

Appellate Court  
Fort Peck Indian Reservation  
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**FILED**

**JAN 08 2021**

Fort Peck Tribal Court  
of Appeals

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

<b>IN THE MATTER OF:</b>  <b>A.J.G. (DOB: 7/31/20)</b> <b>An Indian Child</b>	<b>CAUSE NO. AP #805</b>  <b>ORDER DENYING APPEAL</b>
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Appeal from the Fort Peck Tribal Court, Imogene Lilley, Presiding Judge. Appellant Amanda Gourneau, appearing through Counsel Mary Zemyan. Appellees Fort Peck Tribes, appearing through Prosecutor David Mrgudich. Before Shanley, Chief Justice and Desmond and Jones, Associate Justices.

¶ 1 This matter came before the Fort Peck Court of Appeals on a Notice of Appeal filed November 4, 2020 by birth mother, Amanda Gourneau, asking for review of the Tribal Court Order issued on September 29, 2020. She alleges that the Court's conclusion that it was contrary to the child's best interests to remain in the home was not supported by the evidence presented.

¶ 2 Appellate review in civil matters is discretionary, 2 CCOJ §207(b). Civil matters are not reviewed by this Court unless the petition for review is filed within 15 days of the final order and establishes sufficient error occurred at the lower court level. 2 CCOJ §207.

¶ 3 Although the Petition for Review was not timely filed, given the circumstances created by the COVID-19 pandemic this Court would give leniency to the Petitioners. However, the statement in support of the Petition did not raise any legal issues that would warrant review by this Court. This Court shall not set aside any factual determinations of the Tribal Court if such determinations are supported by substantial evidence. 2 CCOJ §202.

¶ 4 The Court must find clear and convincing evidence that a child is abused, neglected, abandoned, or dependent at the Fact Finding Hearing. 9 CCOJ 505. Once the Court has made that finding, it must proceed to disposition in accordance with the factors set out in 9 CCOJ 506. The Court's legal conclusions are supported by sufficient factual findings to support its decision that it was contrary to the welfare of the child to be placed in the home. Generally, placement decisions remain in the discretion of the Court and social worker as long as they comply with the general preferences set out in the Tribal Code.

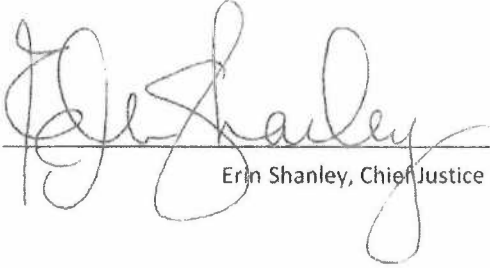
¶ 5 Nothing in the filed notice articulates that the Tribal Court abused its discretion or misapplied the law. For that reason, this Court shall defer to the discretion of the Tribal Court.

### **ORDER**

¶ 6 For the above-mentioned reasons, Appellant's Petition for Review is hereby DENIED.

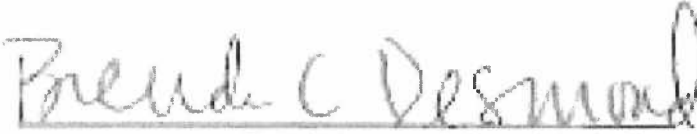
**SO ORDER** this 7th day of January 2021.

FORT PECK COURT OF APPEALS



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Erin Shanley, Chief Justice



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Brenda Desmond, Associate Justice



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Associate Justice