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SOUTH FLORIDA

# Seminole Tribe wins federal court appeal in legal fight over sports betting in Florida

BY **MARY ELLEN KLAS** *HERALD/TIMES TALLAHASSEE BUREAU*

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# GAME ON, FLORIDA.

The Seminole Tribe of Florida invites you to  
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The Seminole Tribe quietly went live with sports betting in Florida Nov. 1, 2021. A federal judge shut it down three weeks later with a ruling that the compact with the state of Florida violated federal Indian gaming laws. A federal appeals court reversed that decision on Friday, June 30, 2023. *Screenshot from [hardrocksportsbook.com](https://hardrocksportsbook.com)*



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*TALLAHASSEE*

In a victory for the Seminole Tribe of Florida that could upend gambling in the state, a federal appeals court on Friday ordered the Department of Interior to reinstate the agreement that gave the tribe and its Hard Rock casinos a monopoly on sports betting in Florida.

The ruling paves the way for an explosion of online betting in Florida if the tribe relaunches its Hard Rock Sportsbook [betting app](#) and pursues the possibility of two new casinos in South Florida. But gambling opponents said the decision also opens the door for additional legal challenges.

"Today's decision will not be the final word on this issue," said John Sowinski, spokesperson for No Casinos and Miami businessmen and gambling opponents Armando Codina and Norman Braman, who filed separate lawsuits alleging that the federal government improperly approved the gaming compact.

A three-judge panel on the U.S. Court of Appeals for the District of Columbia Circuit unanimously concluded that federal gaming law allowed the state to enter into a 30-year agreement with the Seminole Tribe to control sports betting in Florida, add

roulette and craps to the tribe's casino operations, and in return pay the state at least \$2.5 billion over the first five years of the deal.

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The court reversed [a November 2021 decision](#) by Judge Dabney L. Friedrich of the U.S. District Court in the District of Columbia that invalidated the deal negotiated between the tribe and Gov. Ron DeSantis.

The challenge was brought by West Flagler Associates, the former owner of Magic City Casino and current owner of Bonita Springs Poker Room, which argued that the tribe's sports betting and casino expansion deal violated federal Indian gaming law. To get around a Florida constitutional amendment, the agreement required the tribe to operate a so-called hub-and-spoke model for sports betting, which moves all online sports bets from players located in Florida but outside of tribal lands through the tribe's servers.

In 2018, voters overwhelmingly approved Amendment 3, a constitutional amendment prohibiting the expansion of gambling in Florida without voter approval.

West Flagler argued that Department of the Interior Secretary Deb Haaland, whose agency oversees tribal gambling, erred when she allowed the deal to go forward.

#### THE APPELLATE DECISION

But the appeals court reversed the lower court's decision, saying that the Indian Gaming Regulatory Act, which regulates gaming agreements known as compacts between states and tribes, was flexible enough to allow for Florida's arrangement.

“IGRA does not prohibit a gaming compact—which is, at bottom, is an agreement between a tribe and a state—from discussing other topics, including those governing activities “outside Indian lands,” the court said in a 24-page ruling.

The court left open the possibility, however, that the agreement could be challenged in state courts. But, it concluded, “it is not the subject of this litigation and not for us to decide.” West Flagler could also seek an en banc ruling from all the judges on the appellate court and appeal to the U.S. Supreme Court.

DeSantis’ spokesperson Jason Mahon said the administration was not surprised the appellate court overturned “the lower court’s perplexing ruling.”

“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 \$20 billion in revenues for the people of Florida,” he said.

Gambling opponents, however, said they saw a glimmer of hope in the ruling and expect additional legal challenges based on the state’s constitutional provisions.

“The will of the people will be respected, and the Florida Constitution requires that Florida voters have the final word on gambling authorization,” Sowinski of No Casinos said.

## **POTENTIAL NEW CASINOS IN MIAMI-DADE**

In addition to allowing for the potential operation of sports betting outside of tribal land, the compact also allows both Trump National Doral resort and the Fontainebleau hotel in Miami Beach to obtain casino permits without violating the tribe’s monopoly status.

In its decision Friday, the court emphasized that the ruling was “narrow” and, if the compact were to be found violating state law by authorizing gambling outside tribal lands, the federal government would have to reject the agreement.

“Whatever the tribe and Florida — who are not parties to this litigation — may believe, let us be clear: An IGRA compact cannot provide independent legal authority for gaming activity that occurs outside of Indian lands, where that activity would otherwise violate state law,” the court said.

The court added that if state courts were to invalidate the compact as violating the Florida Constitution, then “the compact that they crafted would give no independent authority for the tribe to continue to receive bets from outside Indian lands.”

“In reaching this narrow conclusion, we do not give our imprimatur to all of the activity discussed in the compact,” the court said. “And particularly, for avoidance of

doubt, we express no opinion as to whether the Florida statute ratifying the compact is constitutional.”

The tribe had unsuccessfully [urged the appellate court](#) to put the lower court’s ruling on hold, arguing it would cause “irreparable harm” to its sovereignty and economic interests.

### **TRIBE CONSIDERING ITS NEXT STEPS**

When Friedrich issued her ruling in 2021, the Seminole Tribe was forced to abruptly stop operating its Hard Rock Sportsbook [sports betting app](#). In a statement on Friday, Tribe spokesperson Gary Bitner said the tribe is “reviewing the decision to determine its next steps.”

“It is a positive outcome for the Seminole Tribe and the people of Florida and for all of Indian Country,” he said.

Robert Jarvis, a constitutional law professor at Nova Southeastern University, said he was not surprised by the ruling because the lower court had written “a terrible opinion that had no chance of being upheld on appeal.”

But, he added, the ruling will also likely lead to a surge in sports betting among other Native American tribes. “Tribes all over the country now will run to their state counterparts and ask for mobile gambling,” he predicted.

Daniel Wallach, a Hallandale Beach gaming law expert, agreed and predicted Florida’s agreement could encourage other Native American tribes to attempt to negotiate gaming deals with their states in return for a lucrative revenue share of the exploding online gaming market.

“This would dramatically alter the national gaming landscape because it will now be the blueprint for online sports betting and internet gaming across the country,” he said. “They will be able to control the most lucrative forms of gaming on a statewide basis — to the detriment of non-tribal gaming operators.”

Wallach also predicted the ruling will lead to additional litigation and an appeal to the U.S. Supreme Court because there are now competing rulings from two federal courts over whether or not the federal tribal gaming laws authorize online gaming.

“It sets up a U.S. Supreme Court battle over the breadth and scope of IGRA,” he said.

Since it filed the lawsuit in 2021, West Flagler sold its gambling permit at Magic City Casino to the Poarch Band of Creek Indians, an Alabama-based Native American