

FILED

APR 28 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**

<p>In the Matter of:</p> <p>K.E.L. (DOB: 9/26/16)</p> <p>Minor Indian Child.</p> <p>And Concerning:</p> <p>Cole Bigleggins, Appellant,</p> <p>vs.</p> <p>Fort Peck Tribes, Appellee.</p>	<p>CAUSE NO. AP # 849</p> <p>ORDER DENYING APPEAL</p>
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Appeal from the Fort Peck Tribal Court, Lonnie Headdress, Presiding Judge.
Appellant Cole Big Leggins, appearing by and through Counsel Kristofer FourStar.
Appellee Fort Peck Tribes, appeared by and through Counsel David Mrgudich.
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 March 14, 2023. Appellant requests review of the Tribal Court's Order Denying Motion for Reconsideration issued on February 24, 2023. Appellant

presents the following issues for review: 1) Did the Tribal Court abuse its discretion when it denied the Motion to Reconsider based on Appellant's right to Counsel?

¶ 2 The Fort Peck Comprehensive Code of Justice provides that in proceedings involving allegations of abused, neglected, abandoned, or dependent youth, parents or legal guardians or custodians must be informed of their rights at an initial hearing, including: 1) the right to obtain legal counsel at his/her own expense; 2) the right to be present at the hearing; 3) the right to testify, present evidence, call witnesses, and ask questions of all witnesses. 5 CCOJ 503. After reviewing the Initial Hearing record, we have determined that Appellant was informed of his rights and indicated he understood them.

¶ 3 The record reflects that Appellant did not inform the Court that he had obtained legal counsel and did not request a continuance so his legal counsel could be present. The Court further informed Appellant of his right to contest the petition and proceed to a Fact Finding Hearing, however Appellant did not do so and instead agreed to consent to work a case plan with Social Services. While Appellant submits that he did not waive his right to counsel, because this is a civil youth court matter, Appellant did not have an absolute right to counsel. He only had a right to obtain counsel at his own expense. Appellant made no indication to the Court that he had obtained counsel.

¶ 4 In *Cantrell v. Fort Peck Tribes*, APP 707 (November 14, 2016), the Appellant's Counsel of record withdrew from representation one day before her jury trial. On the same day that Appellant's Counsel withdrew, Appellant requested a continuance of her jury trial so that she could obtain legal counsel. Our holding in *Cantrell* was that the Court did not provide a sufficient basis for denying Appellant's Motion to Continue.

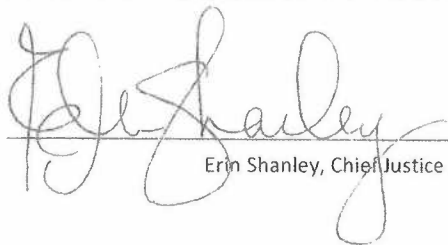
Here, Appellant did not request a continuance of his hearing so that he could either obtain legal counsel or so that his legal counsel could be present. Had Appellant requested a continuance or even raised the issue of legal counsel during the Initial Hearing, *Cantrell* may have required a different result, however he did not. Therefore, the Tribal Court did not err when it denied the Motion for Reconsideration.

ORDER

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

SO ORDERED the 26th day of April 2023.

FORT PECK COURT OF APPEALS


Erin Shanley, Chief Justice



Associate Justice