

FILED
AUG 16 2011
FORT PECK TRIBAL COURT
CLERK OF COURT

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

IN THE MATTER OF)	
)	
A.V.B.M.,)	
A Minor Child)	
)	
KEITH RED ELK,)	
)	Cause No. <u>563</u>
Petitioner/Appellant,)	
)	OPINION AND ORDER
LAURA MCBRIDE,)	
)	
Respondent/Appellee.)	

Appearances:

Alfred B. Azure for Appellant, Keith Red Elk.
Appellee, Laura McBride, made no appearance.

This matter comes before the Fort Peck Court of Appeals on an appeal of a Tribal Court Order dated March 14, 2011.

The Order denied jurisdiction over the cause of action and dismissed an underlying Petition for Child Custody and Adjudication of Paternity. The minor child and Appellee mother reside in Alaska. The Court, Honorable Barry Bighorn, Sr. presiding, ruled that the most convenient forum in the matter is in the State of Alaska. A Petition for Writ of Supervisory Control, filed by Appellant, and generally alleging generally the same issues as this appeal, also appears in the file.

OPINION

This Court has reviewed the file, the pleadings, the Briefs and Memorandums of Law submitted by counsel for Appellant. The matter of jurisdiction is well-briefed and presented by Appellant, as are the factual allegations. The Tribal Court, Judge Bighorn, Sr., presiding, had basically the same materials before him when he issued the Order Denying Jurisdiction.

We will not and should not set aside a judgment based on factual findings of the Court, unless a review of the entire record shows that the judgment was not supported by substantial evidence. II CCOJ §202 In this case, the factual matters before the Court were supported by substantial evidence in the file.

Our standard for review for questions of law is de novo. II CCOJ §202 Here, the issue of jurisdiction is well presented by counsel for Appellant. However, the Court's March 14, 2011 Order is well-reasoned and cited. Basically, neither the Fort Peck Indian Reservation, nor the State of Montana, was the residence of the minor child at time of birth. Although the matter of custody and paternity may eventually be determined in the Fort Peck Tribal Court, the matter is not ripe for those adjudications.

Based on the foregoing, the file and record in this cause;

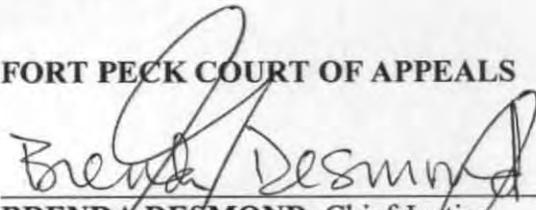
IT IS THE ORDER OF THIS COURT THAT:

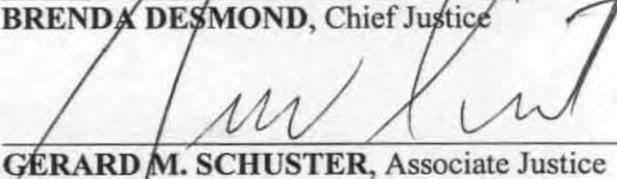
The judgment of the Fort Peck Tribal Court dated March 14, 2011 be, and the same is hereby affirmed.

DATED this 12 day of August, 2011.

FORT PECK COURT OF APPEALS

By:


BRENDA DESMOND, Chief Justice


GERARD M. SCHUSTER, Associate Justice

JOSEPH RAFFIANI, Associate Justice