

Appellate Court  
Fort Peck Indian Reservation  
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**FORT PECK COURT OF APPEALS  
ASSINIBOINE AND SIOUX TRIBES  
FORT PECK INDIAN RESERVATION  
POPLAR, MONTANA**

<b>MAYNARD BIG LEGGINS, Petitioner/Appellant</b>	<b>CAUSE NO. AP # 791</b>
<b>VS.</b>	<b>ORDER DENYING WRIT OF HABEAS REVIEW</b>
<b>FORT PECK TRIBES, Respondent/Appellee.</b>	

Appeal from the Fort Peck Tribal Court, Chief Judge Smith.  
Appellant appeared by and through lay advocate Terry Boyd  
Appellee appeared by and through Tribal Prosecutor David Mrgudich  
Before Chief Justice Smith, and Associate Justices Shanley and Desmond.

This Matter comes before the Fort Peck Court of Appeals on a Petition for a Writ of Habeas Corpus filed on August 13, 2019 challenging the bond amount imposed as excessive and producing an unlawful detention situation for the Petitioner/Appellant.

After reviewing the Petition and file, this Court finds this civil matter is not currently ripe for appellate review. Although a defendant has a right to

appeal any judgment of conviction, 2 CCOJ §205 (a), extraordinary writs are not entitled to automatic appellate review. This is not a challenge to an alleged impermissible detention based upon a judgment of conviction. This matter is challenging the appropriateness of the bond amount imposed in connection with the numerous charges being brought against the Petitioner/Appellant.

This Court has previously found that in accordance with the Tribes' Code, 8 CCOJ §404, petitions for writs of habeas must be filed with the lower court prior to this Court reviewing the issue. *Red Willow Foote v FPT, FPCOA #769 (2018)*. Although this required lower court review of the writ of habeas did not occur in the matter, it does not appear this challenge actually raises issues consistent with the unlawful detention principles upon which writs of habeas corpus are based. Here, the issues articulated in the petition for a writ appear to challenge the lower court's exercise of its discretion when imposing certain conditions of release on the Petitioner/Appellant.

Given the very narrow scope of situations covered by a writ of habeas, this Court finds that the appropriateness of the conditions of release imposed pending trial cannot be challenged through a writ of habeas corpus. There are other options for challenging the appropriateness of a lower court's orders when it may impact due process rights and affect the outcome of a trial on the merits.

Given that Petitioner/Appellant's detention does not arise from the imposition of an impermissible sentence or an order denying release after the imposed released conditions have been satisfied, the Petition for Writ of

Habeas Corpus is denied. Any challenge to the appropriateness of conditions imposed in connection with pre-trial release must be raised through appeal options allowing for review of a lower court's discretion.

SO ORDER this 30<sup>th</sup> day of September 2019.

FORT PECK COURT OF APPEALS

BY   
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**Maylinn Smith, Chief Justice**

  
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**Erin Shanley, Associate Justice**

  
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**Brenda C Desmond, Associate Justice**