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FILED
APR 21 2022
FORT PECK
TRIBAL COURT OF APPEALS

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

ADAM GRAINGER, Appellant v. KENNETH TROTTIER, JR., Appellee	CAUSE NO. AP # 831 ORDER DENYING APPEAL
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Appeal from the Fort Peck Tribal Court, Stacie Fourstar, Presiding Judge.
Appellant Adam Grainger appearing pro se
Appellee not appearing below
Before, B.J. Jones, Associate Justice and Grant Christensen, Associate Justice

E. Shanley, Chief Justice recusing

BACKGROUND

¶ 1 This matter comes before the Fort Peck Court of Appeals (FPCOA) on an appeal by Grainger from the Tribal Court's order declining to default the Appellee, a Criminal Investigator for the Tribes, in an action seeking the return of personal property, an automobile, allegedly seized for purposes of an ongoing criminal investigation. The Appellant claims that the lower court should have granted him a

default judgment after he properly served the Tribes and Trottier and the Criminal Investigator did not show for the hearing. The Chief Judge dismissed the complaint because the Tribal Prosecutor advised the Court that the vehicle was seized as evidence in an ongoing criminal investigation/prosecution.

STATEMENT OF JURISDICTION

¶ 2 The Fort Peck Appellate Court reviews final orders from the Fort Peck Tribal Court. 2 CCOJ §202. The dismissal of the action below is a final order.

¶ 3 STANDARD OF REVIEW

¶ 4 This Court reviews de novo all determinations of the lower court on matters of law, but shall not set aside any factual determinations of the Tribal Court if such determinations are supported by substantial evidence. 2 CCOJ §202.

ISSUE

Whether the lower court's failure to default Trottier, a tribal official, in a civil action was error?

DISCUSSION

Even though Trottier failed to appear or interpose any response to the action below it was incumbent upon the presiding Judge to review the entire matter before granting a default judgment. In general, it is not appropriate to enter a default judgment against the Tribe or its officials even when they fail to appear to defend an action. See Hagen v. Sisseton-Wahpeton Community College, 205 F.3d 1040 (8th Cir. 2000). This is not to say that the Tribe or its officials can simply ignore tribal process, but when a party commences an action against the Tribes or their officials the presiding Judge must still assess the merits of granting default relief in light of the immunity of the Defendants. In

this case the presiding Judge received communications from the Tribal Prosecutor that the vehicle in question was evidence in an ongoing criminal proceeding. As such it was not subject to return until that action was concluded. The Chief Judge thus did not err in refusing to grant a default judgment and in dismissing the action.¹

ORDER

¶ 5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this Court dismisses the appeal at this time.

SO ORDERED the 21st day of April 2022.

FORT PECK COURT OF APPEALS



Associate Justice



¹ This Court would also note that if Trotter is acting pursuant to a 638 Contract his actions or inactions may be covered by the Federal Tort Claims Act and thus beyond the scope of the lower court's jurisdiction to address. Nothing herein precludes the Appellant from filing an administrative tort claim against Trotter should he feel that such is warranted.