

# Bay Mills Indian Community Gets Green Light to Reopen Vanderbilt Casino

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A court order that had temporarily closed the Bay Mills Indian Community's casino in Vanderbilt, Michigan, is no more, according to an [opinion](#) released Wednesday by the U.S. Court of Appeals for the Sixth Circuit.

The appeals court vacated a preliminary injunction issued by the U.S. District Court for the Western District of Michigan in the cases of *State of Michigan v. Bay Mills Indian Community*, Case No. 1:10-cv-01273 and *Little Traverse Bay Band of Odawa Indians v. Bay Mills Indian Community*, Case No. 1:10-cv-1278. Gaming operations had been suspended at the Vanderbilt casino since March 29, 2011, when the Grand Rapids, Michigan based federal court granted the Little Traverse Bay Band's motion for a [preliminary injunction](#).

The underlying lawsuits, filed by the State of Michigan and the Little Traverse Bay Band of Odawa Indians, alleged that Bay Mills was violating Michigan state law and a number of provisions of its **Tribal-State Compact** with the State of Michigan by operating the Vanderbilt casino on non-Indian lands. The District Court granted entered the preliminary injunction after determining that the Little Traverse Bay Band was likely to succeed in its lawsuit and that it would be irreparably harmed without an injunction.

Bay Mills appealed the decision to the Cincinnati, Ohio based appeals court, arguing in part that the district court lacked federal jurisdiction to hear plaintiffs' claims. The Sixth Circuit agreed with Bay Mills and vacated the injunction.

- First, the panel recognized that the Regulatory Act, 25 U.S.C. § 2710(d)(7)(A)(ii), requires that the alleged violation of Tribal-State compacts involve gaming activity "*located on* Indian lands" for the court to have jurisdiction. Thus, the district court lacked jurisdiction over any claims that were premised on the idea that the Vanderbilt casino was *not located* on Indian lands.
- Second, if the Vanderbilt casino was "located on Indian lands," then the Court would have jurisdiction under the Regulatory Act, but there would be no violation of the Tribal-State Compact.
- Third, the claims plead under the "federal common law" were properly before the Court under federal-question jurisdiction under 28 U.S.C. § 1331. However, for those claims, Bay Mills

enjoys tribal immunity, and none of the exceptions to tribal immunity were applicable under the circumstances of this case.

As a result, the Sixth Circuit vacated the preliminary injunction and remanded the case for further proceedings consistent with its opinion.

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