

Appellate Court  
Fort Peck Indian Reservation  
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**FILED**

**DEC 27 2023**

**FORT PECK  
TRIBAL COURT OF APPEALS**

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

<p>Fort Peck Tribes, Plaintiff-Appellee</p> <p>v.</p> <p>Sierra Jackson, Defendant-Appellant Raven Lane, Petitioner for Writ of Habeas Corpus</p>	<p>CASE NOS. AP # 864, 862</p> <p>ORDER DENYING RECONSIDERATION</p>
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Appeal from the Fort Peck Tribal Court, Imogene Lilley, Presiding Judge.  
Appellant Sierra Jackson appears by and through Public Defender Terry Boyd.  
Appellant Raven Lane appears by and through Terry Boyd  
Before Chief Judge Shanley and Associate Judges Jones and Grijalva.

After this Court dismissed without prejudice the notices of appeal and habeas petitions filed for these two Defendants presently charged with criminal offenses in the Tribal Court, their attorney has moved this Court for reconsideration claiming that the Tribal Court Judge has already made a definitive determination of their "Indian status" and thus requiring them to proceed to trial on the matter would be an exercise in futility. This Court denies the motion for reconsideration. As indicated in this Court's prior order,

the issue of whether a Defendant is “Indian” is a factual predicate that must be proven by the Tribes beyond a reasonable doubt at trial. The Court’s decision that a Defendant is an “Indian” prior to trial is merely a probable cause finding and not a legal determination that is binding on the trier of fact at trial. Asking this Court to intervene before trial on a factual issue would be equivalent to the Court acquitting or convicting a Defendant before trial. The Tribal Court Judge hearing these two cases must determine that they are Indian beyond a reasonable doubt to consider convicting them of criminal offenses. This Court cannot review that determination, except in very limited circumstances where it clear that probable cause is lacking to prove their Indian status, prior to trial. This Court held in the prior order denying appeal that sufficient evidence exists to satisfy the probable cause threshold.

WHEREFORE it is hereby

ORDERED, ADJUDGED AND DECREED that the motion for reconsideration is hereby DENIED.

SO ORDERED this 27<sup>th</sup> day of November 2023.

FORT PECK COURT OF APPEALS



Erin Shanley, Chief Justice



B.J. Jones, Associate Justice

A handwritten signature in blue ink, appearing to read "James M. Grijalva". The signature is fluid and cursive, with the first name "James" and middle initial "M." clearly visible, followed by the last name "Grijalva".

James Grijalva, Associate Justice