
**FORT PECK COURT OF APPEALS
ASSINIBOINE AND SIOUX TRIBES
FORT PECK INDIAN RESERVATION
POPLAR, MONTANA**

IN THE MATTER OF
PAUL SMITH,
Defendant/Appellant,

Appeal No. 108

vs.

FORT PECK TRIBES,
Plaintiff/Appellee.

THIS APPEAL is from a court verdict, entered on April 25, 1990 in which Defendant/Appellant was found guilty of contempt of court.

ARGUED: July 31, 1990

DECIDED: August 6, 1990

APPEARING FOR DEFENDANT/APPELLANT (Paul Smith): Clayton Reum, Wolf Point, Montana. Argued orally; no appeal brief filed.

APPEARING FOR PLAINTIFF/APPELLEE (Fort Peck Tribes): Ron Arneson, Special Prosecutor, Wolf Point, Montana. Argued orally.

HELD: AFFIRMED; THERE IS SUFFICIENT EVIDENCE TO SUSTAIN APPELLANT'S CONVICTION. FURTHER, HELD; STAY OF SENTENCE IS LIFTED AND SENTENCE IS IMPOSED AS PREVIOUSLY ORDERED.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER:

On April 25, 1990 Judge Bemer made the following finding:

1. "failure to follow order of the Court dated July 5, 1988, signed by William McClammy."

Title I., Section 202, CCOJ, provides that the Court of Appeals... "shall not set aside any factual determinations of the Tribal Court if such determinations are supported by substantial evidence.

The transcript of the Tribal Court hearing shows that there was substantial evidence that Defendant/Appellant failed to pay child support as ordered by Judge McClammy. This Court will not set aside or substitute its judgment for such factual findings.

Counsel for Defendant/Appellant also argued that the prosecution of the criminal offense may involve an ethics violation in that the prosecutor's spouse represented the Defendant's/Appellant's wife in civil proceedings on the same matters. We find no merit to this argument and consider it a matter to be dealt with by the chief prosecutor on assignment of cases.

THEREFORE, THIS COURT HEREBY AFFIRMS DEFENDANT'S/APPELLANT'S CONVICTION FOR THE CHARGE OF CRIMINAL CONTEMPT AND HEREBY LIFTS HE AY OF SENTENCE PREVIOUSLY GRANTED.

DATED this 6th day of August, 1990.

BY THE COURT OF APPEALS:

GARY M. SCHUSTER, CHIEF JUSTICE

DEBRA A. JOHNSON, ASSOCIATE JUSTICE

GARY JAMES MELBOURNE, ASSOCIATE JUSTICE
