
IN THE CROW COURT OF APPEALS

IN AND FOR THE CROW INDIAN RESERVATION

CROW AGENCY, MONTANA

CIV. APP. DOCKET NO. 94-31

**ESTATES OF RED WOLF and BULL TAIL
Plaintiffs/Appellees,**

vs.

**BURLINGTON NORTHERN RAILROAD
COMPANY, a corporation,
Defendant/Appellant.**

Decision Entered January 29, 1996

[Cite As: 1996 CROW 2]

Before: William C. Watt, Docket Judge

ORDER DISMISSING APPEAL

1 Defendant in the above-captioned case, Burlington Northern Railroad Company, filed a Notice of Appeal on January 24, 1996, citing as grounds therefor several rulings by Crow Tribal Court Judge Arneson regarding punitive damages, *voir dire* and criteria for disqualification of jury panel members, federal preemption and subject matter jurisdiction. On Saturday, January 27, Burlington Northern delivered to the undersigned an Emergency Motion for Stay and Expedited Appeal, accompanied by extensive supporting materials in the form of an affidavit, brief, and exhibits.

1 This Court has jurisdiction to “hear all appeals from final judgments and/or orders

of the Crow Tribal Court[.]” Crow Tribal Code Section 3-1-103(2); *see also*, Crow R. App. P. 2 (a). On their faces, Burlington Northern’s notice of appeal and motion do not emanate from final judgements or orders of the Tribal Court. Appellant has presented no authority that would support appellate jurisdiction under relevant provisions of Tribal or federal law, either for an appeal as of right or a permissive appeal. *See* Crow Rules of Civil Procedure 22 (injunctions) and 23 (extraordinary writs); 28 U.S.C. §§ 1291 and 1292.

¶3 The requirement for finality in the Tribal and federal appellate jurisdiction statutes “protects a variety of interests that contribute to the efficiency of the legal system. Pre-trial appeals may cause disruption, delay, and expense for the litigants; they also burden appellate courts by requiring immediate consideration of issues that may become moot or irrelevant by the end of the trial. In addition, the finality doctrine protects the strong interest in allowing trial judges to supervise pre-trial and trial procedures without undue interference.” *Stringfellow v. Concerned Neighbors*, 480 U.S. 370, 380 (1987). All of these considerations are present here.

¶4 To be sure, federal courts have allowed interlocutory appeals for a “small class” of orders when, although the appeals are not expressly authorized by statute, the orders “finally determine claims of right separable from, and collateral to, rights asserted in the action, too important to be denied review and too independent of the cause itself to require that appellate consideration be deferred until the whole case is adjudicated.” *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541, 546 (1949). Orders denying a party’s motion for intervention have been recognized as appealable final decisions under this “collateral order” doctrine. *Stringfellow*, 480 U.S. at 377, *citing Railroad Trainmen v. Baltimore & Ohio R. Co.*, 331 U.S. 519, 524-525 (1947). This Court’s recent decision in Bonnie Little Nest’s expedited appeal in this case involved such an order, *i.e.*, the Tribal Court’s denial of her motion to intervene.

¶5 However, none of the rulings challenged by Burlington Northern in the instant appeal fall within the collateral order doctrine or any other authority permitting an interlocutory appeal. *See Manual for Complex Litigation, Third* §25.11 (Fed. Jud. Center 1995).

¶6 This Court lacking appellate jurisdiction over the rulings challenged by Burlington Northern, therefore,

IT IS HEREBY ORDERED that Burlington Northern’s appeal is DISMISSED WITHOUT PREJUDICE.