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

In the Matter of:

APPEAL NO. 353

**A. W.E. (d.o.b. /99),
an Indian Minor Child**

ORDER DENYING PETITION FOR REVIEW

A timely **PETITION FOR REVIEW** having been filed **April 28, 2000**, by Mary Zemyan, Esq., on behalf of **Gregan Wortman** and **Yelonda Walking Eagle**, from an **Order** on April 6, 2000, granting a **Motion to Exclude Gregan Wortman**, the putative father, from further proceedings, the **Honorable Chief Judge A. T. Stafne**, presiding, and good cause appearing therefor, this Court finds:

1. On or about **July 23, 1999**, **Maxine Grant**, the maternal grandmother of the minor child, obtained a temporary custodial order in her favor from the Fort Peck Tribal Court.
2. On or about **August 12, 1999**, a Petition for Custody was filed in the Fort Peck Tribal Court on behalf of **Yelonda Walking Eagle**, biological mother and **Gregan Wortman**, the putative father, of the child. A hearing was calendared for **September 3, 1999**, at which time the Fort Peck Tribal Court found that **Maxine Grant** had never filed a petition for custody. Accordingly, the Tribal Court vacated its previous custodial order in her favor and gave custody to the biological parents. It was not clear whether this 'return of custody' was pursuant to the petition for joint custody filed on behalf of the parents, or whether it resulted solely from the disclosure that no petition had been previously filed by **Maxine Grant**.
3. On or about **November 5, 1999**, **Yelonda** filed a petition in the Fort Peck Tribal Court for sole custody of the subject minor child.
4. Sometime in **December, 1999**, a **Petition for Emergency Hearing**, pursuant to

Title IX. CCOJ 2000 S§ 202 & 301. was filed by **LaFon Copenhaver**, Guardian ad litem for the Fort Peck Tribes.

5. **On December 27, 1999**, an emergency hearing was held in the Fort Peck Tribal Court and following that hearing, the Court, **The Honorable John Christian**, presiding, found that the Fort Peck Tribal Court "has exclusive jurisdiction over the determination of this matter under the **Indian Child Welfare Act of 1978 (25 USC §1911 (a))** and the **Fort Peck Tribal Comprehensive Code of Justice**". A written **ORDER** was signed by the Tribal Court on **January 3, 2000**.
6. . Following the finding of jurisdiction, the Tribal Court made the child a ward of the Court and found that it was in the best interests of the child to be removed from the home of **Jean and Llwellyn Wortman**, the putative paternal grandparents, who are residents of the State of Maine. The biological father had purportedly placed the child in his parents' home in Maine without the knowledge of the biological mother and without leave of the Tribal Court.
7. The putative father objected to the finding of jurisdiction in the Tribal Court and filed a Request for Stay of the Tribal Court's order to return the child to Fort Peck. On **January 10, 2000**, this Court affirmed the Tribal Court's order and denied the Request for Stay in **FPCOA # 338**. The child was returned to Fort Peck by B.I.A. officials and placed in the care, custody and control of **Maxine Grant**.
8. **On January 14, 2000, Jean and Llwellyn Wortman**, filed a **Petition for Custody**. In their petition for custody of **A.W.E.**, the **Wortmans** alleged that they were the paternal grandparents, that **Yelonda Walking Eagle** was the mother and **Gregan Wortman** was the father of the minor Indian child. Concurrent with this petition, **Gregan** filed a Motion for Paternity Testing.
9. **On February 8, 2000, Maxine** filed a Petition for Custody.
10. On **February 9, 2000, Gregan and Yelonda** both filed documents with the Tribal Court entitled "Consent", wherein each of them stated that they consented to the petition for custody by the **Wortmans** and that they believed that it was in the best interests of the child to be placed in the **Wortmans'** home in Maine.
11. On **February 14, 2000**, the Guardian ad Litem filed a **Motion to Exclude Gregan** from further proceedings in the matter, based upon the fact that the results of the paternity test revealed that **Gregan** was not the biological father of A.W.E.
12. On **February 14, 2000, a Motion to Dismiss** the proceedings was filed by **Mary L. Zemyan 1, Esq.**, on behalf of the "parents".

13. On **March 30, 2000**, a hearing on both Motions was held. The Tribal Court granted both the Motion to Exclude and the Motion to Dismiss on **April 7, 2000**.
14. Following the two orders of the Court on **April 7, 2000**, there are no further matters pending before the Court at the time of the filing of the Petition for Review, therefore the matter is moot.

NOW THEREFORE, IT IS THE ORDER OF THIS COURT:

For the reasons stated, the Petition for Review is denied.

Dated this **10th** day of **November, 2000**.

FOR THE FORT PECK COURT OF APPEALS

Gary P. Sullivan
Chief Justice

[1] **Mary L. Zemyan, Esq.** Appears to have been the only legal counsel for **Gregan, Yelonda**, and the **Wortmans** in the most recent proceedings in this matter.
