

Appellate Court
Fort Peck Indian Reservation
P.O. Box 1027
Poplar, Montana, 59255
PHONE 1-406-768-2400
FAX 1-406-768-3710

FILED

MAR 15 2021

Fort Peck Tribal Court
of Appeals

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

FORT PECK TRIBES, Appellant, Vs. Jesse Johnson, Appellee.	CAUSE NO. AP #807 ORDER DENYING APPEAL
--	--

Appeal from the Fort Peck Tribal Court, Michael Headdress, Presiding Judge. Appellant Fort Peck Tribes, appearing through Prosecutor James Bighorn. Appellee, Jesse Johnson, appearing pro se. 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 February 11, 2021 by Prosecutor, James Bighorn, asking for review of the Tribal Court decision to decline Count 2 on a Criminal Complaint against Defendant. Appellants allege that the Court's conclusion that was not supported by the evidence presented in the complaint.

¶ 2 Appellate review in criminal matters must be taken within fifteen (15) days of the judgment, 2 CCOJ §206. A defendant convicted of a criminal offense has an automatic right to appeal, while the Tribe only has a right to

appeal a not guilty verdict rendered by the Tribal Court without a jury. 2 CCOJ 205(a). The matter presented in the current case involves the Tribal Court's discretion to decline charges for lack of probable cause. The Tribal Court has significant discretion in this regard and the Fort Peck Court of Appeals defers to the Tribal Court decision. Assuming the Tribal Court's declination of the charge was without prejudice, the Tribes have the ability to re-file the charge within the relevant statutory period.


¶ 3 Although the Notice of Appeal was timely filed, nothing in the appeal 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

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

SO ORDER this 15th day of March 2021.

FORT PECK COURT OF APPEALS


Erin Shanley, Chief Justice


Brenda Desmond, Associate Justice



Associate Justice

