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

FORT PECK TRIBES,
Plaintiff/Appellee,

vs.

Appeal No. 163

BERNITA CHAPMAN,
Defendant/Appellant.

PER CURIAM:

THIS MATTER comes before the Court on a Notice of Appeal of sentence ordered upon conviction of the crime of criminal mischief.

Defendant/Appellant Bernita Chapman appealed on the grounds that the Court erred in ordering restitution to the victim for damages caused in the sum of \$240.00. Defendant/Appellant argued that she should have been allowed to make restitution by other means, ie., replacement of the damaged property.

Defendant/Appellant appeared and argued Pro Se. The Fort Peck Tribes, Appellee, appeared by Clayton Reum, Special Prosecutor, who argued in opposition.

HELD: THE JUDGMENT AND ORDER OF THE LOWER COURT IS AFFIRMED.

Argued: October 9, 1992

Decided: October 9, 1992, following oral arguments by unanimous decision of Gerard M. Schuster, Chief

Justice, Debra A. Johnson and Florence Youpee, Associate Justices.

ISSUE: Whether the Court's order of monetary restitution for property damage was proper.

DISCUSSION

The Fort Peck Tribes code is clear on this issue, Title II §601 **SENTENCES** provides:

Any person who has been convicted of an offense enumerated in this Code may be sentenced by the Court to one (1) or a combination of the following penalties:

(d) In addition to or in lieu of the penalties provided above, the Court may require a convicted offender who has inflicted injury upon the person or property of another to make restitution or compensation to the injured person by means of the surrender of property, payment of money damages, or the performance of any other act, including appropriate work detail, for the benefit of the injured party.

Judge Welch here ordered restitution of \$240.00 to the injured parties. Section **601** Title II, CCOJ, allows such discretion to the Court. The argument of Appellant that she could replace the damaged property for less money is meritless, and we reject it.

The Court ordered payment of money damages, which is authorized by the Code.

The judgment and order of the Tribal Court is affirmed.

The Justices have authorized Chief Justice Gerard M. Schuster to issue this Opinion on his signature, as being the unanimous opinion of the Court.

DATED this _____ day of October, 1992

BY THE COURT OF APPEALS:

GERARD M. SCHUSTER, CHIEF JUSTICE
