

IN THE TRIBAL COURT OF THE CONFEDERATED SALISH AND KOOTENAI
TRIBES OF THE FLATHEAD RESERVATION, PABLO, MONTANA

CONFEDERATED SALISH AND	*	CAUSE NO. <u>AP-003-90</u>
KOOTENAI TRIBES,	*	
Plaintiff-Appellee,	*	
vs.	*	APPELLATE OPINION
	*	
DANNY TENAS,	*	
Defendant-Appellant.	*	
	*	

The Appellate Court was convened on August 10, 1990 with the Honorable Judges Louise C. Burke, Associate Judge Josephine D. Neuman, and Associate Judge Stephen A. Lozar for a hearing on an Final Decision on the matter of CR-446-89, Criminal charge of Theft against said Defendant-Appellant, Danny Tenas ordered by Judge Gary Acevedo.

Notice of Appeal was filed timely by Defendant-Appellant, by and through counsel Leslie Kallowat. The Court issued an Order Granting the Appeal and a briefing schedule was established.

The Appellate Court heard the Court record of the trial and witnesses testimonies of Lt. Pablo Espinoza, Jr. Jim Finley and Officer Archie Fuqua. Briefs and the final verdict of the above named cause were reviewed and the Appellate Court finds the following:

1. That there were no eye witnesses to the cutting of the trees.
2. That the trees that were allegedly cut were never entered into evidence or the government did not prove that the trees came from the closed area of South Fork.
3. That the defendant was found Guilty of cutting Christmas trees in a closed area by circumstantial evidence only. Where in a Criminal case the government must prove beyond a reasonable doubt that the defendant did in fact commit the crime.

The circumstantial evidence leads away from the proof beyond that reasonable doubt and it could have been anyone in the area besides the defendant.

Therefore, the Appellate Court hereby reverses the Lower Court decision and finds the defendant Danny Tenas not guilty as charged.

SO ORDERED this 11th day of August, 1990.

Revised C. Burke
Appellate Court Forman

Stephen A. Loran
Appellate Court Judge

Josephine D. Newman
Appellate Court Judge

CC: THOMAS PARO,
COURT PROSECUTOR

LESLIE KALLOWAT
COUNSEL FOR DEFENDANT