

FILED
IN THE HO-CHUNK NATION
TRIAL/SUPREME COURT
JUL 17 2002
Willie RedCloud
Clerk of Court/Assistant

IN THE
HO-CHUNK NATIONS SUPREME COURT

Judith McLendon,
Appellant,

vs.

ORDER DENYING APPEAL
Case No. SU02-03

Ho-Chunk Nation and Majestic
Pines Casino Security,
Appellees.

This matter came before the full Court on July 15, 2002. Judith McLendon filed an appeal on July 9, 2002. She appealed a Judgment entered by the HCN Trial Court on June 21, 2002 that held that Ms. McLendon's resignation from Majestic Pines Casino Security was voluntary.¹ She had averred that her resignation was a constructive discharge rather than a voluntary resignation. The appeal request was made *pro se*.

On July 10, 2002, the Appellees' Notice and Motion Opposing Appeal was filed. The basis for the motion was that the Appellant had failed to argue any legal standard or error. The Appellant based the appeal request on facts that were in dispute as to the number of hours that she had worked for Majestic Pines Security Casino.

This Court is unable to accept this matter for appeal because the basis for the appeal is based on factual disputes. This Court is unable to review findings of fact because such findings are made by the Trial Court. HCN Constitution, Art. VII, Section 7 (a). The number of hours that Ms. McLendon worked should be an issue of fact for the Trial Court. It is unclear to this Court if she presented the evidence of the numbers of

¹ The Honorable Rita A. Cleveland is the current General Manager of Majestic Pines Casino. Her role continues as an Associate Justice until a successor is sworn into the Associate Justice position. The HCN Supreme Court must accept or deny appeals based on decisions of the full Court. The Court has decided the initial request for appeal with Justice Cleveland's involvement. Had the Court decided to accept the appeal, Justice Cleveland would have recused herself from the matter. However, a recusal is not warranted in this instance.

hours that she worked to the Trial Court. That evidence should be brought to the Trial Court's attention through alternatives allowed by the HCN Rules of Civil Procedure, Rule 58. If the Appellee had based her appeal on a legal error, the matter would be appropriate for review by this Court. That is not the basis for this appeal.

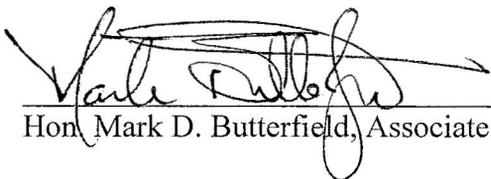
Upon a review of the pleadings and for the reasons stated above, the full Court orders the following:

1. That the Appellees' Notice and Motion Opposing Appeal is granted;
2. That the appeal request is denied;²

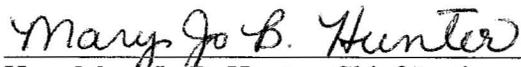
EGI HESKEJET. Dated this 17th day of July 2002.



Hon. Rita A. Cleveland, Associate Justice



Hon. Mark D. Butterfield, Associate Justice



Hon. Mary Jo B. Hunter, Chief Justice
Ho-Chunk Nation Supreme Court

² The denial does not circumvent the Appellee's ability to appeal any future decision by the HCN Trial Court if a Motion to Modify is filed and denied pursuant to the HCN Rules of Civil Procedure, Rule 58 (C).

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CERTIFICATE OF SERVICE

I, Willa RedCloud, Assistant Clerk of The Ho-Chunk Nation Supreme Court, do hereby certify that on the date set forth below I served a true and correct copy of the attached paper filed in Case No. SU-02-03 (CV-01-146) By the United States Postal Service, upon all persons listed below:

Judith McLendon
16989 Lantern Avenue
Norwalk, WI 54648

Wendy Huling
HCN Dept. of Justice
P.O. Box 667
Black River Falls, WI 54615

Hon. Mark Butterfiled
1021 Ellen Drive
Tomah, WI 54660

Hon. Mary Jo Brooks Hunter
4 Linder Court
Saint Paul, MN 55106

Hon. Rita Cleveland
367 River Street
Black River Falls, WI 54615

Date: July 17, 2002

Willa RedCloud
Willa RedCloud, Clerk of Court Assistant
Ho-Chunk Nation Supreme Court