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

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IN RE THE MATTER OF  
DANIEL LAMBERT,  
APPELLANT,

**Appeals No. 178**

VS.

FORT PECK TRIBES,  
APPELLEE.

**THIS MATTER** having come before the Appeals Court from a verdict given on November 16, 1992 finding the Defendant/Appellant guilty of driving a motor vehicle while under the influence of intoxicating liquor, Title IX, §107, Fort Peck Tribal Code.

**ARGUED:** March 5, 1993

**DECIDED:** May 7, 1993

**APPEARING FOR DEFENDANT/APPELLANT:** Melissa Buckles, Lay Law Advocate, P.O. Box 214, Wolf Point, Montana 59201. Argued orally and filed an appeal brief.

**APPEARING FOR PLAINTIFF/APPELLEE:** Emmett Buckles, Tribal Prosecutor, P.O. Box 1133, Wolf Point, Montana 59201. Argued orally.

**HELD: JUDGMENT REVERSED; THE CONVICTION IS SET ASIDE AND DISMISSED.**

**FACTS**

Defendant was charged with DUI on or about February 2, 1992. His trial was set before the Court for February 28, 1992. Defendant appeared for Court as ordered with retained counsel Clayton Reum; however, the prosecution witnesses were not present and Defendant's counsel understood that the charge would be dismissed. **REF. Affidavit of Clayton Reum, Appeal File.** Approximately nine (9) months later, Defendant was summoned to Court for hearing, and the hearing proceeded. Defendant was not represented by counsel at the hearing because Defendant's counsel had joined the prosecutor's staff. Defendant was convicted and this appeal followed.

## ISSUES

Appellant raises a number of issues on Appeal. We find that the first two issues are dispositive of the case, which are as follows:

### **1. Whether Appellant had reasonable basis to believe that the charge against him was dismissed.**

There appears in the file an affidavit from Clayton Reum indicating that there was an understanding between the Prosecutor and counsel that the charge would be dismissed since the Officer didn't appear for Court. **REF. Affidavit, supra, file.** Although Defendant did not raise the issue at trial, Defendant was without counsel at trial and Defendant's former counsel believed the charge was to be dismissed. We find and conclude that Appellant had a sufficient reasonable basis to believe that the charge was to be dismissed.

### **2. Lack of Speedy Trial.**

The record on appeal indicates that Defendant was brought to trial some nine months after his first Court appearance. **REF. Trial transcript, page 1.** Although there are often justifiable reasons for delay and continuance of trials, we find no justification in the present file for a nine month delay to proceed with trial on the matter. Defendant was denied a speedy trial. 18 U.S.C. §3161.

## CONCLUSION AND ORDER

Based on the foregoing the judgment of the Trial Court is reversed and vacated. The charge against Appellant is dismissed.

DATED this \_\_\_\_\_ day of May, 1993.

### **BY THE COURT OF APPEALS:**

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GERARD M. SCHUSTER, CHIEF JUSTICE

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DEBRA JOHNSON, ASSOCIATE JUSTICE

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