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

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RONALD REISER,  
Defendant/Appellant.

vs.

**Appeal No. 063**

FORT PECK TRIBES,  
Plaintiff/Appellee.

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
ORDER DENYING EXTENSION OF TIME TO FILE PETITION FOR REVIEW**

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An AFFIDAVIT AND MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR REVIEW was filed September 15, 1988 by Ronald Reiser, Defendant/Appellant, requesting that this Court allow him to submit his petition for review which was not filed in a timely manner for six (6) reasons stated therein.

**FROM THE FOREGOING THE COURT HEREBY MAKES THE FOLLOWING,**

**FINDINGS OF FACT**

**I.**

Appellant's Affidavit and Motion for Extension of Time to File Petition for Review dated and filed in the Wolf Point Tribal Court on September 15, 1988 set forth six (6) reasons as justification for the requested extension. The reasons were as follows:

1. Judgment was pronounced on the 28th day of July, 1988.
2. Attorney Mary Zemyan informed me that she would file a Motion for or notice of withdrawal as my legal counsel so the order would come directly to me. Attorney Mary Zemyan told me this on July 29, 1988. I assumed that I would receive a copy of this motion. I did not.
3. Attorney, Mary Zemyan received the Final Judgment Order on approximately August 9, 1988.
4. Attorney, Mary Zemyan did not forward the Order until August 22, 1988.

5. I did not personally see the Order until August 27, 1988. The reason I didn't was during that period of time I was combining wheat north of Oswego and haying south of Lomiller road and my wife who picks up the mail was on an extended visit with her mother.
6. I was then and am now presently without funds to hire another attorney, However on September 5, 1988 I contacted Clayton Reum, a Lay Advocate and at that time Mr. Reum agreed to represent me but that it would be at least a week before he could devote any time to my case.

## II.

In appellant's reasons, he admits judgment was pronounced on July 28, 1988.

## III.

The Affidavit and Motion for Extension of Time to File Petition for Review was filed forty-nine (49) days after appellant knew judgment has been pronounced and thirty-seven (37) days after Appellant's attorney received the written final judgment.

**FROM THE FOREGOING FINDINGS OF FACT THE COURT HEREBY MAKES THE FOLLOWING,**

## **CONCLUSIONS OF LAW**

### I.

This Court has jurisdiction of this matter in that "The jurisdiction of the Court of Appeals shall extend to all appeals from final orders and judgments of the Tribal Court.... 11 I CCOJ 202.

### II.

"A defendant in a criminal case shall have an appeal as of right from a judgment of conviction.... Appeals in criminal cases shall be taken as provided in Section 206." I CCOJ 205(a).

### III.

"An appeal must be taken within fifteen (15) days from the judgment appealed from by filing a written notice of appeal with the clerk of the Fort Peck Tribal Court. No extension of the fifteen (15) day period shall be granted. Upon request, the clerk of the Tribal Court shall prepare the notice of appeal." I CCOJ 206(a).

### IV.

The time begins to run for a criminal defendant to exercise his appeal rights upon his notification of that right as set forth in II CCOJ 604 which reads in full as follows:

"Following the imposition of judgment of guilty, except upon a pleas of guilty, the Court shall inform the

defendant that he/she has a right to appeal. *If* the defendant requests, the clerk of the court shall prepare and file a Notice of Appeal on behalf of the defendant. The defendant, or the clerk of the court filing on his/her behalf, must file the Notice of Appeal within fifteen (15) working days of the judgment."

**V.**

Appellant knew that judgment was pronounced on July 28, 1989 and sat on his rights for more than fifteen (15) working days after the judgment.

**VI.**

Appellant's reasons for the extension of time to file a petition for review do not justify the length of his delay when the CCOJ provided him with access to this Court and the right to have the clerk of court prepare his notice of appeal without the assistance of his attorney who was suppose to have and failed to file a notice of withdrawal.

**FROM THE FOREGOING CONCLUSIONS OF LAW THE COURT HEREBY MAKES THE FOLLOWING,**

**ORDER**

- 1. APPELLANT'S MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR REVIEW IS HEREBY DENIED; and**
- 2. APPELLANT IS TO BEGIN SERVING ANY SENTENCE OR PAY ANY FINE IMPOSED IMMEDIATELY OR AS OTHERWISE PREVIOUSLY ORDERED BY THE TRIBAL COURT.**

DATED this 20th day of October, 1989.

**BY THE COURT OF APPEALS:**

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Arnie A. Hove, Chief Justice

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Gary J. Melbourne, Associate Justice

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Floyd Azure, Associate Justice

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