

27th day
February 20 01
Wm. Blacksmith
Clerk of Crow Tribal Court

IN THE CROW COURT OF APPEALS
IN AND FOR THE CROW INDIAN RESERVATION
CROW AGENCY, MONTANA

Deputy Clerk

IN RE THE MATTER OF:)
YOLANDA RAE OLD DWARF,)
Plaintiff/Appellee,)
vs.)
BRYAN K. KNOWS THE GROUND, JR.,)
Defendant/Appellant.)

CIV. APP. DOCKET NO. 009-092

**ORDER
DISMISSING APPEAL**

Bryan K. Knows The Ground, Jr., has appealed the Tribal Court's Order for Child Support and Establishment of Paternity entered by the Tribal Court (Cashen, J.) on December 7, 2000.

Yolanda Rae Old Dwarf's Complaint for Support and to Establish Paternity was filed on September 11, 2000, seeking child support in the amount of \$200 per month per child for the parties' 13-month-old son and Yolanda's 6-week-old daughter, plus back support since April 2000. Yolanda swore that Bryan was the natural father of the younger child, and requested that the Court establish paternity by ordering him to take a DNA test.

In his sworn answering Affidavit filed September 15, 2000, Bryan objected to the \$200 per child support request because he could not afford it, and expressed a desire to have custody or visitation of his son. Bryan agreed to take a blood test to establish whether he was the father of Yolanda's daughter.

The Tribal Court held a hearing on November 7, which Bryan failed to attend. Based on the pleadings and Yolanda's hearing testimony, the Tribal Court ordered Bryan to pay child support in the amount of \$100 per month for the parties' son. The Tribal Court further ordered Bryan to pay for DNA testing with respect to his paternity of Yolanda's daughter, and to present

the results to the Court by January 31, 2001.

Appellate Jurisdiction

The Crow Court of Appeals generally has jurisdiction “to hear all appeals from *final* judgments and/or orders of the Crow Tribal Court.” Crow Tribal Code § 3-1-103(2) (emphasis added). As we have explained in previous cases, “final” orders are ones that conclude the controversy in the Tribal Court, and leave nothing further for the court to decide except proceedings to enforce the judgment or decree. *In re. Marriage of Warren and Tina Redfox*, 2000 CROW 3, ¶ 4. This limitation on so-called “interlocutory” appeals serves the interests of sound judicial administration by avoiding the possibility of multiple, piecemeal appeals from various preliminary and procedural orders issued by the Tribal Court during the course of a given case. *Id.*, ¶ 2.

In the present case, it is clear that the Tribal Court’s order is not “final,” because it was not intended to conclude the matter. Rather, the matter cannot be concluded until after Bryan submits the results of the DNA testing to the Court. Then, depending on the test results, the Court may order Bryan to pay support for the younger child and/or modify the support obligation for his son in light of all the circumstances known to the Court at that time, and according to the factors set forth in Section 10-1-122 of the Tribal Code.

Therefore, since the order appealed from is not final, and does not fall within any of the recognized exceptions to the finality doctrine, this appeal is premature and this court lacks jurisdiction to hear it at this time. This dismissal does not prevent either party from appealing the Tribal Court’s final order or decree after it has finally concluded proceedings in this matter.

Other Guidance

In dismissing this appeal as premature, the court notes that Bryan has been ordered to submit the results of the DNA testing. Bryan should understand that if he fails to comply with the Court’s order in this respect (including obtaining an extension of time from the Court if he has not already submitted the results), the Tribal Court would be within its authority to declare

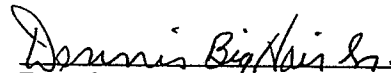
Bryan to be the father of the younger child, or to hold him in contempt of court as stated in the Order. Especially considering that the Court did not order Bryan to pay any back child support, his obligation to pay for the DNA testing would not appear to cause him undue hardship.

We also note that Bryan's answering affidavit indicates that he would like to have more contact with his son. If Bryan wishes to assert a right to custody or visitation, he must file a petition for custody under the procedures set forth Crow Tribal Code § 10-1-130, *et seq.* Although that custody proceeding may be consolidated with the current support proceeding at the discretion of the Tribal Court, Bryan should also understand that any dispute over visitation or custody is not an excuse to avoid paying the child support as ordered by the Court.


Finally, this court notes that the title of support proceedings such as this is governed by Section 10-1-141 of the Tribal Code. The initial pleading should be called a "Petition," the person filing a petition should be referred to as the "Petitioner," and the other parent should be referred to as the "Respondent" (rather than "Complaint," "Plaintiff," and "Defendant," as used in the present case. The caption of the case should begin with "In Re The Support of [the children's names]."

For the reasons stated above, this appeal is **DISMISSED** without prejudice to any further appeal by either party after proceedings in the Tribal Court have been concluded.

DATED this 27th day of February, 2001.


Dennis Big Hair, Chief Judge


Albert L. Gros-Ventre, Judge


William C. Watt, Judge