicted—murderer. When she broke down in the middle of her interrogation, the Prescott Journal-Miner reported that “the woman prisoner has been removed to the county hospital. Terror has seized her. In addition, she was ill when the authorities took her in charge, her condition at the present time bordering on the precarious.”

Fanon’s accounts of the geophysical aspects of colonialism, as well as his psychological descriptions of violence, apply to Prescott: “The colonial world is a world divided into compartments.” The geographical boundaries between Fort Whipple, the Granite Creek squatter camp, and downtown Prescott reflected the racial compartmentalization that typifies colonial settings. The fires that swept through Prescott and prompted rebuilding only hardened the architectural markers of racial segregation and made the distinctions between white American, Indian, and Mexican more apparent. Fanon continues, “The settlers’ town is a strongly built town, all made

28Frantz Fanon, The Wretched of the Earth (New York, 1978), 36.
30Fanon, The Wretched of the Earth, 37.
of stone and steel. . . . The settlers’ town is a town of white people, of foreigners. The town belonging to the colonized people, or at least the native town . . . the reservation, is a place of ill fame, peopled by men of evil repute. . . . The native town is a crouching village, a town on its knees, a town wallowing in the mire.” 31 Although he wrote these descriptions of French Algeria fifty years after the Arizona v. Fernandez trial, it is as if Fanon had strolled the streets of Prescott and the banks of Granite Creek and had observed the unsettling contrast between the red brick storefronts of Prescott and Granite Creek’s canvas tents built among trash heaps.

When Fernandez stabbed Jesus Esparcia ten times and buried him a few hundred yards from the homes of Woolsey, Rodriguez, and his other Granite Creek neighbors, his actions invited state authorities into their community, rupturing the careful independence the Indians had built. The subsequent murder investigation examined not only the context of Esparcia’s death, but the social and cultural legitimacy of the Granite Creek residents as members of the Prescott and greater Arizona communities. Under state scrutiny, attorneys interrogated Mary Woolsey as a “decrepit old Apache-Mohave squaw” and named Dolores Rodriguez a hostile witness who was “wholly

31Ibid., 39.
incompetent” and “prejudicial.” Through the trial of State of Arizona v. Fernandez, Woolsey, Rodriguez, and a handful of other Granite Creek residents were subsumed within the jurisdictional eye of the state—a condition they had escaped most their lives by dodging Indian agents, federal soldiers, and census takers. Esparcia’s death allowed the state to demand that Woolsey and Rodriguez swear a loyalty oath to colonizers and disrupted the ties they had formed within their tight-knit community. Because of Fernandez’s infraction, Woolsey and Rodriguez found themselves on trial when the state finally co-opted their resistant voices.

Jean Paul Sartre described the status of the Native as “a nervous condition introduced and maintained by the settler among colonized people with their consent.” Although the legal transcripts produced in Arizona v. Fernandez and Fernandez v. Arizona reveal little regarding the psychological condition of Fernandez or other Granite Creek residents, Fernandez’s, Rodriguez’s, and Woolsey’s testimony reveals tensions between Granite Creek residents and Yavapai County officials that certainly could be described as nervousness. Sartre argues that this nervous condition is the product of violence enacted by settlers that “does not only have for its aim the keeping of . . . men at arm’s length; it seeks to dehumanize them. Everything will be done to wipe out their traditions, to substitute our language for theirs and to destroy their culture without giving them ours. . . . [S]hame and fear will split up his character and make his inmost self fall to pieces.”

Arizona historians have shown conclusively that the wars and negative policies employed against Mexican and indigenous Arizonans prior to 1913 embodied settlers’ efforts to dehumanize the Native population, wipe out their traditions, and

32 Assignment of Errors, submitted to Arizona Court of Appeals, Division One; Criminal Files, Briefs and Records, microfilm, case no. 360 (Phoenix, AZ, 1914), 8, 17.

33 Jean Paul Sartre, “Preface,” in Frantz Fanon, The Wretched of the Earth, 20. The Gramscian reference to consent is highlighted.

34 In her article “Chicano Indianism” (see note 8), Martha Menchaca describes a group of Mexican-Americans identified by white Americans as indigenous inferiors. I include Juan Fernandez and Dolores Rodriguez in the Native colonized population because they lived among the Yavapé in the Granite Creek Indian camp and because they were denigrated aggressively by Yavapai County officials in ways that indicate that neither Fernandez nor Rodriguez was considered a white member of the Prescott community.

destroy their culture. The Fernandez murder trial effectively communicated to Granite Creek residents that they could no longer hope to remain “at arm’s length,” outside the jurisdictional and cultural authority of Anglo Prescott residents, but that they would have to submit to a marginal status in the new legal culture of the state. Although efforts to destroy Yavapai and Mexican culture took place beyond the realm of the Yavapai County courthouse, the substitution of English for Spanish and Yavapai was paramount in the Fernandez trial, and in the voir dire examinations particularly. The “shame and fear” exhibited in the non-white witnesses’ testimony suggest that they did in fact struggle to keep from falling to pieces. Dolores Rodriguez, Mary Woolsey, and Kelly Wilson were all repeatedly told to “speak up” by the court, and the prosecution frequently coaxed them simply to answer the question, while the defense lodged objections after almost every one of their responses. Dolores Rodriguez’s testimony was so tentative that the court called a recess so that she could be counseled before returning to the witness stand. Mary Woolsey stepped out of the witness stand to use gestures rather than words to answer the questions put to her, and Kelly Wilson simply stopped answering questions in English and only spoke Yavapai, even though Tascher objected to the young man’s reliance on an interpreter.

Fanon describes those living under these violent conditions as existing in “a state of permanent tension . . . a hostile world, which spurns the native, but at the same time it is a world of which he is envious.” Yavapai residents along Granite Creek may not have been envious of the “hostile world” that made up Prescott and its immediate surrounds, but they no doubt remembered that the region had been their traditional homeland. Mexican men like Esparcia and Fernandez may have been envious of the economic and social opportunities afforded Anglo Prescott residents who spurned them, however. Fernandez described himself as a cobbler who was often out of work, so he resorted to wage labor when he could stand it and selling scrap

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37 Each of these incidents is described in the trial transcripts submitted to Arizona Court of Appeals, Division One; Criminal Files, Briefs and Records, microfilm, case no. 360 (Phoenix, AZ, 1914); “Saw Him Cover up Grave, Squaw Swears,” Prescott Journal-Miner; and “Fernandez Owned the Deadly Knife,” Prescott Journal-Miner.

38 Fanon, Wretched of the Earth, 52.
metal when he could find it. Fernandez and Esparcia may have worked together as laborers in the Prescott Depot railroad yard, but white Prescott employers knew so little about their Mexican laborers that no witnesses could definitively make this connection. Fernandez raised extra money by boarding Dolores Rodriguez and her three young children, but he claimed not to know her well.

For her part, Rodriguez claimed only to be "stopping by" with Fernandez and knew him by another name that he denied having. The discrepancies between Fernandez’s and Rodriguez’s testimony indicate an uneasiness before juridical scrutiny and an unwillingness to reveal the details of intimate living arrangements that did not conform to settlers’ standards of decency. Fernandez admitted to drinking on the day of the murder, and a pile of thirty or more empty bottles of wine was found outside his tent. It is possible that Fernandez’s economic distress and personal instabilities led him to act out violently against Jesus Esparcia rather than Anglo neighbors, just as Fanon describes: "The colonized man will first manifest . . . aggressiveness which has been deposited in his bones against his own people."39

Despite the onslaught of witnesses who testified against him, and the Granite Creek witnesses who implied that Fernandez acted in self-defense, Fernandez claimed complete ignorance of all aspects of the crime. Perhaps he felt what Fanon would later observe—that in

a world ruled by the settler, the native is always presumed guilty. But the native’s guilt is never a guilt which he accepts . . . in his innermost spirit, the native admits no accusation . . . The symbols of social order—the police, the bugle calls in the barracks, military parades and the waving flags—are at one and the same time inhibitory and stimulating for they do not convey the message "Don’t dare to budge"; rather, they cry out "Get ready to attack."40

Perhaps Jesus Esparcia fell victim to Juan Fernandez’s nervous impulse to attack as he crept between white and Native settlements and listened to the sounds of Prescott parades and celebrations of white supremacy that penetrated the walls of his canvas tent along Granite Creek.

Woolsey’s and Rodriguez’s contributions to Fernandez’s trial signified the imposition of juridical authority into the personal

39Ibid., 52. That Esparcia was stabbed ten times with a small knife indicates the rage felt by his murderer.

40Fanon, Wretched of the Earth, 53.
lives of Granite Creek residents. Yavapai County officials demonstrated their capacity to fracture indigenous and Mexican alliances, and to extract testimonies that served the interests of settlers. However, because Woolsey and Rodriguez managed to avoid swearing loyalty oaths to the state (thus the grounds of the appeal) and admitted only to what the state already knew, these women, in Fanon's words, "[held] out against the occupier," and maintained "co-existence as a form of conflict and latent warfare . . . keeping up the atmosphere of an armed truce." Their collective reticence served as a "weapon of the weak," to use James Scott's terminology. These forms of careful and strategic resistance comprise Fanon's view of the initial stages of decolonization, which require the "victory of the colonized over their old fear and over the atmosphere of despair distilled day after day by a colonialism that has incrusted itself with the prospect of enduring forever."

Dolores Rodriguez endured months of imprisonment designed to compel her loyalty and degrade her attachment to the Granite Creek community, but she still testified only that Fernandez had not come home on the night of September 1. She did not say that his clothes were covered in Esparcia's blood or that she knew he had been drinking; she even corroborated Fernandez's claim that the blood came from her "monthlies" and not from Esparcia. Mary Woolsey endured an insulting interrogation but refused to doubt her ability and right to narrate her own experience.

Fanon employs a concept called "combat breathing" to describe the nonviolent and subtle strategies of those confronting colonial forces. Readers can imagine that, throughout Woolsey's and Rodriguez's staccato testimony, their "breathing [was] an observed, an occupied breathing; a combat breathing," similar to the internalized resistance that Fanon found among those who resisted colonialism in the second half of the twentieth century. Unable to retreat from a court that subpoenaed their testimony and unwilling to use violent forms of resistance, breathing with such purpose through their guarded testimony may have invigorated these women's commitment to the Granite Creek community even under the juridical scrutiny and police authority of the Yavapai

41Frantz Fanon, A Dying Colonialism (New York, 1959), 47. Italics added by author for emphasis.
43Fanon, A Dying Colonialism, 52-53. Italics added by author for emphasis.
44Ibid., 65.
County superior courtroom. When these women walked back to Granite Creek, they may have been breathless, but they had not lost their language, their power, or their truth. The course of these events may even have helped to fuel the Granite Creek residents’ drive to secure federal tribal recognition, which was finally achieved in 1935.

**MOTIVES OF THE COURT: GRAMSCIAN HEGEMONY AND BELL’S DILEMMA**

Throughout the *Arizona v. Fernandez* trial, the defense repeatedly objected to Granite Creek witnesses, both male and female, as incompetent. The court, represented by the black-robed authority of Judge Frank O. Smith, repeatedly overruled these objections. At no point did Judge Smith explain his decision to divert from legal precedent and accept testimony from noncitizen witnesses like Mary Woolsey and Dolores Rodriguez, who offered ambiguous loyalty oaths and hostile testimony at best. When Fernandez’s defense attorney, J. Ralph Tascher, submitted his client’s appeal, he stated their position this way: “So far as we have been able to discover, from a review of the cases, there has never been a time when a witness was allowed to testify who did not understand the nature and obligation of an oath. . . .” Tascher based his argument primarily on the murder trial appeal of *Priest v. Nebraska* (6 N.W. 468), in which the Nebraska Supreme Court excluded Native witnesses who failed to convince the court sufficiently of their ability to understand the obligations of an oath. The defense concluded their assignment of errors by summarizing a series of other cases in which witnesses who failed to pass voir dire examinations were excluded from trials.45

The argument presented in the *Fernandez v. Arizona* assignment of errors highlights the significance of Arizona Supreme Court justices’ departure from established jurisprudence in accepting the testimonies of Woolsey and Rodriguez. It becomes perplexing, then, that Arizona’s justices felt no need to explain their progressive position toward noncitizen, non-English-speaking witnesses in 1914. If we recall that just fifteen years later a different ensemble of Arizona justices would argue that Arizona Indians could not vote because their relationship to the federal government made them comparable to wards of

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45J.R. Tascher, “Assignment of Errors,” submitted to Arizona Court of Appeals, Division One; Criminal Files, Briefs and Records, microfilm, case no. 360 (Phoenix, AZ, 1914), 7, 9, 11.
mental hospitals, the position of 1914 justices becomes even more remarkable. It is possible that Arizona's first bench of supreme court justices used the 1914 ruling as a means to incorporate indigenous residents within the newly formed state political body; the state had been a territory until 1912, and off-reservation Indians proved an ambiguous set of subjects existing between federal and state jurisdiction. When justices Alfred Lockwood and Archibald McAllister turned away from chief justice Henry Ross' view that Native Arizonans held voting rights in 1928, they demonstrated the tenuous nature of indigenous legal status in Arizona in the early twentieth century.

The 1914 Fernandez v. Arizona appeal, then, presented an opportunity for Arizona justices to expand newly formulated state powers and redefine the legal relationship between the state and its Indian residents. Arizona had gained statehood only two years earlier; state authority outlined in the Arizona Constitution had not yet been proven through state jurisprudence. The Fernandez v. Arizona case allowed Arizona jurists to reify jurisdictional authority over noncitizen, non-English speaking residents by extracting loyalty oaths and collecting their testimonies in court, trumping federal authority over indigenous residents—still a sizeable portion of Arizona's population. That the state attorney general had yielded jurisdiction over a crime that took place on a federal military reserve—"government ground," as local reporters described it—signifies that, through this case, the state gained control over the Granite Creek squatters who had sought to lodge themselves under federal jurisdiction. If we consider the Arizona Supreme Court as a model of the superstructural institutions that Marxist theorist Antonio Gramsci claims are designed to reify the authority of the elite over the majority population, then we might understand how Mary Woolsey's and Dolores Rodriguez's contribution to Arizona legal and racial history depends simultaneously on their victimization as compulsory witnesses of the state and on their activism in resisting state authority.

This interpretation of the Fernandez v. Arizona case assumes that the function of the state is to serve elite interests—a fundamental critical legal studies tenet. This stance is borrowed from Latin American historian Elizabeth Dore, who points out that "although states present themselves as governing in their general interest . . . societies have no 'general inter-

47 See the opinion and Chief Justice Ross' dissent in Porter v. Hall (1928) 33 Ariz. 308; 271 P. 411; 1928 Ariz. LEXIS 148.
est' that overrides all class, gender, and racial divisions [and]
such an interpretation ignores the major power inherent in the
operation of the state, power that derives from the expropriat-
ing classes." 48 Absorbing the voices and bodies of noncitizen,
non-English-speaking women served the interests of the Ar-i-
zona judiciary and Prescott elite because this process expanded
Arizona's sovereignty over tribal members and Mexicans who
might otherwise withhold their knowledge and loyalty from
the state. In this formulation, Arizona Supreme Court justices
resemble Antonio Gramsci's intellectuals, who "are the domi-
nant group's deputies exercising the subaltern functions of
social hegemony and political government."49 Although these
subaltern functions are many, Arizona Supreme Court justices
in particular manned the "apparatus of state coercive power
which legally enforces discipline on those groups who do not
consent either actively or passively. This apparatus is . . . con-
stituted for the whole of society in anticipation of moments of
crisis of command and directions when spontaneous consent
has failed."50 When Juan Fernandez murdered Jesus Esparcia
within a few hundred yards of Mary Woolsey's and Dolores
Rodriguez's homes, both women refused to report the incident
and thus passively refused to consent to state authority. In
order for judicial "deputies" to exert state coercive power over
Woolsey and Rodriguez, they had to accept their loyalty oaths
and extract their testimony under subpoena. Accepting the tes-
imony of noncitizen, non-English-speaking women, in effect,
expanded state hegemony over an otherwise peripheral popula-
tion of former enemies of the state.

That this exertion of state coercive power over Woolsey
and Rodriguez served the legal rights of other noncitizen,
non-English-speaking women seeking to testify against neigh-
bors and employers who had abused or cheated them would
seem like a story of unintended consequences were it not for
the insights of critical race theorist Derrick Bell. Although
his work is directed primarily toward legal decisions affect-
ing black civil rights, Bell perfectly explains the backhanded
granting of minority rights by self-serving courts. He describes
this phenomenon as "the principle of 'interest convergence,' 
[which] provides [that] the interest of [minorities] in achieving
racial equality will be accommodated only when it converges

48Elizabeth Dore and Maxine Molyneux, eds., Hidden Histories of Gender and
the State in Latin America (Durham, NC, 2000), 148.
49Quintin Hoare and Geoffrey Nowell Smith, Selections from the Prison Note-
50Ibid. Italics in original.
with the interests of whites."

By 1914, Arizona justices were willing to grant Mary Woolsey and Dolores Rodriguez a voice in state courts because granting them this right converged with the justices' interests of expanding state authority over noncitizens. Prior to 1914, Native residents could lodge no testimony against white defendants because the territorial government had not recognized indigenous people as rights-bearing individuals. The flimsy nature of this recognition of noncitizen testimony became clear in 1928 when the composition of the supreme court had changed and justices acted to disenfranchise—or silence—indigenous Arizonans once again despite Justice Ross' dissent.

Bell further explains that state interests do not have to be explicit when judicial decisions invest minorities with previously withheld rights:

Racial remedies may . . . be the outward manifestations of unspoken and perhaps subconscious judicial conclusions that the remedies, if granted, will secure, advance, or at least not harm societal interests deemed important by middle and upper class whites. Racial justice—or its appearance—may, from time to time, be counted among the interests deemed important by the courts and by society's policymakers.

Prescott residents could be satisfied with the notion that their own superior court judge Frank Smith had upheld the rights of Natives and Mexicans to speak their truths in their own language in twentieth-century courtrooms, a sign that Prescott settlers' past hostilities toward local Mexican, Yavapé, and Apache residents had subsided. Yavapai County Anglos could convince themselves that they had successfully integrated the potentially disruptive noncitizens of Granite Creek and had rid themselves of a murderer in one fell swoop. This self-satisfaction was gained at no loss to the established dominance of white Prescott residents and in fact expanded state and county authority to call Granite Creek residents as witnesses against one another.

Bell's insights about how judicial decisions reflect convergent interests also explains why 1914 views of Arizona Natives as competent members of the body politic had become unpopular by 1928, when the state supreme court ruled that Arizona

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52Ibid. [emphasis added].
tribal members were ineligible to vote. "[The] convergence between minority and white interests may fade after a court decision; at this point, jurisprudence may reverse previous investments of minority rights." By 1928, state interests in claiming authority over Native and Mexican voices and bodies deferred to state interests in excluding Indian and Chicano citizens from voting.

After 1914, Mary Woolsey and Dolores Rodriguez fade from the local record. The Granite Creek community persisted in its claims to the land and continued to breach the colonial compartments that excluded them from Prescott settler society. In 1922 Granite Creek residents established the Yavapai Presbyterian Mission Church, which incorporated aspects of tribal religious practices with Presbyterian rituals. Granite Creek residents joined the Prescott Salvation Army and Chamber of Commerce, raising Prescott support for the establishment of a federal reservation. In 1935, Prescott and Granite Creek residents successfully lobbied the federal government via Arizona senator Carl Hayden and Bureau of Indian Affairs commissioner John Collier (both progressive supporters of tribal land rights) for a seventy-five-acre reservation that included much of the recently abandoned Fort Whipple military post, including the Granite Creek squatter camp.

Understanding Fernandez, Woolsey, and Rodriguez as colonial subjects who reacted against settler oppression, and considering the possibility that Arizona judges acted as state deputies ruling in affirmation of elite hegemony can shed new light on complex chapters in Arizona's legal and racial history. An obvious next step would be to investigate the particular views of Chief Justice Ross, a prominent figure in Arizona's supreme court history. This essay is an attempt to broaden our understanding of American Indian citizenship construction and to feature the voices and actions of indigenous and marginalized people who negotiated their entry into Arizona's body politic. Mary Woolsey and Dolores Rodriguez are significant figures in that history, no doubt, and the insights of critical race and legal theorists grant us the opportunity to explore the ambivalent and complex contributions of such marginalized actors to western legal history. The sites of Jesus Esparcia's murder and other

53Ibid., 526.
54Mary Woolsey and other Yavapai members of the Granite Creek community are featured prominently in my current manuscript project on indigenous women's encounters with imperial courts in Arizona and Washington between 1853 and 1935.
violent colonial episodes are now part of the Yavapai Prescott Indian Reservation, and the descendants of the Granite Creek squatters continue to make their homes within sight of the superior courthouse of Yavapai County, although they have established their own jurisdictional boundaries. The witnesses who testified in the Arizona v. Fernandez murder trial occupy an important place in the long history of negotiating Yavapé autonomy within the Arizona body politic.