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

IN THE MATTER OF:

Independence Bank ,
Plaintiff/Appellee

vs

Appeal No. 433

Adolph 'Butch' Bell
d/b/a Bell Enterprises and,
Patricia McGechick
Defendent/Appellant

AMENDED OPINION & ORDER

This is a petition for review of a March 15, 2005 Order granting Defendants/Appellants' application for a Temporary Restraining Order. We deny review on appeal in accordance with the following.

Appearances:

Ryan C. Rusche, Kneirim, Fewer & Christofferson, 214 Second Avenue W. Poplar, Sidney, MT 59270, Counsel for Plaintiff/Appellee Independence Bank.

Adolph Bell and Patricia McGeshick, P.O. Box 454, Wolf Point, MT 59201

On June 28, 2004, Plaintiff/Appellee Independence Bank filed a Complaint against Defendants/Appellants Adolph "Butch" Bell, d/b/a Bell Enterprises and Patricia McGeshick, ("Bell Enterprises"), seeking judgment against them for the balance due on a Small Business Loan Bell Enterprises had obtained from Independence Bank as well as repossession of property used as security for the loan. On August 18, 2004 Independence Bank was notified that Bell

Enterprises had filed for bankruptcy protection. Since the bankruptcy proceeding prevented Independence Bank from proceeding on its Tribal Court action, Independence then sought and received an Order from the federal bankruptcy court allowing repossession of its collateral.

At the conclusion of a hearing on February 17, 2005, the Tribal Court entered an Order permitting Independence Bank to obtain its collateral. Bell Enterprises then filed a request for a temporary restraining Order prohibiting the bank from acting on the Order. The Tribal Court granted the request on March 15, 2005, indicating it was treating the request as an application for Stay pending appellate review.

The Fort Peck Comprehensive Code of Justice provides for review on appeal of final Orders only. II CCOJ 202. Absent the existence of a final Order, this Court lacks jurisdiction to review on appeal. The Order of March 15, 2005 is not a final Order.

IT IS NOW, THEREFORE, THE ORDER OF THIS COURT THAT:

The petition for review of appeal is denied. The matter is remanded to the Tribal Court for further proceedings.

DATED this _____ day of January, 2007.

BY THE FORT PECK COURT OF APPEALS:

Brenda Desmond, Chief Justice

Gerard Schuster, Associate Justice

Joseph Raffiani, Associate Justice
