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

IN RE THE MATTER OF:

George Ricker, Jr,
Appellant

Appeal No. 425

vs

Lanette, Trottier,
Appellee

ORDER AFFIRMING

This matter came before the Fort Peck Court of Appeals on Appellant's Notice of Appeal filed on March 5, 2004. Appellant is asking that the lower court custody order be vacated because too much weight was given to the testimony of the child.

In order to overturn a lower court custody decision there either must be an error in apply the law or an abuse of discretion in evaluation of the facts which would clearly indicate that the decision would not be in the child's best interest. A review of the lower court findings reflects a determination that both of the natural parents could provide an adequate home for the minor child and were capable of care for the child. In addition testimony from the child indicated a clear preference for residing with her mother and state several reasons for this request. Given the age of the child, the lower court findings and requirements under Title X, Chapter 3, Sec. 304 of the Assiniboine & Sioux Tribes Comprehensive Code, this Court finds no abuse of discretion by the lower court in this matter which could justify set aside the custody order on the grounds it is not supported by the lower court record and is not in the child's best interest.

The Order of Custody entered on February 23, 2004 is **AFFIRMED** without oral arguments.

So ORDER ON January 26, 2005

BY THE COURT OF APPEALS:

Maylinn Smith, Chief Justice

Joe Raffiani, Associate Justice

Carroll J. DeCoteau, Associate Justice
