

M I N U T E S

appointed three non-Indians as the Court of Appeals by resolution, it modified the Tribal Court Rules by implication.

8. The hearing adjourned at that point. The judges, Pat Morrell, her advocate and her supporters met for a substantial period of time after the hearing to strategize. This is a blatant violation of ex parte contact prohibitions on the part of the Tribal Court. It emphasizes that the court has a preordained result in mind, and intends to reach that result no matter what. While I am an advocate for the respondents, I can safely say, based on the four "statements" handed to me at the hearing, that there is no proof of any wrongdoing in the tribal election. This case would be dismissed in a minute in state court or in any objective court. Again, it is improper for judges who are not hearing a case to participate in any manner in that case, let alone to meet on a consistent basis with one of the parties to assist one side of a case.

In addition, I have a couple of quick comments about the Leonard Flannery, Sr. case. The decision by Betty Unger to evict Leonard is the first time in years that the court has made any decision in favor of the Tribe and tribal members. Betty has been subjected to intense attack by the other members of the Tribal Court since that decision to reverse it. The court members are trying to get Betty to say that she was doing wrong. Other judges, including Mary Viles, the mother of advocate Andy Viles, have intervened in the decision. Under court rules, any stay of judgment or request for reconsideration must be made to the judge who heard the original case - Betty Unger. It is highly inappropriate for other Tribal Court judges to interfere in the case.

I reviewed the case and I believe the decision of Judge Unger was very reasonable. If persons living in the Housing Authority are permitted to reside there without paying rent, with no possibility of being evicted, and free from any scrutiny of their resources to determine a proper house payment, the Housing Authority and development are going to self-destruct soon. The fact that certain members of the Tribal Court could not abide by this decision of Judge Unger shows that there is no chance of obtaining an objective decision on any issue from the present court. You are all probably familiar with the statements Chief Judge Robertson made in this case to Nelsen with regard to Betty Langdon and Connie Hoffman. Such overt racism should have no place in a respectable court system.

Under the court rules, x 3.36 - 3.38, a party may request the trial judge for a new trial or an amendment of a judgment. Instead of going to Judge Unger, as is required by the rules, advocate Viles went judge shopping and ended up with Diane Robertson. Diane apparently issued a stay of Judge Unger's judgment, although that stay was never filed in the Tribal Court (I received a fax of it). Since it was never filed, it was never legal. Since Judge Robertson was not the judge in the case and had never disqualified Betty or appointed herself to the case, the stay was not lawful. A stay also requires posting of a bond to cover losses the Tribe might suffer. No such bond was posted.

The Housing Authority therefore properly

proceeded to prepare the house for a new, tribal placement. On March 8, 1995, Judge Robertson apparently issued a contempt order against Connie Hoffman and imposed a \$1000 fine against her. Since the stay was not lawful to begin with, it is my opinion that the contempt order and fine has no merit. I have advised the Housing Authority to appeal to the Court of Appeals to set aside the fine and contempt order since, given Judge Robertson's statements against Connie, there is no possibility that Connie can receive fair treatment from Diane.

This concludes my summary. In my opinion the Tribal Court is at a crisis point. I successfully defended the jurisdiction of the Tribal Court in the State Circuit Court in Lincoln County on Monday, but I did not feel good about it. Even in that case (the Green case), I have substantial concerns about the actions of the Tribal Court.

I will be available to discuss the items in this memo on Saturday.

cjd

MOTION #4 - Ron Hudson moved to remove the Tribal Attorney as of March 10, 1995 based on the memo dated on March 10, 1995. Seconded by Lori Johnson.

Reggie Butler stated that he spoke with some of the colleagues about the Attorney showing disrespect to our court system. Reggie stated that the Tribal Court deserves respect and the Tribal Council should not let our Court be disrespected. Reggie stated that as long as everything is going the Attorney's way it is a good Court.

Dee stated that the Tribal Council asks for the Tribal Attorney's opinion and then it is up to the Tribal Council if they use that opinion or not.

Pat Morrell stated that this memo was given to tribal council 10 days prior to the judges not being recertified. Pat Morrell stated that she filed a restraining order to have a recount on the tribal election. She stated that there were rumors about ballots being destroyed and a lot of people were not given ballots to vote. She stated that there were a lot of complaints. She filed against the election board and not the successful candidates. She noted that on the ballots there were asterics by those candidates that were rerunning but there was no reasoning for those asterics. She has a study that shows that when people are at the top of the list then voters tend to pick those top people. In this case Ms. Pigsley's name would have been on the bottom of the list. She stated that one of the candidates sons picked up the mail that included the ballots. She stated that she had requested to see the poll books and she called Multnomah County and was told that it is confidential to see who was voted for, but it is not confidential to see that the peoples votes were counted. Judge Viles was in the tribal court office and Pat asked if she could take the records up to the office to copy and she was told that it is not confidential so there should be no problem, but to do it in front of the election officers so she went back down to the clinic after Mary Viles was down there. Pat says that this is hearsay to say that they were down there to intimidate Sharon. Pat stated that the only reason Diane was there was because her car was not running well. Pat stated that Diane does not even know what Sharon looks like. Pat stated that when

Mary Viles came out they left because Sharon was protesting on the advise of Craig Dorsay. Pat wants to know why she could not see this if it was public information. She filed within the time lines. She was waiting for judge Viles to make a decision and a hearing was set for March 7th, 1995 and then Craig had an appeal. Pat is accusing Craig of ex parte communication. Mary Viles issued subpoenas to the election board and Nelsen Witt and Craig Dorsay upon notice of the subpoena advised them that they did not have to be at the hearing. She stated that Craig is crumpling the court and the Tribal Council is going along with this. She stated that we have no judges and she strongly believes that the tribal council is doing this because they did not want the ballots recounted. Pat stated that there is no judge to hear her complaint and she has sent a complaint to the Oregon Bar against Craig Dorsay and Mike Dowsett. She feels that this should be settled in tribal court and not federal court. She stated that with the non-recertification of the judges we have to rely on the white judges. She feels that Craig has lied to the council about, not lie but turned them in the opposite way.

Rob Pearson stated that he would like to hear the legality of this before this is voted on.

Lori stated that this is General Council and we have the right to Vote.

Dee stated that general council can vote and it is up to tribal council to take action.

Robert asked what the election ordinance says.

Mike Darcy stated that he has asked for the information and has always been denied.

Ron stated that the reasoning of this motion is because of the use of the language and respect and does not want it to be any part of our tribal organization.

Diane Robertson stated that she has to go on record to say how outrageous this memo is that Mr. Dorsay has written. Diane is defending the judges and if Mr. Dorsay or the Tribal Council would have checked the facts they would know. She can not let him say all this about the judges and the court system. If he did not feel that the

court was right then he should have asked to help us. She does want to say that this memo came to the council just prior to the judges not being recertified.

Lori Johnson asked how everyone can sit and let him disrespect our elders and our court.

Lisa Norton feels that since we voted these 9 people in as tribal council then we should let them make the decisions.

Lori Johnson stated that she does not like tribal members standing up and telling us what we should do. This is General Council and we have the right to say what we think.

Lisa Norton called for question.

Motion #4 failed by a vote of 27 for and 29 against.

Emma Russell said that there is better ways of

