

SEP 15 1999

Willa RedCloud
Clerk of Court/Assistant

IN THE
HO-CHUNK NATION SUPREME COURT

STEWART MILLER,
Appellee,

vs.

ORDER DENYING
APPEAL
SU99-08

HO-CHUNK NATION and HCN LEGISLATURE,
and CLARENCE PETTIBONE, ROBERT MUDD,
ELLIOT GARVIN, WADE BLACKDEER, DALLAS
WHITEWING, KEVIN GREENGRASS, GERALD
CLEVELAND, SR., ROBERT FUNMAKER,
KAREN MARTIN and SHARYN WHITERABBIT,
Appellants.

The above-entitled matter came before the full Court by telephonic conference call on Tuesday, August 31, 1999.¹ The Court allowed for the Appellee Stewart Miller to file a response. To date, Mr. Miller has not filed any responsive pleadings to the Notice of Appeal.

This appeal is from an Order denying the Appellants' Motion to Dismiss by the Ho-Chunk Trial Court on August 19, 1999. The ruling was issued from the bench as an oral decision. Therefore, this Court reviewed the transcript of the pretrial and Motion Hearing before the Honorable Rebecca R. Weise in lieu of a written decision.

This matter is an interlocutory appeal.² That is, it is an appeal of a non-final judgment. In the past, this Court has accepted interlocutory appeals. See *In the Interest of the Minor Child: K.E.F.*, SU97-03 (HCN S. Ct., Sept. 18, 1997); *In Re Rick McArthur*, SU97-07 (HCN S. Ct., Feb. 27, 1998). Those cases are distinguishable from this matter in that the effect of the order in this case is not final. The parties will be able to appeal from the final judgment if it is adverse to

¹The Ho-Chunk Nation Rules of Appellate Procedure at Rule 7, b, (2) requires that "[T]he name of the case shall be the same as that used in the Trial Court." This Court has corrected the heading incorrectly submitted by counsel for the Appellants.

²Such appeals are governed by the Ho-Chunk Nation rules of Appellate Procedure at Rule 7.5 adopted May 27, 1997. In this case, the requisite permission to appeal an interlocutory order was not filed pursuant to Rule 7.5.

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them and to appeal the August 19, 1999 Order at that time. In the other cases, the effect of the interlocutory decision prevented any further action and was, in effect, a final decision.

Based upon the foregoing, this matter is premature for appeal. Therefore, the Notice of Appeal is DENIED. The lower court is instructed to lift the Stay issued on August 30, 1999 and to proceed with the litigation.

IT IS SO ORDERED. EGI HESHKEKJET.

Dated this 15th day of September 1999.

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

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

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