

Appellate Court  
Fort Peck Indian Reservation  
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**FILED**

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FORT PECK  
TRIBAL COURT OF APPEALS

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ASSINIBOINE AND SIOUX TRIBES  
FORT PECK INDIAN RESERVATION  
POPLAR, MONTANA

In the Matter of:  M.W. (DOB: 10/02/2022)  Minor Indian Child.  And Concerning:  Yolanda Parshall, Appellant,  vs.  Saghe Wells, Appellee.	CASE NO. AP # 855    ORDER DENYING APPEAL
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Appeal from the Fort Peck Tribal Court, Imogene Lilley, Presiding Judge.  
Appellant appearing by and through Counsel Kristofer Four Star.  
Before Justices Shanley, Jones, and Grijalva.

**BACKGROUND**

¶ 1 This matter comes before the Fort Peck Court of Appeals (FPCOA) on a Notice of Appeal filed on August 8, 2023. Appellant requests review of the Tribal Court's Custody Order issued August 2, 2023. Appellant alleges the Tribal Court erred in granting physical custody to the father, Saghe Wells, given his history of drug abuse and domestic

violence issues. She also alleges that the Tribal Court denied her the right to file another petition based on a change in circumstances by requiring the parties to engage in mediation or submit a joint motion for modification of the Custody Order.

¶ 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. 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. Construed this way, the Tribal Court did not condition the filing of another motion to modify upon mandatory mediation but was suggesting to the Parties that mediation may be advisable. Had the Tribal Court conditioned any future modification request on mandatory mediation, this Court could find error in that. 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. See Custody Order, ¶ 24. Any such change shall be described in the Petition.” Custody Order, Section 29, p. 6. Given

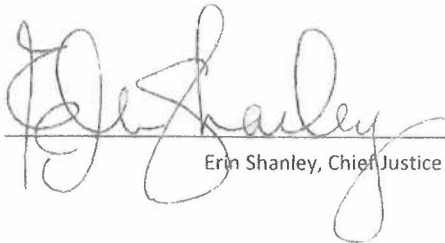
these potential interpretations, this Court does not view this section of the Tribal Court Order as rising to an abuse of discretion or misapplication of the law.

**ORDER**

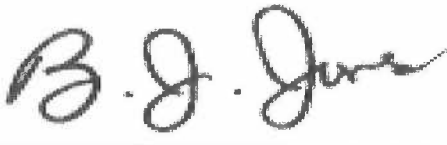
¶ 4 Therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this Court denies review; however Appellant may file a Motion for Reconsideration with the Tribal Court or file a Petition to Modify the Custody Order based on a substantial change in circumstances in accordance with 10 CCOJ 304a without showing that mediation was completed.

SO ORDERED the 17th day of October 2023.


FORT PECK COURT OF APPEALS



Erin Shanley, Chief Justice



Associate Justice



Associate Justice