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

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IN THE MATTER OF  
CALEB GOURNEAU,  
Defendant/Appellant,

vs.

**Appeal No. 100**

FORT PECK TRIBES,  
Plaintiff/Appellee.

A Petition for Review was filed the 2nd day of January 1990, appealing a Tribal Court Order of a Judgment by Chief Judge Bemer pursuant to Title IX, 107 CCOJ in the Fort Peck Tribal Court, Assiniboiné and Sioux Tribes, Fort Peck Indian Reservation, Poplar, Montana.

**FOR DEFENDANT/APPELLANT:** Caleb Gourneau, Poplar, Montana.

**FOR PLAINTIFF/APPELLEE:** Daniel R. Schauer, Tribal Prosecutor, Poplar, Montana.

Briefs were not submitted by Appellant and Appellee had no brief to respond to. At the time set for Oral Argument, July 19, 1990 at 1:45 P.M., Appellant did not appear. Appellee was present. No Oral Arguments were presented. This Court issued an Opinion which held as follows:

**HELD:** SINCE NO BRIEFS OR ARGUMENTS WERE PRESENTED FOR THE APPEAL, IT IS THE UNANIMOUS DECISION OF THIS COURT THAT THE APPEAL OF THIS MATTER BE AND THE SAME HEREBY IS DISMISSED. IT IS FURTHER ORDERED THAT THE JUDGMENT OF THE TRIBAL COURT ON DECEMBER 12, 1989 IS HEREBY AFFIRMED.

**OPINION:** Delivered by Associate Justice, Debra A. Johnson. Concurring were e Chief Justice, Gerald M. Schuster and Associate Justice, Gary James Melbourne.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER:**

On August 26, 1989, a Criminal Complaint was issued by Officer Wayde Cooperider on a charge of: Driving a Motor Vehicle While Under The Influence of Intoxicating Liquor or Drugs. This charge is under Title IX, Highways, of the Comprehensive Code of Justice.

At the arraignment on August 28, 1989, before the Honorable Judge Bemmer, Appellant entered a plea of not guilty to the offense and the Court released Appellant on a surety bond and set a Bench Trial for September 6, 1989 at 3:00 P.M. Counsel for Appellant/Defendant motioned the Court for a Continuance, which was granted and the Trial date reset for October 18, 1989 at 2:00 P.M. On September 5, 1989 a Stipulation was entered for Trial date to be on October 17, 1989 at 2:00 P.M.; the Court later ordered a Bench Trial for November 21, 1989 at 1:30 P.M., continued until a Bench Trial on December 12, 1989 at 3:00 P.M. The Defendant/Appellant then changed his plea to Guilty and the Court ordered: two (2) days in jail, forty—five (45) days or a \$225.00 fine to D.U.I. school at Spotted Bull Treatment Center, sixty (60) days to pay fine, credit for two (2) days served, January 10, 1990. Defendant will pay \$100.00 on fine.

The Appellant filed a Petition for Review with the Court of Appeals on January 2, 1990. Pursuant to I CCOJ 205(a), on June 1, 1990, an Order granting an Appeal and Setting a Briefing Schedule and Date and Time for Oral Arguments granted Appellant his absolute right to appeal a final order of conviction of the Tribal Court.

The Appellant's Petition for Review listed two issues:

(1) Sentencing on D.U.I.

(2) Inadequate Counsel.

Appellant failed to brief these issues thus Appellee was unable to submit a response brief; further Appellant did not appear at the time set for Oral Arguments, July 19, 1990 at 1:45 P.M., Appellee was present. No Oral Arguments were presented.

**HELD:** SINCE NO BRIEFS OR ARGUMENTS WERE PRESENTED FOR THE APPEAL, IT IS THE UNANIMOUS DECISION OF THIS COURT THAT THE APPEAL OF THIS MATTER BE AND THE SAME HEREBY IS DISMISSED. IT IS FURTHER ORDERED THAT THE JUDGMENT OF THE TRIBAL COURT ON DECEMBER 12, 1989 IS HEREBY AFFIRMED.

**DATED** this \_\_\_\_\_ day of July, 1990.

**BY THE COURT OF APPEALS:**

\_\_\_\_\_  
GARY M. SCHUSTER, Chief Justice

\_\_\_\_\_  
Danna Runsabove, Associate Justice

\_\_\_\_\_  
GARY JAMES MELBOURNE, Associate Justice

Danna Runsabove  
Clerk of Appeals Court  
P.O. Box 1133  
Wolf Point, Montana 59201

Daniel R. Schauer  
Tribal Prosecutor  
P.O. Box 1027  
Poplar, MT 59255

**DATED** this 1st day of August, 1990.

BY \_\_\_\_\_  
Gerard M. Schuster, Chief Justice  
Fort Peck Appeals Court

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