

TURTLE MOUNTAIN TRIBAL  
COURT OF APPEALS  
TURTLE MOUNTAIN JURISDICTION

MARTIN C. TROTTIER  
Plaintiff/Appellee,

CIV APP 02-017  
ORDER GRANTING  
REVIEW

v.

LINDA M. TROTTIER,  
Defendant/Appellant

The Defendant/Appellant appeals from that part of the December 5, 2002 decree of divorce entered by the lower court directing the Plaintiff to pay child support in the amount of \$200 per month for two children. The Plaintiff contends that the amount of support ordered is in conflict with the Tribe's Child Support Enforcement guidelines approved by the Tribal Council on June 17, 1999. For the reasons stated herein, the Court grants the petition for permission to appeal and remands back to the trial court to re-determine the child support based upon the guidelines or to clarify the rationale for setting the child support.

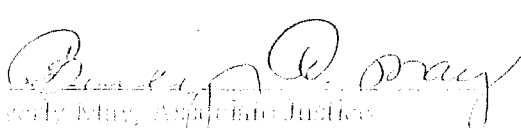
These parties have two minor children, custody over whom was awarded to the Defendant in the divorce action. The Plaintiff was ordered to pay \$100 per month per child as child support. The record does not reflect how the Court arrived at that figure. On June 17, 1999 the Turtle Mountain Tribal Council passed Resolution Number TMBC 1401-06-99 approving the use of judicial guidelines for setting child support in the Tribal Court. Those guidelines attached to the resolution state that the Court may impose amounts of support higher than the guidelines, but "may not be less than those payment levels established under this policy." Under the guidelines for two children the Court is required to enter an amount of support equivalent to 19% of the non-custodial parent's net income. It is unclear from the record whether the trial court applied this rule as the Clerk's notes do not reflect the calculation. This matter should be remanded for the trial court to apply the guidelines or to clarify how the application of the guidelines resulted in the amount of support ordered.

NOW, THEREFORE, it is hereby

ORDERED, ADJUDGED and DECREED that the Petition for Review is GRANTED and this matter is remanded to the trial court for an application of the Tribal Child Support Enforcement guidelines.

Dated this 7<sup>th</sup> day of February 2003.

  
B.J. Linn, Trial Justice

  
Beverly M. Gray, Appellate Justice

TURTLE MOUNTAIN TRIBAL  
COURT OF APPEALS  
TURTLE MOUNTAIN JURISDICTION

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DONALD DECOTEAU  
Defendant/Appellant,

CIV APP 02-008  
ORDER DENYING  
REVIEW

v.

DONNA LONE FIGHT,  
Plaintiff/Appellee

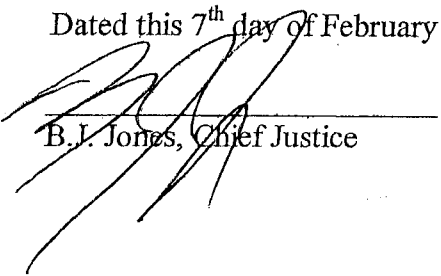
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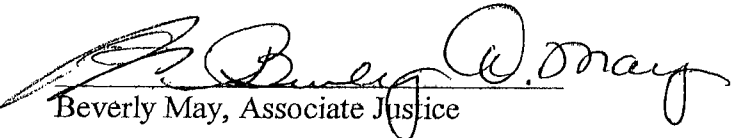
The Appellant is attempting to appeal from a June 24, 2002 decision of the former Chief Judge Sharon Malataree, recognizing a state court order awarding custody of children of the Parties to the Appellee. The order was entered on June 24 and mailed to the Parties on June 27, 2002. A party has thirty days under the Tribal Code to file an appeal. In this case, the petition for appeal is dated July 30, 2002 beyond the 30 day period and therefore

NOW, THEREFORE, it is hereby

ORDERED, ADJUDGED and DECREED that the Petition for Review is DENIED.

Dated this 7<sup>th</sup> day of February 2003.

  
B.I. Jones, Chief Justice

  
Beverly May, Associate Justice

TURTLE MOUNTAIN TRIBAL COURT OF APPEALS  
 TURTLE MOUNTAIN INDIAN RESERVATION IN THE COURT OF APPEALS  
 BELCOURT, NORTH DAKOTA

GMAC and Theel Motors,  
 Plaintiff-Appellant,

No-02-10121

vs.

ORDER ON RECONSIDERATION

Al and Diane Mathiason,  
 Defendants-Appellees.

This Court dismissed the appeal of the Plaintiff-Appellant appealing from a judgment of the Court below denying a complaint for repossession of a motor vehicle and reforming the contract for sale of said vehicle on the motion of the Plaintiff-Appellant. Apparently, according to the request for reconsideration filed by the Defendants-Appellees, the Plaintiff repossessed the motor vehicle in dispute despite the lower court's refusal to authorize the repossession of the vehicle. The Defendants-Appellees amended their answer to the complaint below after the repossession to add a counterclaim for wrongful repossession of the vehicle in question.

On remand the lower court apparently dismissed this action outright including the counterclaim filed by the Defendants-Appellees. The Defendants now request that this court clarify its previous order of dismissal and remand.

This Court wishes to clarify its previous order dismissing the appeal of the Plaintiff. This Court did not rule on the counterclaim of the Defendants-Appellees and expressly remanded back to the trial court the issue of whether the Defendants have a valid counterclaim against the Plaintiff for wrongful repossession. It is fairly clear that tribal courts do have jurisdiction to provide appropriate remedies for tribal members against non-Indians who repossess motor vehicles both on and off a reservation in violation of tribal court orders. See Babbitt Ford, Inc. v. Navajo Indian Tribe, 710 F.2d 587 (9<sup>th</sup> Cir. 1984) cert denied, 466 U.S. 926 (1984) (the Court upheld the right of the Navajo Tribe to apply its repossession laws to off-reservation car dealers, even though the dealers did not have a commercial situs on the reservation and all transactions arising between the tribal members there and the dealers arose off the reservation).

In Fredericks v. Eide-Kirschmann Ford, 462 N.W.2d 164 (N.D. 1990) the North Dakota Supreme Court granted comity to a tribal court decision entering a judgment against an off-reservation creditor who repossessed a car of a tribal member on the Great Northern reservation in violation of tribal court orders prohibiting such a repossession and a pending tribal court order. This case, not a year later, prompted the tribal court authority over repossession matters.

Another court has held that a tribal court has authority to award punitive damages against a non-Indian commercial enterprise that repossess a vehicle in violation of tribal law. See Halwood v. Cowboy Auto Sales, 946 P.2d 1088, 1090 (N.M. Ct. App.), cert. denied, 944 P.2d 274 (N.M. September 24, 1997) (holding that New Mexico trial court must honor a tribal court's award of punitive damages against a non-Indian for wrongful repossession).

Therefore, it is fairly clear that the lower court may have certain jurisdiction to address the counterclaim of the Defendants in this case and should address the counterclaim rather than dismissing this case outright.

CHIEF JUSTICE JONES, MAY, AND JUSTICE SWALLOW CONCUR

Dated this 25<sup>th</sup> day of March 2003.

*B.J. Jones*

CHIEF JUSTICE B.J. JONES  
FOR THE COURT

Attest:

*[Signature]*  
Clerk of Courts

