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

IN THE MATTER OF THE ADOPTION OF

M.J.A. JR. AND R.P.A.

Minot Indian Children,

MARY ROSE NESBIT & JAMES NESBIT,
Petitioners/Appellants,

Appeal No. 175

VS.

MICHEAL J. AZURE, SR,
Respondent/appellee.

ORDER OF REMAND

THIS MATTER comes before the Fort Peck Tribal Court of Appeals on a Petition for Review of an order entered by the Court on November 23, 1992. The issues on appeal were briefed and oral arguments were held on June 11, 1993, Fort Peck Court of Appeals.

APPEARING FOR APPELLANTS AND ARGUING: Laura Christoffersen, attorney at Law, P.O. Box 997, Wolf Point, Montana 59201.

APPEARING FOR APPELLEE AND ARGUING: Mary L. Zemyan, Attorney at Law, P.O. Box 1094, Wolf Point, Montana 59201.

the Court considered dth briefs and arguments of counsel, and the record and pleadings herein, now makes the following findings and order:

1. The following finding and order of the Fort Peck Tribal Court is affirmed and supported by substantial evidence:

"This Court finds there is clear and convincing evidence, in that the father has not made any reasonable effort to care for the children by neglecting to make child support payments for a period of over one year."

2. This Court finds that the failure of Micheal J. Azure, Sr. to pay support as ordered by the Court is not due or caused by indigency.

NOW THEREFORE, IT IS THE ORDER OF THIS COURT that said matter be, and the same is hereby **REMANDED** to the Fort Peck Tribal Court for initiation of criminal contempt proceedings under VI CCOJ §304b(b) as follows:

"If the parent willfully refuses to make periodic support payments as ordered by the Court, and the procedures set forth in subsection (a) do not result in full payment; the court may initiate criminal contempt proceedings under Section 410(b) of Title III and in the event of conviction shall have available the full range of sanctions for Class A misdemeanors. No such proceedings shall be instituted. If the parent fails to pay by reason of indigency."

It is the further order of the Court that the orders denying the termination of parental rights and order of adoption be, and the same is hereby, affirmed.

DATED this 12th day of July, 1993.

BY THE COURT OF APPEALS:

Debra A. Johnson, Associate Justice

Joni McClammy, Associate Justice
