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

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Fort Peck Tribes,  
Plaintiff/Appellee,

and. **Appeal No. 092**

Loretta Adams Jefferson,  
Defendant/Appellant.

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DENYING APPEAL**

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On November 16, 1989, a Notice of Appeal was filed in the above-referenced matter by Clayton Reum, Lay Counselor, for appellant giving notice of appeal from the verdict of guilty from the bench trial on October 26, 1989 before the Honorable Howard Bemer. A transcript of a trial on October 20, 1989 was received by this Court. FROM THE FOREGOING, THIS COURT MAKES THE FOLLOWING;

**FINDINGS OF FACT**

I

A Notice of Appeal was filed on November 16, 1989 appealing the trial on October 26, 1989.

II

The Notice of Appeal contained the following grounds for appeal:

1. Lack of evidence to support a criminal charge.
2. Sentence exceeds the maximum allowed by law.

III.

A transcript of a trial on October 20, 1989 was prepared and presented to this Court by Abigail Y. Reddoor of P.O. Box 643, Poplar, MT 59255 which is the trial in which a judgment of "guilty" and sentence was entered against appellant. Not including weekends and holidays, there would be more than 15 working days from the date of filing the Notice of Appeal and the October 20, 1989 trial.

#### IV.

Counsel for both parties understood the bench trial was being held on October 20, 1989. On page one (1) beginning at line 1 through 15 of the transcript the Honorable Chief Judge Howard Bemer states that the bench trial is being held in the following:

Judge Bemer: The Tribal Court is now in session on October 20th at 10:18 a.m., in the matter of Fort Peck Tribes versus Loretta Jefferson. It is a criminal action and Loretta Adams Jefferson is charged with Section 308 of the Criminal Code, Issuing a Bad Check. And, for the record, present for the Fort Peck Tribes is Mr. Ron Arneson who is Special Prosecutor and also the defendant Loretta Adams Jefferson is in court represented by Mr. Clayton Reum. And this is the time that was set for the Bench Trial which was rescheduled from the 19th to this date. Mr. Prosecutor, are you prepared to proceed?

The parties' attorneys then indicate their understanding in the following:

Prosecutor Arneson: I am, Your Honor.

Judge Bemer: Okay. Is the defense ready to proceed?

Clayton Reum: Yes. We do, Your Honor. We do. Before the prosecution presents the case, we do have a motion for the court.

#### V.

On October 20, 1989, counsel for both parties were present when Chief Judge Bemer found Loretta Adams Jefferson guilty of issuing a bad check. (See Transcript, p. 59, 1. 9 to 11.)

#### VI.

On October 20, 1989, Chief Judge imposed a sentence and stayed the sentence at the request of Clayton Reum. This colloquy went as follows:

Judge Bemer: ...Then the final order is that she be fined twenty five dollars, and that she make restitution in the amount of two hundred and seventy five dollars to Mr. William Finnicum, personally. She has sixty days to satisfy this. And.....is there anything else in this matter?

Clayton Reum: Yes, Your Honor. Unless you have something, Mr. Arneson.

Prosecutor Arneson: I bow to the Defense Attorney.

Clayton Reum: Your Honor, we would at this time then give our notice of appeal, and we would motion for the court for a stay at this time, allowing us the fifteen days allowed by law to file our appeal.

Judge Berner: Okay. I will stay this sentence then, for the fifteen days allowable. I would direct then that you would sometime during that period you complete your appeal and along with a fifty dollar bond which will cover the cost of the transcripts.

[Transcripts, p. 61, 1. 25 through p. 62, 1. 17.]

## VII.

Clayton Reum intentionally incorrectly advised this Court of the trial date being October 26, 1989 and the Clerks of the Tribal Court were concerned enough to point out Mr. Reum's incorrect trial date on the Notice of Appeal.

## VIII.

Clayton Reum by filing his Notice of Appeal with the incorrect date has not acted with honesty toward the Fort Peck Court of Appeals.

FROM THE FOREGOING, THIS COURT MAKES THE FOLLOWING;

## **CONCLUSIONS OF LAW**

### I.

Appellant's Notice of Appeal must be taken within fifteen (15) days from the judgment of "guilty" entered and sentence imposed on October 20, 1989. On October 20, 1989, the tribal court advised Clayton Reum of the fifteen (15) day statute of limitations in I CCOJ 206(a) and although advising the tribal court of his intention to file an appeal neglected to do so within the fifteen (15) days.

### II.

The Code of Ethics for Attorneys and Lay Counselors of the Fort Peck Reservation require attorneys and lay counselors pursuant to Canon 13 to act with honesty toward the Fort Peck Courts. This canon reads in full as follows:

"An attorney shall act with honesty toward the Fort Peck Courts. An attorney shall not knowingly make false statements to the Courts or knowingly offer false evidence. Nor shall an attorney fail to disclose significant legal authority directly adverse to his or her client's position."

Clayton Reum has violated this canon by filing a Notice of Appeal with a false date of a trial at which he was present and was advised of the statute of limitations and indicated he would be proceeding with an appeal.

### III.

The jurisdiction of the Court of Appeal is set forth in I CCOJ 202 which reads in applicable part as follows:

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

" ...

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

Because the Court of Appeals was required to obtain the transcript of the October 20, 1989 hearing to have the complete record of the tribal court proceedings and thereby incurred costs for the Fort Peck Tribes by having Abigail Y. Reddoor paid for the preparation of the same, an order requiring reimbursement would preserve the status quo.

FROM THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW IT IS HEREBY ORDERED:

1. This criminal appeal is denied and dismissed with prejudice.
2. Clayton Reum is required to reimburse the Fort Peck Tribes the cost of the transcript of the October 20, 1989 hearing paid to Abigail Y. Reddoor and judgment in favor of the Tribes is to be entered against him for the same and payment made within ninety (90) days of the filing of these findings and order.

DATED this 8th day of January, 1990.

**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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