

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

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FORT PECK TRIBES,	)	
	)	
Plaintiff/Appellee,	)	Appeal No. 505
	)	
vs	)	<b>OPINION AND ORDER</b>
	)	
ROBERT MONTCLAIR,	)	
	)	
Defendant/Appellant.	)	
	)	
*****	)	

**Appearances:**

Erin Shanley, Public Defender, Fort Peck Tribes, P.O. Box 1027, Poplar MT 59255, Counsel for Defendant/Appellant.

Adrienne Weinberger, Stacie Smith Crawford, Prosecutor, Fort Peck Tribes, P.O. Box 1027, Poplar, MT 59255, for the Office of the Tribal Prosecutor.

This is an appeal of a May 28, 2008 Tribal Court decision denying a Petition for Habeas Corpus filed by Defendant/Appellant Robert Montclair. We affirm the Tribal Trial Court in accordance with the following.

The underlying matter involves a child protection emergency hearing held on May 6, 2008 under Fort Peck Tribes Comprehensive Code of Justice, (“CCOJ”), Title IX. In his Petition, Mr. Montclair states he is the non-culpable parent in that proceeding. During the May 6 hearing, he was asked to submit to a

urinalysis test for drugs. He did not object to the request. The test results were positive for marijuana and opiates. Mr. Montclair was then informed the Court considered this a direct contempt of Court and was given an opportunity to explain or defend himself. The Court then held him in direct contempt and sentenced him to 30 days in the Fort Peck Detention Center.

At the conclusion of the May 15, 2008 Habeas Corpus hearing, the presiding judge stated that she had held Mr. Montclair in contempt because he had appeared in Court under the influence of opiates and marijuana. As we recently stated in Tribes vs. DeMarrias, (FPCOA.No 512,), tribal decisional law provides, "Direct contempt may be punished in an immediate summary proceeding but indirect contempt may only be punished after notice and a hearing." The presiding judge made it clear that she viewed entering court under the influence of alcohol or drugs, whether as a party, witness or bystander, as an affront to the integrity of the Court. We agree with her reasoning and conclusion.

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

The Tribal Court Order of May 28, 2008 finding Mr. Montclair in Contempt of Court and sentencing him to 30 days in the Fort Peck Detention Center is affirmed.

**DATED** this 28<sup>th</sup> day of November, 2008.

**FORT PECK COURT OF APPEALS**

By: Brenda C Desmond  
**BRENDA DESMOND**, Chief Justice

[Signature] 2-3-09  
**JOE RAFFIANI**, Associate Justice

[Signature]  
**GERARD M. SCHUSTER**, Associate Justice

ATTEST:  
DANNA HUKSADOTE, APPEALS CLERK  
DATE: 2-3-2009