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IN THE CROW COURT OF APPEALS

IN AND FOR THE CROW INDIAN RESERVATION
CROW AGENCY, MONTANA

CIV. APP. DOCKET NO. 012-214

In Re the Matter of:

**Paul Little Light, Gordon Morning,
Joe Covers Up, Collena Brown,
Plaintiffs,
and Janine Pease-Pretty On Top,
Plaintiff/Appellant,**

vs.

**Vera Jane He Does It, Walter Old Elk, Lana Three Irons, Loretta Three Irons, Edward Whiteman, Marlon Goes Ahead, Garlon Williamson, Sharon Perogoy, Kennard Real Bird, and Henry Real Bird,
Defendants/Appellees.**

Issued January 25, 2001

[Cite as 2001 CROW 1]

Before Watt, J.

ORDER GOVERNING CONDUCT OF APPEAL

¶1 Plaintiff Janine Pease-Pretty On Top, through her counsel, has filed a “Petition for Permission to Appeal Injunctions/Orders.” The Petition seeks the court’s permission to appeal the orders entered by the Tribal Court (Big Hair, C.J.) on January 13th and 16th, 2001. Appellant also requests the court to declare the orders void, and to remand the case back to the Tribal Court for further proceedings.

¶2 Chief Judge Big Hair’s orders, entered after the Tribal Council meeting on January 13th: (1) dismissed the Tribal Court proceedings in above-captioned case; (2) dissolved the Tribal Court’s December 1st restraining order against the Defendants; (3) permanently enjoined Ms. Pease-Pretty On Top from occupying the office and performing the duties of President of Little Big Horn College (“LBHC”); (4) ordered her removed from the offices and campus of LBHC; (5) enjoined her and the other Plaintiffs from inciting protests and other actions which interfere with the functions of the college and the Trustees; (6) prohibited her from entering the college until security or law enforcement personnel could accompany her to remove her personal belongings; (7) ordered Tribal Security to take any items in her possession belonging to the College and return them to the College; and (8) enjoined her from harassing, or in any other manner communicating with, the Defendants and their families. *See* Order dated January 13, 2001 (Plaintiff’s Exhibit 2); Amended Sua Sponte Order dated January 16, 2001 (Pl. Exh. 3).

¶3 In order to provide for a prompt and orderly disposition of this appeal, the court makes the following procedural rulings and scheduling orders:

1. Notice of Appeal:

¶4 Ms. Pease-Pretty On Top and her counsel have apparently sought the court’s permission to appeal pursuant to Rule 4 of the Crow Rules of Appellate Procedure, which applies to “[a]n appeal from the granting of a temporary restraining order or preliminary injunction[.]” However, it appears that the Orders appealed from are final for all intents and purposes, and the injunctive relief is permanent in nature rather than temporary or preliminary. Therefore, pursuant to Rule 2 of the Crow Rules of Appellate Procedure, permission to appeal is not required because an aggrieved party may appeal such final orders as a matter of right. This court shall treat Appellant’s Petition as a timely-filed Notice of Appeal

2. Transmission of Record:

¶5 Pursuant to Rule 8 of the Crow Rules of Appellate Procedure, the Clerk of the Tribal Court is directed to immediately transmit the record of proceedings below to the Court of Appeals.

¶6 It would appear, however, that the Tribal Council proceedings on which the Chief Judge based his orders may not be part of the

record on file with the Tribal Court. Therefore, to assist the court and the parties in efficiently

¶7 **IT IS HEREBY ORDERED** that Ms. Jean Bearcrane, who also apparently serves as a counsel for the Tribe, provide the court and opposing counsel with certified copies of the Agenda, Minutes, and all Resolutions of the January 13, 2001 Tribal Council meeting that pertain to Appellant and the presidency of LBHC, within five (5) business days after the date of this order.

3. Representation of Parties and Amicus Curiae:

¶8 The only Plaintiff who has filed a notice of appeal is Ms. Pease-Pretty On Top, represented by Mr. Daniel Decker. As a result of the Amended Sua Sponte Order issued on January 16, the only relief ordered against the other Plaintiffs was to dismiss the case and enjoin them against inciting protests.

¶9 The papers presented to the court indicate that Ms. Bearcrane has represented all the Defendants in proceedings below. In order to confirm that representation, and to provide other interested parties with the opportunity to brief this appeal:

¶10 **IT IS HEREBY ORDERED** that Ms. Bearcrane shall file a Notice of Appearance within ten (10) business days after the date of this order, stating which parties defendant she represents in this appeal;

¶11 **IT IS FURTHER ORDERED** that counsel for any Defendants/Appellees not represented by Ms. Bearcrane shall file a Notice of Appearance within ten (10) business days after the date of this order; and all motions for any other person or entity to participate in this appeal as *amicus curiae* shall be filed within ten (10) business days after the date of this order.

4. Appellate Briefs:

¶12 Appellant’s brief filed in support of her petition for permission to appeal primarily addresses the reasons why permission should be granted, an issue that is moot in light of her right to appeal as discussed above. To assist the court, the parties’ briefs on the merits of this appeal or *amicus* briefs shall address the following issues in addition to any other issues the parties wish to raise:

- (a) The authority and procedures for designating and removing the President of LBHC contained in the College’s charter, bylaws, and other governing documents;
- (b) Any pertinent requirements or conditions for funding in the “Tribally Controlled College or University Assistance Act of 1978” and any implementing regulations, or under any other Federal law or regulations;
- (c) The formal role and authorities of the Crow Tribe and the Tribal Council, under Tribal or Federal law, with respect to the governance of LBHC; and
- (d) The effect of Article X of the Crow Constitution as adopted at the Tribal Council meeting on December 9, 2000, providing for a “separation of powers” among three branches of Tribal government, and that the judicial power shall be vested in the Tribal courts.

Pursuant to Rule 10 of the Crow Rules of Appellate Procedure:

¶13 **IT IS HEREBY ORDERED** that Appellant’s principal brief or statement in support of her appeal, and any briefs of *amici* in support of her position, shall be filed within twenty (20) calendar days after the date of this order;

¶14 **IT IS FURTHER ORDERED** that Appellees’ response briefs, and any briefs of *amici* in support of Appellees’ position, shall be filed within fifteen (15) days following receipt of Appellant’s principal brief.

¶15 Oral argument will be scheduled by further order of the court.

¶16 In order to expedite this matter, the Clerk of the Crow Court of Appeals is directed to send a copy of the facsimile of this order to Ms. Bearcrane and Mr. Decker via facsimile. The Clerk is further directed to mail copies of the original signed order to those counsel and to each of the named Plaintiffs and Defendants.
