

Appellate Court  
Fort Peck Indian Reservation  
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**FILED**  
**JAN -4 2023**  
**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  v.  Yvette Lopez, Appellee.	CAUSE NO. AP # 842  ORDER GRANTING APPEAL
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Appeal from the Fort Peck Tribal Court, Lonnie Headdress, Presiding Judge.  
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 an appeal from the Tribal Court's Order issued on September 21, 2022 dismissing criminal case no.1387-22-02 based on the determination that the charge of Chemical Blood, Breath, or Urine Test, in violation of 17 CCOJ 108 must accompany a charge of Driving a Motor Vehicle While Under the Influence of Intoxicating Liquor or Drugs, in violation of 17 CCOJ 107. Appellant argues that statute 17 CCOJ 108 provides criminal penalties for a person in physical control of a motor vehicle that refuses to take a chemical test of his/her blood, breath or urine to detect the presence of alcohol or drugs. Appellant

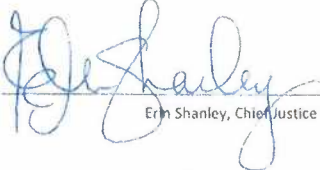
further submits that this crime may be charged by the Tribe regardless of whether the Tribe also pursues prosecution of the same person for Driving a Motor Vehicle While Under the Influence.

¶ 2 The FPCOA GRANTS review. In order to effectively evaluate the issues raised by this appeal, this Court imposes the following briefing schedule:

1. Appellant may file a supplemental brief within fifteen (15) days of service of this Order.
2. Appellee must file a response within fifteen (15) days of service of Appellant's brief or within thirty (30) days of the date of service of this Order if Appellant does not file a supplemental brief.
3. The parties shall indicate in their briefs whether they are requesting oral arguments be held on the matter. After receiving required briefs, the FPCOA will determine whether oral arguments will be scheduled.

SO ORDERED the 13th day of October 2022.

FORT PECK COURT OF APPEALS

  
Erin Shanley, Chief Justice



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Associate Justice