

FILED
IN THE HO-CHUNK NATION
TRIAL/SUPREME COURT

JUN 15 2001

T. Lettich
Clerk of Court/Assistant

IN THE
HO-CHUNK NATION SUPREME COURT

Bonnie Smith,
Appellee,

v.

Order Denying Motion To Reconsider
Case No. SU 01-02

Ho-Chunk Nation Gaming Commission,
Appellant.

Heard before Chief Justice Mary Jo B. Hunter, Associate Justice Rita A. Cleveland and Debra C. Greengrass.

This matter came before the Ho-Chunk Nation Supreme Court on June 2, 2001 to address Appellant's *Notice and Motion to Reconsider* filed on May 23, 2001. The Appellant moved the Court's May 11, 2001 decision which affirmed the lower Court ruling. The Appellee did not file an Answer in Opposition to Appellant's motion. Upon our review of the Appellant's *Motion* and the Court's decision, we hereby deny Appellant's Motion to Reconsider.

On February 26, 2001, Appellant filed the interlocutory appeal pursuant to Ho-Chunk Nation (HCN) Rules of Appellate Procedure, Rule 7.5 challenging the Trial Court's February 14, 2001 Order (Determination of Prevailing Procedure). On March 12, 2001, this Court issued a Scheduling Order accepting the appeal and setting the briefing schedule and set a date to hear oral arguments. On March 19, 2001, the Appellant's filed their Brief in Support of Appeal. On March 20, 2001 the Appellant's filed a Motion to Reschedule Oral Arguments. On March 28, 2001 the Appellee filed her Response Brief. On April 3, 2001, the Court issued another Order canceling oral arguments due to the unavailability of both litigants' counsel to attend. On April 19, 2001, Appellant's filed their Reply Brief. On May 11, 2001, the Court render its decision affirming the Trial Court's Order dated

February 14, 2001.

The Appellant presented several arguments as to why the Supreme Court denied the interlocutory appeal. The Appellant is mistaken that the May 11, 2001 decision was a denial of the appeal. In fact, the full Court affirmed the February 14, 2001 Order in CV01-12.

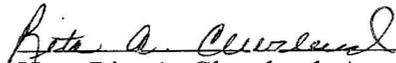
The Court maintains its position that a Motion to Reconsider will be accepted "...only in rare situations where there is a glaring problem such as a technical oversight or misstatement by the Court". See *Loulla Kelty v. Jonette Pettibone and Ann Winneshiek*, SU99-02 (HCN Sup. Ct. Sept. 24, 1999) at page 2. Appellant's Motion fails to convince this Court that such a problem existed or occurred.

The Appellant argues that a dispute still exists as to the validity of the HCN Gaming Ordinance (Ordinance) and the HCN Rules of Civil Procedure (Rules). This Court recognizes the conflict in timelines between the Gaming Ordinance and the Rules of Civil Procedure. The Court in its May 11, 2001 decision affirmed the Trial Court Order that the matter will proceed under the HCN Rules of Civil Procedure to final disposition. Citing to the HCN Constitution Art. VII. Section 7 (B) that "the Supreme Court shall have the power to establish written rules for the Judiciary..." Likewise, the HCN Judiciary Act of 1995 further states, "the Judiciary shall have the exclusive authority and responsibility...to establish written rules and procedures governing the use and operation of the courts". Remanding the matter to the Trial Court does not preclude any party from appealing the final judgment of the Trial Court.

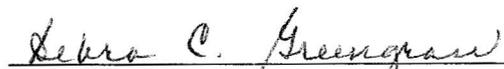
The Court found the question to be "moot" since this matter had gone beyond the contested length of time, forty-five (45) days, in which the Appellant's needed to file a response to this Ordinance appeal. Secondly, certain factual information has yet to be determined by the Trial Court,

the fact finding body. The Court affirmed the Trial Court's decision to proceed under the HCN Rules of Civil Procedure to hear this Gaming Ordinance appeal. The use of the phrase "as to form" was to indicate that a decision on the merits had not been made. The Appellant may seek an appeal after the final decision is made. Therefore, the Court hereby denies Appellant's Motion for Reconsideration.

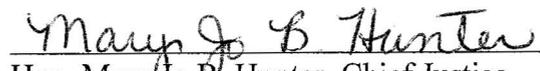
EGI HESKEKJET. Dated this 15th day of June 2001.



Hon. Rita A. Cleveland, Associate Justice



Hon. Debra C. Greengrass, Associate Justice



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

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CERTIFICATE OF SERVICE

I, Tari Pettibone, 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 **Order Denying Motion To Reconsider** file in Case No. **SU01-02** By the United States Postal Service, upon all person listed below:

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Date: June 15, 2001

Tari Pettibone

Tari Pettibone, Clerk of Court
Ho-Chunk Nation Supreme Court