

FILED

APR 17 2023

**FORT PECK
TRIBAL COURT OF APPEALS**

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

In the Matter of: L.F.H. (DOB: 8/12/2014) Minor Indian Child. And Concerning: Chelsea Chase, Appellant, vs. Casey Fast Horse, Appellee.	CAUSE NO. AP # 845 ORDER DENYING APPEAL
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Appeal from the Fort Peck Tribal Court, Imogene Lilley, Presiding Judge.
Appellant Chelsea Chase, appearing by and through Counsel Robert Welch.
Appellee Casey Fast Horse, appeared by and through Melissa Buckles.
Before Justices Shanley and Jones.

BACKGROUND

¶ 1 This matter comes before the Fort Peck Court of Appeals (FPCOA) on a Notice of Appeal filed on December 28, 2022. Appellant requests review of the Tribal Court's Custody Order issued November 18, 2022. Appellant presents the following

issues for review: 1) Did the Tribal Court abuse its discretion in the determination of visitation; 2) Did the Tribal Court err in issuing a Parenting Plan without acknowledging the parenting plans proposed by each party; 3) Did the Tribal Court err in issuing a decision regarding the parties right to claim the minor child as a dependent for tax purposes; and 4) Did the Tribal Court err when it required mediation prior to requesting to modify the custody order when there currently is a restraining order in place between the parties?

¶ 2 In issuing its Order, the Tribal Court made various findings and conclusions and based its determination on the best interest of the child factors pursuant to 10 CCOJ 304-C. The Tribal Court may exercise its discretion to issue an order in the child's best interests that deviates from the request of the parents. This Court shall give deference to factual determinations of the Tribal Court if such determinations are supported by substantial evidence. 2 CCOJ 202. The conclusions of the Tribal Court are supported by sufficient factual findings to support its decision. Therefore, this Court provides deference to the Tribal Court absent a showing of abuse of discretion or misapplication of the law.

¶ 3 While the Tribal Court Order requires the parties to engage in mediation prior to requesting a Motion to Modify the Custody Order, it is possible that the Judge was merely using the word mediation to indicate the parties should attempt to use a neutral third party to assist them to reach middle ground, given the existence of the restraining order and reluctance of the parties to communicate with one another. The Tribal Court Order subsequently cites to the correct legal standard, 10 CCOJ 304a, for a party to request modification of a custody order which requires that "neither party may file another petition

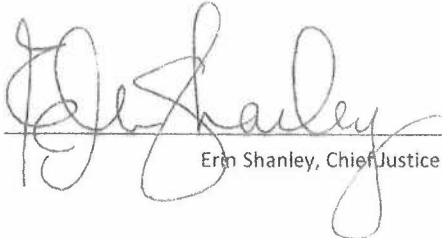
in this matter for a period of six months absent a substantial change in circumstances. Any such change shall be described in the Petition.” Custody Order, Section 29, p. 6. Given these potential interpretations, this Court does not view this section of the Tribal Court Order as rising to an abuse of discretion or misapplication of the law.

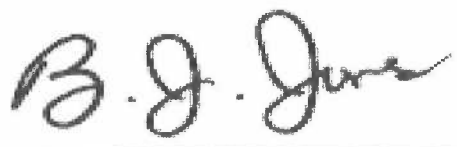
ORDER

¶ 4 Therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this Court denies review.

SO ORDERED the 17th day of April 2023.

FORT PECK COURT OF APPEALS


Erin Shanley, Chief Justice


Associate Justice