

FORT PECK COURT OF APPEALS
ASSINIBOINE AND SIOUX TRIBES
FORT PECK INDIAN RESERVATION
POPLAR, MONTANA

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IN THE MATTER OF

DAVID RED FOX, a Prosecutor in
the Fort Peck Tribal Court
System,

Respondent.

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MEMORANDUM OF PREVIOUS AND RECOMMENDED ACTION
AND ORDER SUSPENDING ASSOCIATE JUSTICE

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On June 13, 1988, Executive Board's Resolution No. 857-88-6, appointed David Red Fox to fill a vacant associate justice position on the Fort Peck Court of Appeals for the Assiniboine and Sioux Tribes, Fort Peck Indian Reservation, Poplar, Montana; and

WHEREAS, David Red Fox was charged with a violation, III CCOJ 416, contributing to the delinquency of minors and the same is now pending before the Honorable Violet E. Hamilton, Judge for the Fort Peck Tribal Court in Wolf Point, Montana (See Exhibit I); and

WHEREAS, a Memorandum of Previous Recommended Action was issued April 4, 1988 (See Exhibit II with attachments); and

WHEREAS, I CCOJ 301 sets forth the following qualifications:

"To be eligible to hold the office of justice or judge, a person must have a high school diploma, be at least 25 years of age, not have been convicted of a felony, not have been dishonorably discharged from the Armed Forces, be physically capable of carrying out the duties of the office, have successfully completed a judge's qualifying examination administered as prescribed by the Executive Board, and in the opinion of the Fort Peck Tribal Executive Board be of sound judgment and good character and possess a reputation for honesty, fairness and

impartiality...."

and;

WHEREAS, I CCOJ 306(a) sets forth a procedure whereby a justice be removed and reads in full as follows:

"(a) Initiation of charges. Upon written charges of specific misconduct, or physical or medical inability to carry out the duties of office, made by any member of the Tribal Executive Board, adopted by a majority vote of a meeting of the Tribal Executive Board at which a quorum is present, the Board shall initiate proceedings to remove a justice or judge from office. Misconduct as used in this section shall mean: (1) conviction of a felony or a misdemeanor involving dishonesty or acts offensive to the morals of the community; (2) abusive or clearly incompetent performance of duties in office; or (3) failure to perform the duties of office."

and;

WHEREAS,

"...The Court of Appeals, or the Chief Justice alone, shall have jurisdiction:

"(a) to take all necessary steps to preserve and protect the jurisdiction of the Court;

"...

"(c) to make any order appropriate to preserve the status quo or to protect any ultimate judgment of the Court of Appeals."

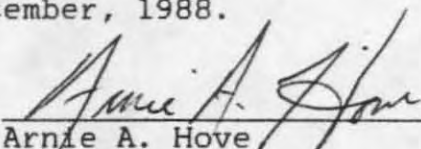
WHEREAS, this Court met on September 6, 1988 for the purpose of discussing with Mr. Red Fox the above charges and requesting he voluntarily withdraw from hearing the presently scheduled appeals until the matter of the charges, past and present, had been addressed and Mr. Red Fox refused and/or failed to appear.

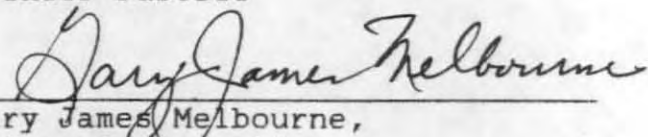
NOW THEREFORE, this Court makes the following written charges of specific misconduct of Associate Justice David Red Fox notice recommendation to the Tribal Court pursuant to I CCOJ 306(a). Mr.

Red Fox should be removed from his position as an associate justice of the Fort Peck Court of Appeals in that he does not meet the requirements for an associate justice and his past convictions for felonies or misdemeanors involving dishonesty or acts offensive to the morals of the community and that he has failed to perform the duties of his office by failing and/or refusing to appear as requested.

NOW THEREFORE, this Court orders Mr. Red Fox be and hereby is suspended from further activity as an associate justice until the charges presently filed against him have been heard and/or the Tribal Executive Board meets to hold a hearing on the past and present felony and misdemeanor charges and the specific request by this Court to take action on the written charges of misconduct by Associate Justice David Red Fox.

DATED this 8th day of September, 1988.


Arnie A. Hove
Chief Justice


Gary James Melbourne,
Associate Justice