

IN THE TRIBAL COURT OF THE CONFEDERATED SALISH AND
KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, PABLO, MONTANA

IN RE THE MATTER OF:	*	CAUSE NO. <u>AP-CM001-92</u>
	*	
ROBERTA BUFTON,	*	ORDER DISMISSING APPEAL
Appellant.	*	

This matter comes before the Court on a Notice of Appeal filed by Appellant Roberta Bufton, by and through counsel of record Darrell Worm.

The Court will take notice that the Notice of Appeal was filed timely. The Appellant filed a Motion to Extend Time to Order Transcript of Proceedings. An Order granting the Motion for an additional 30 days was signed on March 3rd, 1993 by Chief Judge Moran.

The Court has not received a request for the Court transcript on this matter or a brief in support of the Notice of Appeal.

The ultimate sanction of dismissal rests in the sound discretion of the Court in light of all the circumstances. See Moore's Federal Practice, paragraph 203.12, "Effect of Failure to Take Further Steps After Filing Notice of Appeal," (1993). Failure to file a timely brief is culpable and will not be excused. See Stotler and Co. v. Able, 837 F.2d 1425, 1427 (7th Cir. 1988). Failure of an appellant to comply with appeal requirements by filing briefs in the appellate court is in itself sufficient to justify dismissal of the appeal. See Stevens v. Security Pacific National Bank, 538 F.2d 1387, 1389 (9th Cir. 1976).

Appellant's brief was due April 30, 1993. At no time did appellant request an extension of filing time. In view of these

council actions. The law controlling this question is Ordinance 36B, the Tribal Law and Order Code, promulgated by the Tribal Council pursuant to Article VI, Section 1(1) of the Constitution of the Confederated Salish and Kootenai Tribes.

Pursuant to Ordinance 36B, the Tribal Council unequivocally "vested" the "judicial power" of the Tribes "in the Tribal Court."¹⁵ Therein, the Tribal Council granted civil jurisdiction to the Tribal Court over "all suits," and authorized the Tribal Court to exercise such jurisdiction to the "fullest extent possible."¹⁶ Further, Ordinance 36B authorizes the Tribal Court to exercise subject matter and personal jurisdiction to the "fullest extent possible not inconsistent with federal law." The grant expressly provides for tribal court jurisdiction over "[a]ll persons found within the Reservation."¹⁷ "Persons" is broadly defined as an "individual, organization, corporation, governmental subdivision or agency..."¹⁸

Here, the grant of civil jurisdiction to the Tribal Court over "all suits" with authority to exercise personal and subject matter

¹⁵ Ordinance 36B, Ch. I, §1.

¹⁶ Ch. II, §§1-2(a). Ordinance 36B further provides that the Tribal Court "shall have jurisdiction over all offenses enumerated in the Code of Tribal Offenses committed by any person within the exterior boundaries of the Flathead Reservation to the extent not inconsistent with federal law." Ch. I, §2(1)(a). Chapter one further authorizes the Tribal Court to exercise criminal jurisdiction "to the fullest extent possible." Ch. I, §2(1)(b).

¹⁷ Ch. II, §2(a)(1).

¹⁸ Ch. II, §2(b).

considerations and in the interests of the orderly administration of justice the APPEAL IS DISMISSED.

SO ORDERED this 26 day of MAY, 1993.



A handwritten signature in cursive script, appearing to read "Wm. Joseph Moran".

WM. JOSEPH MORAN
Tribal Court Chief Judge

CERTIFICATE OF SERVICE

I, Susie Loughlin, Chief Clerk of Court do hereby certify that I have caused a true and correct copy of said ORDER DISMISSING APPEAL on this 26th day of MAY 1993 to the parties first named at the addresses shown by depositing said in the U.S. Mail, postage prepaid at Pablo, Montana or by hand-delivering on this date stated below:

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MAJEL BIRD
TRIBAL PROSECUTOR

MAY 27, 1993
Date

Susie Loughlin
Chief Clerk of Court