

MAR 03 1998

Wileen Redcloud
Clerk of Court/Assistant

IN THE
HO-CHUNK SUPREME COURT

Carol J. Smith,
Appellee,

SU 97-04

vs.

**DENIAL OF
MOTION FOR RECONSIDERATION**

Rainbow Casino, and
Bernice Cloud, as an employee
of the Ho-Chunk Nation,
Appellants,

On January 8, 1998, the Supreme Court rendered a decision on this employee's grievance case. The Appellee, Carol Smith, on January 22, 1998, filed a Motion for Reconsideration for interest on a money judgment. On January 28, 1998, the Appellants' filed their 'Brief in Opposition' to Appellee's motion. The Supreme Court held a telephonic conference call on January 28, 1998 to discuss the Motion for Reconsideration and Brief in Opposition. The Supreme Court will address the Appellee's Motion for Reconsideration, as a matter of clarification, maintaining the Supreme Courts' January 8, 1998 decision to deny Appellee interest on a monetary award.

The Supreme Court drafted the Ho-Chunk Nation Rules of Civil Procedure to govern Trial Court proceedings. Likewise, the Ho-Chunk Nation Rules of Appellate Procedure were drafted to govern appellate review. This court reviews whether the parties involved followed the Rules of Civil Procedure properly.

The Appellee relies on Ho-Chunk Nation R. Civ. P. 57 as an automatic granting of interest on money judgments. In fact, Rule 57 states:

“All signed judgements shall be deemed complete. . . . Interest on a money judgment shall accrue from the date the judgment is filed with the Clerk at a rate set by the Legislature or at five (5) per cent per year if no rate is set,” (Emphasis added).

The July 24, 1997 judgment on appeal to the Supreme Court did not address nor grant the Appellee interest on the monetary award. Therefore, the Supreme Court cannot review the issue of interest on the money judgment that was not formally filed with the trial court.

Appellee, an aggrieved employee, sought relief by filing a complaint with the HCN Trial Court, pursuant to the HCN R. Civ. P. 3(a). This rule states:

“(t)he complaint shall contain short, plain statements of the grounds upon which the (trial) court’s jurisdiction depends . . . and a demand for any and all relief the party wants awarded.” (Emphasis added).

The Appellee’s complaint made no such request for interest on money judgment. The complainant did request retroactive merit increase, which the Trial Court reasonably understood, as a request for any and all overdue wages due the Appellee. In order for the Trial Court to have jurisdiction, over the issue of interest, it must be stated and clearly written in the complaint. The Trial Court is not in the position to grant relief not formally requested nor are they in the position to assume that is what the party is requesting. Therefore, the Trial Court did not have jurisdiction over the issue of interest on the money judgment.

This is an employee grievance governed by Legislative Resolution 3/26/96-A. The Legislature, pursuant to HCN Const., ART. XII, Sec. 1, have the constitutional authority to set standards by which the Nation can be sued. Based upon this constitutional provision employee grievances can proceed to the trial court for judicial review. Resolution 3/26/96-A doesn’t

provide a standard by which interest rates could be calculated should an employee request interest on a monetary award. Resolution 3/26/96-A limits the Trial Court to granting the maximum of \$2000.00, which was awarded to the Appellee, in the July 24, 1997 Final Judgment.

The Appellants are correct in their Brief in Opposition that Supreme Court's decisions are final, pursuant to HCN Const., ART. VII, Sec 7(c). The Supreme Court addressed the Appellees' motion simply as a matter of clarification. We, hereby, DENY the Motion for Reconsideration which requested an award of interest on the Judgment below.

IT IS SO ORDERED. EGI HESHKEKJENET

Dated this 3rd day of March, 1998. Per Curiam


Debra C. Greenglass, Associate Justice
Ho-Chunk Nation Supreme Court