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

FORT PECK ASSINIBOINE AND SIOUX TRIBES,
Plaintiff/ Appellee,

vs. **Appeal No. 070**

ANNA MARIE CRAZY BULL,
Defendant/Appellant.

THIS APPEAL is from a judgment of guilty of neglect of a child, in violation of III CCOJ 214(d) on the 13th day of April, 1989 at the Fort Peck Tribal Court, Assiniboine and Sioux Tribes, Fort Peck Indian Reservation, Poplar, Montana. The Honorable Terry Boyd presided.

FOR APPELLANT: Ron Arneson, Special Prosecutor, P. 0. Box 1133, Wolf Point, Montana 59201.

FOR APPELLEE: Melissa G. Melton, Lay Advocate, P. 0. Box 214, Wolf Point, Montana 59201.

CRIMINAL: II CCOJ 201(b)(2) AUTHORIZES AN ARREST OF A DEFENDANT WITHOUT A WARRANT FOR A MISDEMEANOR OFFENSE WHEN IT IS BEING COMMITTED IN THE PRESENCE OF THE ARRESTING OFFICER; IT IS THE DUTY OF ANY PARTY RAISING AN ISSUE REGARDING PROCEDURE AT A HEARING OR TRIAL TO SEE THAT THIS COURT HAS THE RECORD OF THAT HEARING OR TRIAL; AND A CASH BOND LOWER THAN THE FINE WHICH CAN BE IMPOSED IS NOT EXCESSIVE.

ARGUED: June 20, 1989. **DECIDED:** June 20, 1989.

Opinion by Arnie A. Hove, Chief Justice, joined by Gary James Melbourne and Floyd Azure, Associate Justices.

HELD: THERE WAS SUBSTANTIAL CREDIBLE EVIDENCE TO FIND THE OFFICERS HAD PROBABLE CAUSE TO BELIEVE THE OFFENSE OF NEGLECT OF A CHILD, A VIOLATION OF III CCOJ 214(d), WAS BEING COMMITTED IN THEIR PRESENCE, THEREFORE, APPELLANT'S ARREST WITHOUT A WARRANT WAS PROPER UNDER II CCOJ 201 (b) (2). APPELLANT IS TO BEGIN TO COMPLETE HER SENTENCE WITHIN 30 DAYS OF THE FILING OF THIS OPINION.

FACTS:

On or about March 11, 1989, the Appellant was charged with the offense of Neglect of a child, a violation of III CCOJ 214 (d). Neighbors reported to the Roosevelt County Sheriff's Office that Appellant and a boyfriend or her husband, John Stormy, were intoxicated, that John Stormy had tried to fight the male occupant in Apt #6, that Appellant and John Stormy both were yelling at 2 small children in their apartment and leaving them alone while they went to get booze. John Stormy was belligerent and refused to let investigating officers into the apartment to check on the children's safety. Appellant was observed sleeping in a bed with a crying baby in a dirty diaper next to her.

Upon entering the apartment, the officers observed beer cans on the floor and table and an empty pint of liquor on the table. Appellant and her co-defendant, John Stormy, were arrested for neglecting the children in their apartment while both were in an intoxicated condition and unable to care for them. The young children, one a baby in diapers, were temporarily removed from the home.

On March 13, 1989, Appellant entered a plea of not guilty and waived a trial by jury. On April 13, 1989, a bench trial was held. The trial was a joint trial with John Stormy. As witnesses, Appellant called Deputy Sheriff Mike Lamay and a BIA Sergeant John Yellowrobe. Appellant also testified.

Upon hearing the testimony and reviewing any evidence, the Honorable Terry Boyd stated, "With respect to John Stormy, I think that the prosecution has failed to prove anything other than that he was present outside the apartment so I will find John Stormy not guilty on the charge of Neglect of a child." The Tribes appealed from the verdict of not guilty rendered by the tribal court. On July 25, 1989, this Court rendered its decision and set aside the factual determination of the Tribal Court and found John Stormy guilty of neglect of a child, a violation of III CCOJ 214(d) (See Tribes vs. Stormy, Appeal No. 075).

With respect to Appellant, the Honorable Terry Boyd stated, "Well, based on the evidence that was entered. I have to conclude that, with respect to the defendant, Anna Crazy Bull, she is guilty as charged." The prosecution made a motion for a sentencing hearing one (1) week from that day and defense counsel did not object. At the sentencing hearing April 20, 1989, the prosecution recommended and Appellant received 90 days in detention and a $500.00 fine. The detention and fine were suspended on the following conditions:

> "1. 31 days SBTC (In patient treatment at Spotted Bull.)
>
> "2. 1 yr. Prob.
>
> "3. 200 hrs. Comm. Serv."

The sentence was stayed pending this appeal.

Lay counselor for Appellant raises several issues for this Court to address and states, "I further request the Appeals Court address each question I have raised individually in writing because my continued practice as Lay Advocate in the Tribal Court System will be determined by their answers." There were ten issues as follows:

> "1. Does the Tribe disregard the Comprehensive Code of Justice (hereinafter referred to as CCOJ) when arrests are made without a warrant when offense does not occur in Officer's presence as required by the Code for misdemeanors.
>
> "2. Does Complaint need written statements or affidavits (sic) attached to the Complaint?

"3. Is Probable Cause the basis for arrest in a misdemeanor.

"4. What is considered Excessive Bond? Is a Cash Bond in the amount of $250.00 excessive for indigent defendants?

"5. Is Ex-Parte allowed and is Ex-Parte grounds for dismissal?

"6. Are Personal Attacks on Defense Counsels allowed: isn't this a violation of the Canons of Ethics for Judges ?

"7. Do Defendants have the right to confront witnesses?

"8. Do Officers have the authority to arrest because they <u>believe</u> a crime was committed?

"9. Is it proper for Judge Boyd to reset a trial date on the date on the date of trial after Defendants and Counsel are present and prepared to go to Court?

"10. Is it Proper for the Court to order Defense Counsels to write and prepare an order from the Bench based on it's own Motion or Continuance, and then threaten Defense Counsel with Contempt of Court because Counsel questioned the Order?"

This Court will address each of Appellant's issues as hereinabove set forth.

I.

Does the Tribe disregard the Comprehensive Code of Justice (hereinafter referred to as CCOJ) when arrests are made without a warrant when offense does not occur in Officer's presence as required by the Code for misdemeanors.

It is Appellant's position that the law officers in this case arrested her in violation of II CCOJ 201 which reads in part as follows:

"...

"(b) No law enforcement officer shall arrest any person for a criminal offense except when:

"(1) A judge has signed a warrant commanding the arrest of such person, and the arresting officer has the warrant in his/her possession or know for a certainty that such a warrant has been issued; or

"(2) The offense shall occur in the presence of the arresting officer; or

"(3) In the case of a felony, the officer shall have probable cause to believe that the person arrested committed the offense."

The testimony of the law officers at the trial was they were sent to investigate complaints made by neighbors to the Roosevelt County Sheriff's Office. The three (3) officers sent to investigate the complaints were Deputy Sheriff Mike Lamay, Deputy Sheriff David Littlehead and BIA Officer John Yellowrobe. The testimony of Deputy Sheriff Lamay and BIA Officer Yellowrobe established the offense of neglect of a child, a violation of III CCOJ 214(d), was occurring in their presence. Appellant was charged with and found guilty of this offense. Title III CCOJ 214(d) reads as follows:

"Any parent, guardian, or custodian of a child under eighteen (18) years of age who neglects that child as defined in Section 102(d) of Title V of this Code shall be guilty of neglect of a child.

Neglect of a child is a Class A misdemeanor.

Title V CCOJ 102 reads in part as follows:

"...

"(d) Neglected child. A child:

(1) whose parent, guardian or custodian fails to provide the minimal care which a reasonably prudent parent would provide in the circumstances for the subsistence, education, and welfare of the child; or

(2) who has special physical or mental conditions for which the child's parent, guardian or custodian neglects or refuses to provide a reasonable level of special care; or

(3) whose parent, guardian or custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity.

A child shall not be deemed neglected if the reason for failing to provide adequate care for the child is the indigence of the parent or guardian.

Minimal care shall mean provision of adequate food, clothing, shelter, medical care, and day-to-day supervision. In determining whether minimal care has been provided, the Court shall apply the standards prevailing in the community.

"...."

Mike Lamay established that it was reported to the Roosevelt County Sheriff's Office a baby in the apartment being occupied by Appellant and John Stormy may have been or was being neglected by them during the day. This testimony went as follows:

Ron Arneson:	And would you describe for us what the dispatcher told you?
Mike Lamay:	He said that there is a disturbance ... the neighbors called ... I cannot remember the name of the individual that called but he stated that they called and said that Anna Crazy bull (sic) and them ... there was a Bordeaux and a White Hawk, I believe ... Bordeaux and White Hawk were the neighbors that called and said that they were having some kind of a dispute with Anna Crazy Bull and her boyfriend or her husband and that there were children involved. The children had been screaming all day and that they were all drunk and intoxicated (sic) and everything.
Ron Arneson:	Do you recall about what time this was and also, the date of this day?
Mike Lamay:	I do not recall the day, as I said it was shortly after shift change between probably two (2) and three-thirty (3:30).
Ron Arneson:	Okay!
Mike Lamay:	In the afternoon." [Trial Transcript, Page 8, Line 23 to Page 9, Line 16.]

Additional testimony by Officer Lamay established other factors which supported the arrests and convictions of Appellant and John Stormy. The testimony established the following: (1) his observations of Appellant and John Stormy and the apartment confirmed what was reported to the Roosevelt County Sheriff's office; (2) upon attempting to enter the apartment he and other officers were met at the door by John Stormy who was inside the apartment; (3) Appellant was drunk and unresponsive; (4) John Stormy had to be arrested since he refused to allow the officers to enter the apartment and check on the welfare of the children; (5) Officer Lamay took John Stormy to the car and had to forcibly place him in the same; and (6) Officer Lamay could hear a baby crying in the apartment from the car while he was with John Stormy (Trial Transcript, Page 14, Lines 16-18).

In reviewing the testimony of BIA Sgt. John Yellowrobe, it was consistent with the testimony of Officer Lamay. Officer Yellowrobe confirmed that neighbors had reported to the Roosevelt County Sheriff's Office Appellant and John Stormy were drunk. Officer Yellowrobe's testimony also established the baby was being neglected by Appellant and John Stormy who were in intoxicated conditions and unable to provide even minimal care for the children inside the apartment. Yellowrobe's testimony went as follows:

Ron Arneson:	Would you describe for us how you first came in contact with the defendants on or about the date of 3-13-89.
John Yellowrobe:	Yes. I called to the Mack Lack apartments on a disturbance and on arrival, Mr. Bordeaux and Ms. White Owl came out an advised us that the kids had been crying all day and that Mr. Stormy had been over bothering Mr. Bordeaux, trying to fight him. At that point, they said the kids were in there for sure but that they weren't sure where the parents were at. If they had gone after some more booze or if they were in there, in the apartment.
Ron Arneson:	Excuse me, did you have any reason to doubt what the neighbors were telling you was not in fact, factual?
John Yellowrobe:	The neighbors were both sober so we figured that it was true, Sir! [Trial Transcript, Page 17, Line 23 to Page 18, Line 11.]

Officer Yellowrobe was also one of two (2) officers who entered Appellee's apartment and testified to what he observed.

Yellowrobe first testified that before entering the apartment, the officers were met by John Stormy. Yellowrobe testified John Stormy wasn't responding and uncooperative and a bit belligerent. Yellowrobe also testified John Stormy's eyes were glazed and red, you could smell booze on him and he wasn't steady on his feet. Yellowrobe testified that this is when the officers began to worry about the children [Trial Transcript, Page 19, Line 1-15].

Yellowrobe's observations of the condition of the apartment, Appellant and children is set forth in the following:

Ronald Arneson:	Would you describe for us next, as to when you entered the home?
John Yellowrobe:	Yeah! It was . . . it was filthy, there were beer cans strewn around the floor and there was a pint of something on the table . . some kind of alcoholic beverage, I didn't really check on it.
Ronald Arneson:	And at this time, where was the defendant, MS. (sic) Crazy Bull?
John Yellowrobe:	Ms. Crazy Bull was asleep on the bed with one of the babies.
Ronald Arneson:	Okay! And in terms . . did you proceed to awake Ms. Crazy Bull?
John Yellowrobe:	Yes, it took her ahile (sic) to come around.
Ronald Arneson:	Would you describe that for us?
John Yellowrobe:	Well, it was like, she was intoxicated before she went to sleep and she had a hard time coming out of it.
Ronald Arneson:	And would you give us any other discriptive (sic) observations that you were seeing as to her demeanor and behavior at that point?
John Yellowrobe:	Yes. You could smell the alcohol on her and she had problems tying her shoes together. Tying the shoelaces into bows.
Ronald Arneson:	And you said that she was sleeping with a small child at that point?
John Yellowrobe:	Yes, Sir!
Ronald Arneson:	And what was the approximate age of that child?
John Yellowrobe:	Maybe, about a year. It was still in diapers yet.
Ronald Arneson:	And would you describe for us as to what you observed as to the demeanor and so on of the small child that you saw?
John Yellowrobe:	Yes. He was not clean and you could smell him.
Ronald Arneson:	Smell him, meaning what?
John Yellowrobe:	He really had a dirty diaper, Sir!
Ronald Arneson:	What did you next do then?
John Yellowrobe:	We removed all the subjects fromt (sic) he apartment to the patrol car.
Ronald Arneson:	Was there another child involved in this circumstance?
John Yellowrobe:	I believe there was . . . one that was walking.
Ronald Arneson:	And what about your observations as to that child?
John Yellowrobe:	I don't remember too much about that child.
Ronald Arneson:	And would you describe for us what you next did as it relates to the defendant and Ms. Crazy bull (sic)?
John Yellowrobe:	There (sic) were both placed under arrest and read their rights.

Ronald Arneson:	And what happened next?
John Yellowrobe:	There (sic) were transported to roosevelt (sic) County Sheriff's office.
Ronald Arneson:	And what did you charge them with? The defendants both Mr Stormy and Ms. Crazybull (sic).
John Yellowrobe:	Child Neglect, Sir!
Ronald Arneson:	And what did you next do, as it relates to the care and custody of the children?
John Yellowrobe:	We got a hold of Social Services, I believe it was.
Ronald Arneson:	AT that point, Officer, do you have any other information which may be relevant to the facts before this Court, in which I have not asked you questions about?
John Yellowrobe:	No, Sir! I don't believe, Sir! [Trial Transcript, Page 20, Line 6 to Page 22, Line 9.]

The testimony of the officers establishes the condition of Appellant and John Stormy in their presence as extremely intoxicated. In this intoxicated condition, the officers observed Appellant and John Stormy were unable to provide minimal care of adequate clothing for and day-to-day supervision of the children as they were unresponsive to the officers and Appellant was unable to assist the baby who was next to her crying because of a dirty diaper.

The arrest of Appellant was properly made without a warrant as provided for by II CCOJ 201 since the offense was occurring in the presence of three officers. The officers would not have been performing their duty if they had failed to arrest Appellant and John Stormy and taken the children into protective custody. Furthermore, there was substantial evidence to support the conviction of Appellant for neglect of a child, a violation of III CCOJ 214(d). Therefore this Court must find Appellant's

II.

Does Complaint need written statements or affidavits (sic) attached to the Complaint?

A complaint filed in a criminal action must contain what is required by II CCOJ 101(b). This section reads as follows:

"...

"(b) Complaints shall contain:

"(1) A written statement of the violation describing in ordinary language the nature of the offense committed, including the time and place as nearly as may be ascertained. Statements or affidavits by persons having personal knowledge may be expressly referenced in and attached to the complaints.

"(2) The name and description of the person(s) alleged to have committed the offense.

"(3) A statement describing why the Court has personal jurisdiction of the defendant.

"(4) A description of the offense charged.

"(5) The signature of the prosecutor sworn to before a judge."

In the instant case, the Tribal Court recognized the Complaint filed against Appellant was signed by a police officer who had personal knowledge of the violation, BIA Officer Yellowrobe. Under II CCOJ l0l(b),as amended, this is not permitted and upon the filing of a Motion to Dismiss for the reason the Complaint was not properly signed, the Tribal Court stated in its Order of April 13, 1989, "The Court agrees with Defendant that the Complaints were improperly signed, but believes that a technical error by Plaintiff does not bar prosecution.

The clear reading of the II CCOJ 101(b) (1) does not make it mandatory to attach written statements or affidavits to a complaint. This Court finds there is no error effecting a substantial right by the prosecution failing or refusing to attach statements or affidavits of the Complaint which is are not specifically required by statute.

III.

Is probable cause the basis for arrest in a misdemeanor.

The language in the order which is referred to and being brought into question by appellant is the following:

> "The facts available for review by the arresting officer prior to the arrest was sufficient for the development of probable cause to determine that the children were allegedly neglected, thus he believed a crime was being committed in his presence."

Appellant's issue is easily answered. Probable cause is the basis for an arrest for a misdemeanor. In all cases where there are sufficient facts for the development of probable cause to support an officer's belief that an offense, misdemeanor or felony, is being committed in his presence, an arrest of this individual committing the offense is appropriate under the CCOJ.

The facts in this case were sufficient for the development of probable cause to support a finding the children were neglected and a misdemeanor was being committed in the officer's presence.

IV.

What is considered Excessive Bond? Is a Cash Bond in the amount of $250.00 excessive for indigent defendants?

Pursuant to II CCOJ 402, the Tribal Court can determine and set an appropriate bond. This section reads in full as follows:

> "(a) Prior of trial. At arraignment, the judge shall decide whether to release the defendant from custody pending trial. As conditions of release, the judge may, to assure the accused's appearance at all times lawfully:
>
> "(1) require the accused to deposit cash or other sufficient collateral, in an amount specified by the judge;

"(2) require the accused, and/or any other designated person or organization satisfactory to the judge, to execute a written promise to appear or to deliver the accused at all required times;

"(3) impose reasonable restrictions on the travel, association or place of residence of the accused;

"(4) impose any other condition deemed reasonably necessary to assure the appearance of the accused as required.

As in this case, it is within the discretion of the tribal judge to require an accused deposit cash to assure his or her appearance. The bond in any case should reflect the offense for which the defendant is charged and not exceed the amount of the fine which can be imposed for that offense unless there exists extraordinary circumstances for imposition of the same. Neglect of a child is a Class A misdemeanor and the penalty for a conviction thereof is set forth in III CCOJ 501(2) . This section reads in full as follows:

"...

"(2) Class A misdemeanor, for which a maximum penalty of three months' imprisonment, a fine of five hundred dollars, or both, may be imposed."

"...."

The reasoning of Judge Hamilton for originally setting bond at $250.00 was not disclosed by the record, however, this Court can only infer she considered the amount sufficient to guarantee presence of appellant at all court proceedings.

Although an indigent defendant may not be able to pay any cash bond, a cash bond of $250.00 for allegedly committing the offense of neglect of a child would not be excessive in view of the possible penalty of three months' imprisonment and/or a $500.00 fine.

V.

Is Ex-Parte allowed and is Ex-Parte grounds for dismissal?

Ex-parte communications are not allowed, however, in very limited circumstances would they be grounds for dismissal of a criminal action. The circumstances given by appellant for the raising of this issue was appellant's attorney received a signed copy of a Motion for Joinder on March 30, 1989. Appellant was informed of the prosecution's intention to file this motion by Judge Boyd prior to the filing of the same. As a result thereof, appellant makes reference to a possible violation of Canons 2 and 3(A)(4) by Judge Boyd.

This Court will address appellant's issue in relation to Canon 3(A) (4) which reads in full as follows:

"(4) A judge should accord to every person who is legally interested in a proceeding or his lawyer or advocate, the full right to be heard under the Code, the Indian Civil Rights Act,

> and any other relevant source of law. Except as authorized by law, the judge shall not initiate nor accept any written or oral communication concerning a pending case, either from a party to the case or from any other person, without either the presence or agreement of all parties. The judge shall not meet with any party to a case, or accept any communication from a party without either the agreement or presence of all other parties. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before him if he gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond. These restrictions do not include communications with other judges or with court personnel whose function it is to aid the judge in carrying out his judicial activities."

Appellant's counsel and the prosecutor both presented motions to Judge Boyd and Judge Stafne to be signed with out proof that opposing parties were served with copies of the same. All motions submitted to the Tribal Court and this Court should contain proof thereon the other party has been either notified of the motion or provided with a copy of the same with an appropriate certificate of mailing and/or service.

In the instant case, appellant fails to show where Judge Boyd accepted ex parte communications from the prosecution on the Motion for Joinder. Furthermore, Judge Stafne signed the Motion for Joinder and would have had to advise Judge Boyd of his action, since Judge Boyd would be hearing both matters at one trial. Therefore, there was no violation of Cannon 3(A)(4) of the Code of Ethics for Judges and Justices of the Fort Peck Tribal Court by Judge Boyd which would be grounds for dismissal.

VI.

> Are Personal Attacks on Defense Counsels allowed: Isn't this a violation of the Canons of Ethics for Judges?

Appellant's lay counselor claims certain statements in an Order Denying Motion to Dismiss and Granting Motion for Joinder are personal attacks and violations of Canons 2(A) and (B) and Canon 3(A)(3) and (4) of the Code of Ethics for Judges and Justices of the Fort Peck Tribal Court by Judge Boyd.

This Court has reviewed the order and statements referred to therein which appellant claims are personal attacks and violations of the canons. This Court finds lay counselor's arguments without merit. In fact the order indicates Judge Boyd believed lay counselor was making personal attacks on himself. This Court joins with Judge Boyd and emphatically states all parties would be better served if attorneys and lay counselors would concentrate on legal issues rather than personal attacks on the tribal judges, or for that matter, each other.

VII.

> Do Defendants have the right to confront witnesses?

Under the Indian Civil Rights Act at 25 U.S.C. Section 1302(6), appellant has the right to confront the witnesses against her. This section reads in full as follows:

"...

"(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense." (Emphasis Added.)

"...."

In the instant case, appellant complains that there were no witnesses at this trial, other than the arresting officers. In this case, arresting officers were actual witnesses to child neglect reported to the Roosevelt County Sheriff's Office. The prosecution, for whatever reason, failed to call the witnesses who reported the child neglect, however, was able to present sufficient evidence to convict the Appellant of this offence.

If Appellant felt there were witnesses in her favor which should have been present to give testimony at the trial, she should have used compulsory process (Subpoenas) to insure their presence at the trial. Appellant's lay counselor's failure to do so cannot be held a violation of her civil rights by the Tribes and their prosecutor under 25 U.S.C. Section 1302(6). Therefore, appellant's issue is without merit.

VIII.

Do officers have the authority to arrest because they believe a crime was committed?

Officers have authority to arrest when they see an offense being committed in their presence and believe an individual committed the same. Title II CCOJ 201(b) (2) was previously set forth and discussed. In the instant case the offense of child neglect was committed in the presence of three (3) officers and because they believed appellant committed the offense they had authority to arrest her.

IX.

Is it proper for Judge Boyd to reset a trial date on the date of trial after Defendants and Counsel are present and prepared to go to Court?

The Tribal Court, as does any court, has the discretion to continue a trial on the motion of either party upon a showing of good cause therefore or on its own motion, i.e. the failure of a party or witnesses to appear, etc. The record is not clear what the circumstances were which resulted in the continuation of the trial date. Furthermore, appellant has failed to allege a specific civil right was prejudiced by this continuation, i.e. she was denied a speedy trial. Therefore, this Court is unable to address appellant's issue to any logical conclusion.

X.

Is it Proper for the Court to order Defense Counsels to write and prepare an order from the Bench based on it's own Motion for Continuance, and then threaten Defense Counsel with Contempt of Court because Counsel questioned the Order?

The Tribal Court, as any court, has the discretion and authority to direct an attorney or lay counselor to prepare an order based on its own motion, and in this case a motion for continuance. The record is not clear what it was lay counselor questioned about the order she was directed to write and prepare and whether the questioning could be perceived as disrespect by Judge Boyd.

Pursuant to I CCOJ 103, "The Court shall keep a record of all proceedings of the Court...." There must exist a record of the proceedings at which lay counselor was threatened with contempt and this record is not before this Court. This Court will hereinafter hold that it is the duty of a party raising an issue to see the Court has the entire record before it. Because the entire record is not before this Court, this Court is unable to properly address the issue under the circumstances of this case.

HELD: THERE WAS SUBSTANTIAL CREDIBLE EVIDENCE TO FIND THE OFFICERS HAD PROBABLE CAUSE TO BELIEVE THE OFFENSE OF NEGLECT OF A CHILD, A VIOLATION OF III CCOJ 214(d), WAS BEING COMMITTED IN THEIR PRESENCE, THEREFORE, APPELLANT'S ARREST WITHOUT A WARRANT WAS PROPER UNDER II CCOJ 201 (b) (2). APPELLANT IS TO BEGIN TO COMPLETE HER SENTENCE WITHIN 30 DAYS OF THE FILING OF THIS OPINION.

DATED this _____ day of August, 1989.

BY THE COURT OF APPEALS:

_____
ARNIE A. HOVE, Chief Justice

_____
GARY JAMES MELBOURNE, Associate Justice

_____
FLOYD AZURE, Associate Justice