

IN THE COURT OF APPEALS
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD INDIAN RESERVATION

IN RE THE MARRIAGE OF)	CAUSE NO. AP-09-014-DV
)	
TACHINI PETE,)	
Petitioner/Appellee)	ORDER DISMISSING APPEAL
vs.)	
)	
MALINA PETE)	
Respondent/Appellant.)	

Appellant Malina Pete filed a Notice of Appeal on December 7, 2011 with regard to the lower's court issuance of a final order dated November 3, 2011. Attached to that Notice was a request to stay the appeal. On December 12, 2011, Appellant Pete filed another Request for Stay. Malina has filed a request for reconsideration with the lower court which the lower court has not ruled upon. It appears from the briefing that Malina is concerned that by not filing a Notice of Appeal from the November 3, 2011 order, that she may lose her opportunity to appeal.

Appellee Tachini Pete filed an objection to Malina's motion through his own Motion to Dismiss on December 20, 2011 citing that the November order was not the final order necessary to start an appeal before this Court due to unresolved issues still before the lower court.

Confederated Salish and Kootenai Rules of Appellate Procedure Rule 1 says in relevant part:

“Rule 1. Notice of Appeal. (1) An appeal shall be taken by filing a notice of appeal with the Appellate Administrator, with a copy to the Clerk of the Tribal Court within 20 days of the date of the final judgment or **order** of the trial court. Failure of an appellant to timely file a notice of appeal is ground for dismissal of the appeal.” (Emphasis added.)

It may appear ambiguous as to whether or not the lower court's ruling on Appellant's Motion to Reconsider would be considered a final order. This Court, having consulted the Code and in discussion with the attorney who will serve as lead justice for this matter, has determined that the result of the request of rehearing is considered an order which

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does, in fact, trigger the opportunity for the parties to pursue an appeal. It is possible that the lower court may still resolve all of the parties' issues upon reconsideration. It may not, which then still allows either party to appeal the case. Until that time, this matter is dismissed.

ORDER

IT IS HEREBY ORDERED that Malina Pete's Motion to Stay is DENIED and her Notice of Appeal is premature and DISMISSED.

SO ORDERED THIS 26th day OF January, 2012.


ELDENA BEAR DON'T WALK
Chief Justice

Cc: Malina Pete, Appellant
Tachini Pete, Appellee

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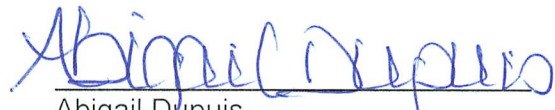
Certificate of Mailing

I, Abigail Dupuis, Appellate Court Administrator, do hereby certify that I mailed a true and correct copy of the ***Order Dismissing Appeal*** to the persons first named therein at the addresses shown below by depositing same in the U.S. Mail, postage prepaid at Pablo, Montana, or hand-delivered this 26th day of January, 2012.

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Abigail Dupuis
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