

IN THE APPELLATE COURT  
OF THE CONFEDERATED SALISH AND DOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION, PABLO, MONTANA

JAMES RICHARD SMITH,	)	CAUSE NO. AP-99-227-CV
	)	
Plaintiff-Appellant	)	
	)	
vs.	)	ORDER
	)	
SALISH KOOTENAI COLLEGE	)	
A Montana Corporation,	)	
	)	
Defendant-Appelle	)	

This case involves civil suits arising out of a motor vehicle accident within the Flathead Reservation. After dismissal of the original plaintiff and other parties, the remaining parties to the suit consisted of Plaintiff-Appellant Smith (a defendant in the original suit) and Defendant -Appellee Salish Kootenai College (also a defendant in the original suit). In its cross-claim against the College, Smith alleges that the College was negligent in its maintenance of the vehicle involved in the accident. After trial and a jury verdict in favor of the College, Smith filed a motion with the trial court challenging its subject matter jurisdiction. The trial court has received briefing on the challenge to its jurisdiction, but has not entered its ruling or any findings on the challenge to jurisdiction because Smith was obligated to file his notice of appeal to this Court. On January 12, 2001, this court stayed all briefing on the case until we determine how best to address the jurisdictional challenge.

We believe that the Trial Court should be afforded the opportunity to first rule on the basis of its jurisdiction before we hear this appeal or consider any challenge to tribal court jurisdiction. This jurisdictional determination is, in part, a fact-based question. The Trial Court is more familiar with the underlying facts of the case, and has already been briefed on the matter. The Trial Court may determine for itself whether any further hearing or briefing is required.

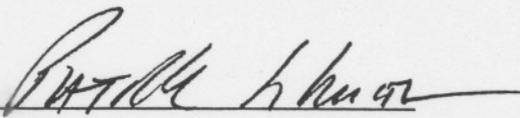
Smith's appeal to this Court is dismissed without prejudice. The 20 day period allowed for appeal of the September 29, 2000 judgment, or to appeal the lower court's ruling on subject matter jurisdiction required by this remand, shall commence from the day of the trial court's ruling on jurisdiction.

NOW THEREFORE IT IS HEREBY ORDERED THAT:

1. Appellant Smith's appeal is DISMISSED without prejudice with right to refile as described herein; and
2. This case is REMANDED to the trial court for the limited purpose of allowing the trial court to rule on the challenge to its jurisdiction and to issue any factual and legal findings supporting its ruling on the jurisdiction challenge.

SO ORDERED this 16<sup>TH</sup> day of March, 2001.



By   
Chief Justice Patrick L. Smith  
Justice Brenda C. Desmond  
Justice Clayton Matt

**CERTIFICATE OF MAILING**

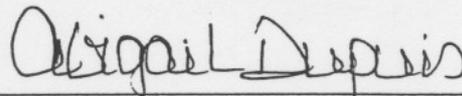
**I, Abigail Dupuis, Appellate Court Administrator, do hereby certify that I mailed true and correct copies of the ORDER to the persons first named therein at the addresses shown below by depositing same in the U.S. Mail, postage prepaid at Pablo, Montana, or hand-delivered this 19th day of March, 2001.**

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**Abigail Dupuis  
Appellate Court Administrator**