

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

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FILED
DEC 28 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, Appellee, v. Richard A. Vlasak, Appellant.	CAUSE NO. AP # 820 ORDER DENYING APPEAL
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Appeal from the Fort Peck Tribal Court, Michael Headdress, Presiding Judge.
Appellant Richard Vlasak appearing through Advocate Kris Fourstar
Appellees Fort Peck Tribes, represented by Prosecutor James Bighorn
Before E. Shanley, Chief Justice and B.J. Jones, Associate Justice, Christensen
Associate Justice

BACKGROUND

¶ 1 This matter comes before the Fort Peck Court of Appeals (FPCOA) on an appeal by Vlasak from the Tribal Court's Order denying his Motion to Dismiss criminal charges pending against him. Vlasak argues that there is insufficient evidence to prove his guilt beyond a reasonable doubt and thus the Court should have dismissed the complaint prior to trial. Because this Court finds that there is no "final" order issued by the lower court this Court lacks jurisdiction. The denial of a motion to dismiss a criminal

complaint is not a final order and the standard for proceeding to trial is “probable cause”¹ not evidence beyond a reasonable doubt as Appellant alleges.

¶ 2 The Fort Peck Appellate Court reviews final orders from the Fort Peck Tribal Court. 2 CCOJ §202. The consideration of whether a complaint is supported by evidence beyond a reasonable doubt is an issue for trial and not one to be resolved prior to trial by motion and is thus not a final order.

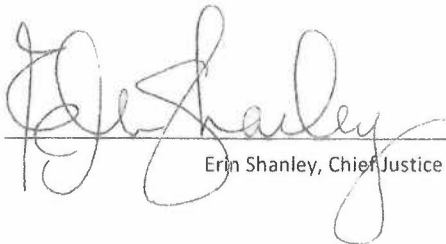
¶ 3 For the reasons stated above, this Court declines to intervene into this issue until fully resolved by the lower court. It appears that the Appellant is arguing that the Tribes cannot demonstrate beyond a reasonable doubt that he is guilty of the charges. However, that is the purpose of a trial and not a pre-trial motion. In order to proceed to trial the Tribes need only demonstrate probable cause to believe the offense occurred. The Defendant makes no assertion of a lack of probable cause in his appeal and thus this Court need not address that issue.

ORDER

¶ 4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this Court denies the appeal at this time for a lack of a final order from the Court below.

SO ORDERED the 28th day of December 2021.

FORT PECK COURT OF APPEALS



Erin Shanley, Chief Justice

¹ The Court does not decide whether the Tribes’ failure to demonstrate probable cause for a criminal complaint is immediately appealable because Vlasak does not raise that issue in this appeal.

B. J. Jones

Associate Justice

David Owen
