
**FORT PECK TRIBAL COURT OF APPEALS
ASSINIBOINE AND SIOUX TRIBES
FORT PECK INDIAN RESERVATION
WOLF POINT, MONTANA**

IN THE MATTER OF
KRYSTAL MAE BROWN, DOB: /85

Appeal No. 182

A Minor Indian Child.

THIS MATTER comes before the Appeals Court on a Petition for Review filed by Appellant Thomas Brown from a Court order entered November 2, 1992, awarding permanent custody of Krystal Mae Brown, a minor child, to her paternal aunt, Rita Mae Brown.

APPEARING FOR APPELLANT THOMAS BROWN, JR. by written supporting statement: Melissa G. Buckles, Lay Law Advocate, P.O. Box 214, Wolf Point, Montana 59201.

APPEARING FOR APPELLEE RITA MAE BROWN: Mary L. Zemyan, Attorney at Law, P.O. Box 1094, Wolf Point, Montana 59201.

HELD: THE ORDER OF THE FORT PECK TRIBAL COURT IS AFFIRMED.

FACTS

This matter involves several petitions for the custody of Krystal Mae Brown, a child born 1985. In September, 1991, the child's aunt, Rita Brown, was granted custody of the child for her school years.

Thomas A. Brown, Sr., the child's father, died in May of 1992. Petitions for custody were filed by Paula Azure, mother; and Thomas A. Brown, Jr., brother. The 1991 petition of Rita Brown was also considered.

The Court ordered evaluations and home studies of the parties, and after review of the evaluations and reports, the Court awarded permanent custody of Krystal Mae Brown to Rita Mae Brown.

The appeal of Thomas A. Brown, Jr. focused on three main **issues**:

1. Whether the Court should have ordered the child's funds held in a trust type account.

2. Whether the Court should have set a visitation schedule for Appellant and other siblings.

3. Whether the Court should have considered evaluations of all persons living with Appellee, Rita Mae Brown.

DISCUSSION

The jurisdiction of the Court of Appeals is stated in 1 CCOJ §202 as follows:

‘The jurisdiction of the Court of Appeals shall extend to all appeals from final orders and judgments of the Tribal Court. The Court of Appeals shall review **de novo** all determinations of the Tribal Court on matters of law, but shall not set aside any factual determination of the Tribal Court if such determinations are supported by substantial evidence....

The record shows that there were complete evaluations of the parties petitioning for the custody of Krystal Mae Brown. Home studies were also considered. **REF.** Appeal file - reports and evaluations.

The Tribal Court made specific findings of fact in its order of custody, which findings included the recommendations of the evaluations and home studies. **REF.** Court Order, November 2, 1992, page 2.

This Court has consistently ruled that the factual findings of the trier of fact will not be set aside if such determinations are supported by substantial evidence. 1 CCOJ §202. A review of the evaluations and reports in this file finds consistency with the findings and conclusions of Judge Spotted Bird. **SEE EX.** Home Study, Mary I. Schoppert, file page 3; Recommendation, Suzanne Lange, Ph.D., file.

We find no evidence in the file which indicates that Judge Spotted Bird based his findings and conclusions on anything other than the evaluations and reports in the file.

The issue of the child’s funds was considered by the Tribal Court. **REF.** Order, page 2. It appears to be a proper conclusion.

Similarly, the issue of visitation is addressed in the Order of the Court. **REF.** Order, page 2. It appears to be a proper conclusion.

CONCLUSION

The findings and conclusions of the Tribal Court are supported by substantial evidence. The Order of the Court is affirmed.

DATED this _____ day of February, 1993.

BY THE COURT OF APPEALS:

GERARD M. SCHUSTER, CHIEF JUSTICE

DEBRA A. JOHNSON, ASSOCIATE JUSTICE

FLORENCE YOUPEE, ASSOCIATE JUSTICE
