

**IN THE  
HO-CHUNK NATION SUPREME COURT**

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**Steven W. Radtke,**  
Appellant,

v.

**Tricia Zunker,**  
Appellee.

Case No.: SU 14-02

**ORDER (Denying Appeal)**

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On February 14, 2014, the appellant, appearing *pro se*, filed a timely appeal of a final Trial Court judgment issued on December 16, 2013. *HCN R. App. P. 7(b)(1), 11(a)*, available at <http://www.ho-chunknation.com/?PageId=123>. “Any party to a civil action . . . who is dissatisfied with [a] judgment . . . may appeal to the Supreme Court.” HCN CONST., art. VII, § 14, available at <http://www.ho-chunknation.com/?PageId=294>. Presumptively, “this Court is required to accept appeals which state an appealable issue.” *Deena M. Basina v. William P. Smith*, SU 00-08 (HCN S. Ct., July 13, 2000) at 2. The Court, however, has consistently construed the constitutional right to appeal as applying only to a review of final judgments.<sup>1</sup> *HCN R. App. P. 7*; see also, e.g., *Stewart Miller v. Ho-Chunk Nation et al.*, SU 99-08 (HCN S. Ct., Sept. 15, 1999).

Moreover, while the Constitution “confers the right to appeal . . . , that power is circumscribed by the procedures set out in the HCN Rules of Appellate Procedure. . . . [A]ny party who seeks an appeal must abide by the procedural rules established by this Court . . . .” *Bonnie Smith v. HCN Gaming Comm’n*, SU 01-03 (HCN S. Ct., Mar. 16, 2001) at 1 (citing HCN CONST., art. VII, § 7(b)). In this sense, “[a]ppeals are not automatically a matter of right but are

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<sup>1</sup> The appellate rules do not expressly contemplate the filing of an answer to a *Notice of Appeal* prior to its acceptance or rejection by this Court. *HCN R. App. P. 7(e)*. In contrast, an appellee may submit an oppositional answer within ten (10) days after the filing of a *Petition for Permission to Appeal* an interlocutory decision. *HCN R. App. P. 8*.

within the Court's discretion. The *HCN R. App. P.* provide the guidelines as to how parties file an appeal." *Veronica L. Wilber v. Ho-Chunk Nation*, SU 04-02 (HCN S. Ct., Apr. 14, 2004) at 2. The Court may decline to accept an appeal for failure to adhere to clear procedural requisites. See *Gale S. White v. Jean Day et al.*, CV 07-54 (HCN Tr. Ct., Dec. 9, 2008) at 16-17. "This Court, despite its infancy, must require those who come into our court system to follow our rules and requirements." *Leigh Stephen et al. v. Ho-Chunk Nation*, SU 99-01 (HCN S. Ct., Mar. 23, 1999) at 3.

The Supreme Court has erected rather minimal requirements regarding the content of a notice of appeal.<sup>2</sup> An appellant first needs to establish the basic parameters of the appeal. "The Notice of Appeal shall identify the party/parties making the appeal by name and address, and shall identify the final judgment or order being appealed by name and case number." *HCN R. App. P.* 11(a). An appellant then must set forth the essential contours of the appeal.

The Notice of Appeal *must include a short statement of the reason or grounds for the appeal. The party filing the appeal must articulate exactly how the lower court erred as a matter of law* when considering the facts offered to that court. The statement should include references and/or citations to the applicable law.

*Id.*, Rule 11(b) (emphasis added).

The Court deems that the appellant has not satisfied the above-quoted appellate requirements.<sup>3</sup> The appellant's notice of appeal, written upon a standard complaint form, twice states an "unequivocal need to ascertain paternity/tribal membership." Notice of Appeal, SU 14-02 at 1-2. Yet, nowhere does the appellant "articulate exactly how the lower court erred as a matter of law." *HCN R. App. P.* 11(b). The appellant references the trial level determination on

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<sup>2</sup> In certain situations, irrelevant here, a party may conceivably incorporate a request for a stay of the Trial Court order. *HCN R. App. P.* 7(c).

<sup>3</sup> In accordance with past practice, the object of the appeal, Associate Justice Tricia A. Zunker, did not participate in the formal deliberation of whether to grant or deny the appeal. See, e.g., *Dennis M. Funmaker v. HCN Election Bd. et al.*, SU 05-06 (HCN S. Ct., May 27, 2005) at 1.

a single occasion within a two-page attachment, but confusingly remarks that “the 12/16/2013 judgment and order should be upheld.” Notice of Appeal, attach. at 1. The appellant otherwise seemingly maligns “Judicial confidentiality” in passing, *id.*, but, again, provides no “grounds for the appeal.” *HCN R. App. P.* 11(b). These essential elements must appear within a notice of appeal, and their absence will inevitably lead to a denial of appellate consideration. *See, e.g., Kenneth L. Twin v. Douglas Greengrass et al.*, SU 04-08 (HCN S. Ct., Dec. 29, 2004); *Cheryl Smith v. Ho-Chunk Nation et al.*, SU 00-07 (HCN S. Ct., May 26, 2000). Consequently, the Court denies the present appeal.

**EGI HESKEKJET.** Dated this 20<sup>th</sup> day of March 2014.



Hon. Todd R. Matha, Associate Justice  
Per Curiam