

Appellate Court
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FORT PECK
TRIBAL COURT OF APPEALS

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ASSINIBOINE AND SIOUX TRIBES
FORT PECK INDIAN RESERVATION
POPLAR, MONTANA

Marcus Hale, Appellant v. Fort Peck Tribes, Appellees.	CAUSE NO. AP # 826 ORDER DENYING REVIEW
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Appeal from the Fort Peck Tribal Court Stacie Fourstar, Presiding Judge.
Appellant Marcus Hale appearing through Public Defender Terry Boyd.
Appellees Fort Peck Tribes, represented by Prosecutor David Mrgudich
Before E. Shanley, Chief Justice and B.J. Jones, Associate Justice.

BACKGROUND

¶ 1 This matter comes before the Fort Peck Court of Appeals (FPCOA) on a request for interlocutory appeal filed by Appellant on November 29, 2021 pursuant to FPCOA, Rule 6 of Appellate Procedure. Appellant submits that the Tribal Court's failure to rule on a Motion to Dismiss for lack of probable cause resulted in an implicit denial of that Motion. He claims that this implicit denial constitutes a violation of due process which will adversely affect the outcome of a trial on the merits. We disagree.

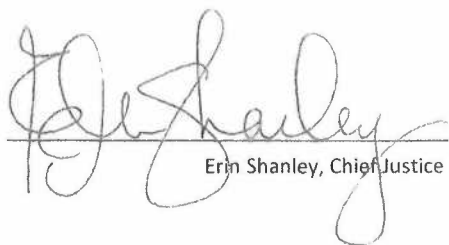
¶ 2 To make an arrest or obtain a warrant from a Judge, law enforcement must have probable cause to believe a crime has been committed. To challenge probable cause, a criminal defendant generally needs to request a probable cause hearing, at which is an evidentiary hearing where facts are gathered to determine whether or not there was probable cause to file charges. There is no final order on this matter from the Tribal Court which would be reviewable by this Court. This Court is not able to engage in such fact finding. Interlocutory appeals are reserved for rare procedural issues in which a ruling from the court has conclusively resolved a disputed question separate from the merits of the action which may not be reviewable on appeal from a final judgment. Here, there is no such ruling. *See Kohl v. Fort Peck Tribes*, APP 715 (Aug. 12, 2016) (“The concerns raised by the Appellant do not reflect legal issues that cannot be adequately addressed as part of the adversarial process in the lower court proceedings. There has been no showing of any irreparable harm to the Appellant if the matter is required to be completed in the lower court without Appellate court intervention.”) Further, Appellant has the ability to renew his arguments made in the Motion to Dismiss during a trial on the merits. At the conclusion of his trial, he may have the ability to again raise these issues at the appellate level.


ORDER

¶ 3 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this Court declines to review this matter until final resolution through a trial on the merits.

SO ORDERED the 22nd day of February 2022.

FORT PECK COURT OF APPEALS


Erin Shanley, Chief Justice


Associate Justice

