
**FORT PECK TRIBAL COURT OF APPEALS
ASSINIBOINE AND SIOUX TRIBES
FORT PECK INDIAN RESERVATION**

TERRY DOLEZILEK,
Defendant/Appellant

VS.

Appeal No. 195

FORT PECK ASSINIBOINE AND SIOUX
TRIBES,
Plaintiff/Appellee

Defendant, Terrance Dolezilek, was found guilty of Aggravated Sexual Assault of a Child, Title III, Chapter 2, Section 214 (A) of the Fort Peck Tribes Comprehensive Code of Justice, on April 21, 1993, in the court of the Honorable Robert Welch, Poplar, Montana.

The defendant based his appeal upon; his right to due process was violated by the introduction of a video cassette tape of the victim, the defendant's right to confront the witness on the video cassette tape was not allowed nor the tape authenticated. The defendant could not cross-examine the witness. Written evidence was admitted without proper foundation. Dr. William Kama, M.D., Indian Health Service Physician, Poplar Service Unit, Poplar, Montana, did not have personal knowledge of said charge. Defendant's right to Counsel was denied. Defendant's Motion for a Continuance was denied.

The Court of Appeals takes no exception and finds no fault with the Tribes introducing the tape. Under the Federal rules of evidence, there is no requirement that the video cassette tape must be made part of the record, Rule 803 (5) Recorded Recollection. Question on the authentication of the tape: Federal rule 901 (a) Requirement of Authentication or Identification. "(a): The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what it's proponent claims."

Addressing the question of Dr. William Kama, M.D., although Dr. Kama was not a party to the initial examination, he is considered by virtue of his profession and experience, an expert witness. Further and in summation, the Court found the defendant was advised of his right to Counsel upon his arrest and arraignment. He appeared Pro se.

The Fort Peck Court of Appeals affirms the lower Court's decision.

DATED THIS _____ day of _____, 19_____.

BY THE COURT OF APPEALS:

GARY JAMES MELBOURNE, Associate Justice

JONI MCCLAMMY, Associate Justice
