

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

)	CAUSE NO. AP-13-193-P
)	
IN THE MATTER OF)	
THE ESTATE OF)	ORDER AFFIRMING
CALVIN MATT)	DISMISSAL
)	
GENEVIEVE HUITT,)	
Appellant)	
)	
v.)	
)	
FELICIA MATT,)	
Appellee)	

Appeal from the Tribal Court of the Confederated Salish and Kootenai Tribes, the Honorable Bradley A. Plouffe presiding.

Appearances:

**Phillip Graine, Esq., on behalf of Felicia Matt, Appellee.
Genevieve Huitt, Pro Se, Appellant**

Before: Chief Justice Eldena Bear Don't Walk, Associate Justice Robert McDonald, and Associate Justice Kenneth P. Pitt. Associate Justice Pitt delivers the Opinion of this Court.

The Tribal Court issued a final Order in this matter on March 18, 2015, denying Ms. Huitt's February 24, 2015, Motion to Remove Executor and Motion to Dismiss. Ms. Huitt filed a Notice of Appeal on April 22 2015.¹

Ms. Matt filed a Motion To Dismiss Appeal on April 29, 2015, claiming Ms. Huitt had no standing, and that she had not timely filed a

¹ Although Ms. Huitt did file a handwritten Notice of Appeal on April 22, 2015, the record is silent as to her status, if any, in the referenced Tribal court proceedings.

1 Notice of Appeal. Ms. Huitt had over forty calendar days to respond to Ms.
2 Matt's Motion to Dismiss [Appeal], but failed to do so.

3 On June 10, 2015, this Court dismissed Ms. Huitt's April 22, 2015,
4 appeal, for failure to timely appeal the Tribal Probate Court's final Order.

5 On August 24, 2015, this Court concluded, *sua sponte*, that it might
6 have miscalculated the number of days to file an appeal, and issued to both
7 Ms. Huitt and Ms. Matt an "Order To Show Cause Why The Appeal Should
8 Not Be Reinstated."

9 Ms. Huitt and Ms. Matt were directed to appear before this Court in
10 its regular session on October 7, 2015, to show cause why this appeal should
11 not be reinstated.

12 The Confederated Salish and Kootenai ("CSKT") Rules of Appellate
13 Procedure, Rule 13, require briefs to be submitted within 20 days of
14 transmission of the record.

15 This Court, unlike the Tribal Court, utilizes a four day work week.
16 Accordingly, Ms. Huitt's Brief would have been due before the close of
17 business on Monday, September 28, 2015.²

18 On September 28, 2015, this Court received Ms. Huitt's "Notice of
19 Appearance of Council [sic] & Support of Reinstatement of Appeal," "Brief
20 in Support of Appeal & In Opposition to Appellee's Motion To Dismiss,"
21 "Request for Transcript,"³ and "Request for Oral Argument on Appeal."

22 In Ms. Huitt's "Request for Oral Arguments," her counsel, Andrea J.
23 Olsen, *Esq.*, "announced" to the Court that she would not be present at the

² Although the language about time computation is similar between the Tribal Court and the Court of Appeals, Rule 5 of the Rules of Practice before the Tribal Court includes Fridays in computing time. Said Rules of Practice before the Tribal Court do not dictate practice before the Court of Appeals.

³ This is Ms. Huitt's second request for transcripts, the first being April 22, 2015. This Court does not have knowledge as to whether or not the Tribal Court ever provided Ms. Huitt transcripts satisfying the first request.

1 October 7, 2015 hearing. No "Request for Postponement" was filed by Ms.
2 Huitt with this Court.

3 CSKT Rules of Appellate Procedure, Rule 16(1) require Requests for
4 Postponement to be filed no later than 10 days prior to the time scheduled
5 for the hearing. In this matter, had there been a Request for Postponement, it
6 would have been due no later than September 21, 2015. Accordingly, even
7 were this Court to consider Ms. Huitt's counsel's "announcement" that she
8 would not be present as a Request for Postponement, which we do not, it
9 would not have been timely filed.

10 At the Show Cause Hearing on October 7, 2015, Ms. Matt was
11 represented by Philip J. Grainey, *Esq.* Neither Ms. Huitt nor her counsel
12 were present.⁴

13 During oral arguments, Mr. Grainey made a compelling legal
14 argument that Ms. Huitt was not an actual party to the below action, and that
15 therefore she had no standing to appeal. This Court may fully utilize the
16 arguments of Ms. Matt's counsel when neither Ms. Huitt nor her counsel
17 make an appearance. CSKT Rules of Appellate Procedure, Rule 16(4).

18 CSKT Code Codified, §1-2-817 states: "The Court of Appeals has
19 exclusive jurisdiction over appeals from an aggrieved party from a
20 judgement or order in the following cases. (1) From a final judgement
21 entered in an action or special proceeding commenced in the Tribal
22 Court. . . . "

23 "A party is a technical word having a precise meaning. It refers to
24 those by or against whom a legal suit is brought. . . . All others who may be

⁴ Apparently Court of Appeals Administrator Abigail Dupuis received a recorded telephone message from Ms. Huitt's counsel the morning of October 7, 2015, advising Ms. Dupuis that she would be available by telephone to answer the Court's questions. As the CSKT Rules of Appellate Procedure neither contemplate nor authorize telephonic hearings, this recorded message will not be considered an appearance.

1 affected by the suit, directly or indirectly, are persons of interest, but not
2 parties." *Golatte v. Matthews*, 394 F.Supp. 1203, 1207 (M.D. Ala. 1975).

3 We find that Ms. Huitt was not an aggrieved party to the below
4 proceedings, and that therefore this Court does not have jurisdiction to hear
5 this matter.

6 Ms. Huitt has been given two chances to satisfy the required
7 procedures of this Court, and she has failed to satisfy these procedures on
8 both occasions. We are not inclined to give her a third chance. Failure to
9 follow the CSKT Court of Appeals required procedure is in itself sufficient
10 to justify dismissal of an appeal. *In Re The Matter of Roberta Bufton*, CSKT
11 Court of Appeals, Cause No. AP-CM001-92 (1993).

12 Accordingly, pursuant to CSKT Rules of Appellate Procedure, Rule 6,
13 the June 10, 2015, **DISMISSAL** of Ms. Huitt's appeal is **AFFIRMED**
14 **WITH PREJUDICE**. Pursuant to the CSKT Rules of Appellate Procedure,
15 Rule 20, both Ms. Huitt and Ms. Matt will bear their own costs.

16
17 **IT IS SO ORDERED** this ^{4th} ~~10th~~ day of November, 2015.



Eldena Bear Dont Walk, LL.M.
ELDENA BEAR DON'T WALK
Chief Justice

Robert McDonald
ROBERT McDONALD
Associate Justice

Kenneth P. Pitt
KENNETH P. PITT
Associate Justice

Certificate of Mailing

I, Abigail Dupuis, Appellate Court Administrator, do hereby certify that I mailed a true and correct copy of the *Order Affirming Dismissal* 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 16th day of November, 2015.

**Philip Graine, Esq
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**Cara Croft
Clerk of the Tribal Court
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**Abigail Dupuis
Appellate Court Administrator**