

MAY 26 2000

Willa RedCloud
Clerk of Court/Assistant

IN THE
HO-CHUNK NATION SUPREME COURT

Cheryl Smith,
Plaintiff/Appellee,

v.

Ho-Chunk Nation,
Rainbow Casino,
Defendants/Appellants.

ORDER
(Denying Appeal)

SU 00-07

This matter came before the Ho-Chunk Nation Supreme Court via a telephonic conference call held on Saturday May 6, 2000 to address Appellant's *Notice of Appeal* filed on April 26, 2000. Appellant's *Notice of Appeal* addresses the Trial Court's March 26, 2000 *Order (Denying Motion for Reconsideration)* of its February 28, 2000 *Judgment*. This Court reviewed the *Order, Judgment, and Notice of Appeal* and hereby denies Appellant's *Notice of Appeal*.

On February 28, 2000 the Trial Court issued a *Judgment* in this employment dispute case. On March 9, 2000 Defendants/Appellants filed a timely *Motion for Reconsideration* according to the Ho-Chunk Nation (hereinafter HCN) Rules of Civil Procedure, Rule 58(B). According to Rule 58(B), "... by motion of a party . . . the (Trial) Court may amend its findings or conclusions or make additional findings or conclusions, amending the judgment accordingly". The Trial Court accepted the Defendant's/Appellant's *Motion for Reconsideration* and issued its decision in the March 26, 2000 *Order (Denying Motion for Reconsideration)*. The Trial Court cited the HCN Rules of Civil Procedure Rule 58(D), concluding that the *Grounds for Relief* were not met, (Order at 3). The Trial Court also cited *Babcock v. HCNGaming Commission*, CV 95-08 (HCN Tr. Ct., March 14, 1996), as setting forth a four prong standard for the granting of Motions for Reconsideration. The Trial Court stated in its *Order*

(*Denying Motion for Reconsideration*) that Appellant's failed to satisfy the standard for granting of Motions for Reconsideration and concluded the claims asserted by the Appellant's were without merit.

On April 26, 2000 the Appellant's *Notice of Appeal* is requesting this Court to review the Trial Court's *Judgment* and *Order* according to HCN R Civ P Rule 58(B). Rule 58(B) states that the appeal rights of the parties will commence upon the Trial Court issuance of an *Order*. Appellant's *Notice of Appeal* asserts the issues are the same in the *Judgment* as in the *Order* (emphasis added). In reviewing the *Notice of Appeal* Appellants failed to state a basis as to why the *Order (Denying Motion for Reconsideration)* was improper. The HCN Rules of Appellate Procedure, Rule 10 B states, "(t)he party filing the appeal must file a short statement of the reasons or grounds for the appeal". Appellants failed to convince this Court that the Trial Court overlooked important material evidence to grant the appeal.

Appellant's filed an appeal challenging the Trial Court's denial of the *Motion for Reconsideration*. The Appellants are arguing the same issues addressed in the *Judgment* without presenting new evidence or that the Trial Court committed a clear error in its *Judgment*. The Trial Court clearly articulated in its *Order* the reasons for denying the Defendants/Appellants *Motion for Reconsideration*. This Court is unable to accept an appeal which, in effect, is appealing the February 28, 2000 Judgment.¹ The timelines for filing that appeal addressing the same issues has passed.

On April 26, 2000 Appellant's also filed a *Notice and Motion for Waiver of Deposit/Bond Requirement*. The request is mooted by the denial of the appeal.

¹ It is unclear why counsel did not file an appeal to preserve his client's right of appeal to the February Judgment.

IT IS SO ORDERED.

Dated this 26th day of May 2000.

Debra C. Greengrass
Debra C. Greengrass
Associate Justice
HCN Supreme Court

Rita A. Cleveland
Rita A. Cleveland
Associate Justice
HCN Supreme Court

Mary Jo B. Hunter
Mary Jo Hunter
Chief Justice
HCN Supreme Court