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

IN THE MATTER OF:

S.D.F., a minor child
d.o.b. /02

CLAUDIA FOURSTAR,
Petitioner/Appellant,

Appeal No. 463

VS

ODESSA FOURSTAR,
Respondent/Appellee,

ORDER DENYING PETITION FOR REVIEW

S.D.F.'s parents are both deceased. Petitioner/Appellant Odessa Fourstar is S.F.'s maternal grandmother. Respondent/Appellee Claudia Fourstar is S.F.'s maternal aunt. S.F.'s father predeceased his mother, Dolly Fourstar. Prior to her death, on January 19, 2006, Dolly Fourstar signed a letter stating that she wanted Claudia to have custody of S.F..

On February 1, 2006, Claudia filed a family court petition seeking custody of S.F.. The Petition was accompanied by a Motion for Waiver of Hearing and Transfer of Custody signed by Dolly. The Court granted the Motion that day.

On May 3, 2006, Odessa filed a request for custody. By that date, Dolly had died. On May 9, 2006, Tribal Judge Welch granted temporary custody to Odessa. Hearings were set and then postponed several times. After a hearing on November 9, 2006, Judge Welch granted custody to Claudia Fourstar with weekend visitation with Odessa Fourstar twice a month.

Odessa filed a Petition for Review, stating that S.F. would be safer in her home.

Upon review of the Petition and the file, this Court finds as follows:

- 1. The Order of Custody was based on the trial Court’s finding, following the hearing, that it was in S.F.’s best interest to reside with his aunt Claudia and that this had been his mother’s wish for him.
- 2. The Fort Peck Court of Appeals shall not set aside any factual determinations of the Tribal Court if such determinations are supported by substantial evidence. Title II CCOJ Section 202.
- 3. There is no substantial evidence in the record to support a conclusion other than that reached by the Tribal Court.
- 4. If Odessa Fourstar becomes concerned about S.F.’s welfare she is encouraged to notify a child protection agency or seek custody of S.F. in another proceeding,

BASED UPON THE FOREGOING FINDINGS AND GOOD CAUSE APPEARING:

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

- 1. The Petition for Review be, and the same is hereby denied.

DATED this _____ day of July, 2007.

BY THE FORT PECK COURT OF APPEALS:

Brenda Desmond, Chief Justice

Gerard Schuster, Associate Justice

Joseph Raffiani, Associate Justice
