

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

No. AP-93-077-CV

MARIAN J. PICHETTE,

Defendant/Appellant

v.

NORTHWEST COLLECTIONS, INC.

Plaintiff/Respondent.

Appeal from the Trial Court
of the Confederated Salish and Kootenai Tribes.
No. CV-077-93--Stephen A. Lozar, Trial Judge

Decided February 3, 1995

Before GAUTHIER, HALL, and PEREGOY, Civil Appellate Judges

ORDER DISMISSING APPEAL

PEREGOY, Chair, Civil Appellate Panel:

This litigation involves cross-appeals arising out of an action filed by Northwest Collections ("Northwest") for collection on a debt owed by Marian J. Pichette. The trial court entered judgment for Northwest on the merits in the amount of \$1,500. Pichette appealed this ruling. In addition, the court sanctioned Northwest \$2,400 in attorney fees for failure to "obey" a pre-trial scheduling order. Northwest appealed this ruling. The instant opinion is limited to

Pichette's appeal; Northwest's appeal is addressed in a separate, concurrent opinion.¹

On October 28, 1994 respondent Northwest moved to dismiss Pichette's appeal pursuant to Rule 10(f) of the Tribal Court Rules of Civil Procedure. Rule 10(f) provides:

If an appellant fails to file a brief within the time provided by this rule, or within the time extended, the respondent may move for dismissal of the appeal.

Northwest asserts Pichette's brief was due October 7, 1994. On that date, rather than filing the brief, Pichette filed a motion for an extension of time to file her brief. For reasons discussed below, the trial court ultimately denied her motion. Northwest accordingly argues it is entitled to dismissal since Pichette failed to timely file her appellate brief. Pichette has not responded to Northwest's motion to dismiss.

Pichette, represented by attorney Joann Jayne, filed papers with her motion indicating that Northwest had agreed to an extension of time. Based on its review of the papers filed, the trial court granted the motion October 7, the day it was filed.

Soon thereafter, Northwest filed an affidavit and supporting papers objecting to the motion granted and requesting reconsideration, asserting it never stipulated to an extension of time. The parties filed additional briefs subsequent to Northwest's objection.

After reviewing the record and governing law, the Chief Judge of the Tribal Court found the parties had not stipulated to an extension of time, and good cause therefor was not shown. The Chief Judge warned that "counsel for the parties must continuously be forthright and accurate in their filings." He accordingly granted Northwest's motion for reconsideration, and

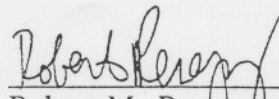
¹ See Northwest Collections, Inc. v. Pichette, AP-93-077-CV (App. Ct. Confederated Salish and Kootenai Tribes, 1995).

thereby effectively rescinded his prior approval of Pichette's motion for an extension of time.

Rule 9(b) of the Tribal Court Appellate Procedures vests the Chief Judge with discretionary authority to extend the time prescribed for filing briefs. We discern no abuse of this discretion.

Under Rule 10(f), this Court is vested with exclusive authority to rule on a respondent's motion to dismiss based on an appellant's failure to file a brief in a timely manner. See In re Ramona Cajune, AP-01-93 (App. Ct. Confederated Salish and Kootenai Tribes, 1993), fn. 20 at 26. Northwest has so moved. Pichette has not objected. Above all, dismissal of the instant appeal will facilitate the orderly administration of justice. Accordingly, respondent Northwest's motion to dismiss Pichette's appeal of the trial court's judgment on the merits is granted.

APPEAL DISMISSED; CASE REMANDED



Robert M. Perégo, Chair
Civil Appellate Panel