

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

CARMEN WELCH, SIMON FOLLET,)	
MISTY DAWN KING, CURTIS BIRD HAT))	
CANDICE BIRD HAT, and ESTATE OF)	
SLOAN FOLLET, DECEASED TRIBAL)	
MEMBER)	Cause No. <u>536</u>
Plaintiffs/Appellees,)	
)	ORDER DENYING PETITION
MARVIN PRESSER,)	FOR REVIEW
)	
Defendant/Appellant.)	

Appearances:

For Plaintiffs/Appellees, David Irving, Esq., Glasgow, Montana.
 For Defendant/ Appellant, Laura Christoffersen, Esq., Culbertson, Montana.

This matter comes before the Fort Peck Court of Appeals on a Petition for Review filed by Appellant Marvin Presser. Appellees Carmen Welch, Simon Follett, Misty Dawn King, Curtis Bird Hat, Candice Bird Hat and the Estate of Sloan Follet oppose the Petition. The Petition for Review is denied in accordance with the following.

Fort Peck Tribes Comprehensive Code of Justice Title II, Section 201 provides that the jurisdiction of the Court of Appeals extends to appeals of "final orders and judgments of the Tribal Court." Appellant Presser does not specifically identify the "final order of judgment" of which he seeks review but generally refers to two different issues ruled upon by the Tribal Court with which he disagrees, jurisdiction and summary judgment. Appellant Presser asserts, correctly, citing In the Matter of the Custody of M. W., Appeal No. 242 (1996) that the Court of Appeals has accepted review of what may appear to be interlocutory appeals in certain circumstances. As we stated in M.W.,

a final determination of some collateral matter distinct and severable from the general subject of litigation. Even though litigation on the main issue continues, nevertheless an appeal is authorized.... if the order or judgment leaves anything further in the nature of judicial action on the part of the Court, which action is essential to the determination of the rights of the parties, then that order or judgment is interlocutory.

The decisions with which Appellant disagrees do not meet the standard set forth in M.W. These issues are not collateral and further judicial action is essential to the determination of the rights of the parties. The Orders are not final within the meaning of CCOJ Title II Section 201 and review should be denied.

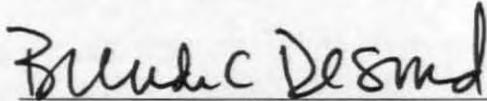
Therefore,

IT IS HEREBY ORDERED that the Petition for Review is denied.

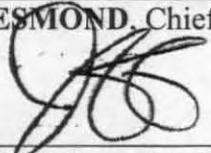
DATED this 1st day of April 2011.

FORT PECK COURT OF APPEALS

By:



BRENDA DESMOND, Chief Justice



JOE RAFFIANI, Associate Justice

GERARD M. SCHUSTER, Associate Justice
(Recused)