

Saint Regis Mohawk Tribal Court

Basil Cook, Guilford White,)	Case No.: 15-LND-00005
Appellant(s))	
)	
)	
-v-)	DECISION AND ORDER
)	
)	
Saint Regis Mohawk Tribe,)	
Appellee(s))	

Procedural History

On December 15, 2014 the Saint Regis Mohawk Tribe Land Dispute Tribunal (hereinafter SRMT LDT) issued a decision in the case at bar, stating that a final Decision and Order would not be provided as the SRMT LDT did not meet the quorum requirements outlined in the Saint Regis Mohawk Tribe Land Dispute Resolution Ordinance (hereinafter SRMT LDRO).

On October 23, 2015 Basil Cook and Guilford White on behalf of themselves, filed an appeal of that decision in Saint Regis Mohawk Tribal Court.

A Motion for Preliminary Injunction requesting that any action disturbing the ownership claim of the Appellants be prohibited was filed with the Court on October 23, 2015.

On November 10, 2015 counsel for the Saint Regis Mohawk Tribe filed a Notice of Appearance along with a Motion to Dismiss and a Response in Opposition to the Request for Preliminary Injunction.

The Appellants on December 3, 2015 requested a minimum 30 day period to answer the filings of the Appellees dated November 10, 2015.

On January 7, 2016 the Court received a letter from the Appellants, informing the Court that they would provide no further pleadings in this appeal.

On January 13, 2016 the Appellees filed a response with the Court to the January 7, 2016 letter by the Appellants. In their letter the Appellees reiterate their request for dismissal with prejudice.

On January 20, 2016 the Appellants filed a response letter with the Court to the January 13, 2016 letter by the Appellees requesting the matter at bar be dismissed without prejudice.

An initial hearing was held in this matter on July 20, 2016 in Saint Regis Mohawk Tribal Court in which the Appellants reiterated their wish for the case to be dismissed without prejudice and the Appellees reaffirmed their position that the appeal be dismissed with prejudice.

Oral arguments on the motion to dismiss this matter was held by the Saint Regis Mohawk Tribal Court on August 25, 2016.

Jurisdiction

The Court possesses jurisdiction over this appeal pursuant to the SRMT LDRO which grants authority to the Tribal Court to hear appeals from the SRMT LDT.¹

Motion to Dismiss

The issue raised by the Appellees in their Motion to Dismiss is that the appeal is barred as the thirty (30) day period in which a SRMT LDT appeal must be filed expired prior to Appellants filing their appeal. The SRMT LDRO states an appeal to the Tribal Court must be filed "within thirty (30) days after issuance of the Tribunal Final Decision."² In this case the LDT decision was issued on December 15, 2014. The appeal was filed on October 23, 2015, which is 281 days after the decision was entered.

Appellants initially asked the Court to suspend the rule relating to timeliness of SRMT LDT appeals due to the egregious and procedural dilemmas faced by the SRMT LDT, namely that they did not have quorum when the decision was issued. However, the Appellants subsequently requested the Court to allow them to withdraw their appeal and that it be dismissed without prejudice.

A letter dated January 4, 2016 by the Appellants stated to the Court that,

Although we are in receipt of your notice which provided today's date as a deadline for Appellant's reply to the submissions of Appellee, for the following reason(s) we respectfully decline to provide any further pleadings at this point...we have determined that the filing of an "Appeal" in the present matter and the exercise of jurisdiction over the present dispute may be premature and not yet ripe for review.³

Prior to reaching the issue of whether the thirty (30) day rule applies, the Court is tasked with deciding whether or not the appeal before the Court is ripe for appeal. The LDRO instructs that only a Final Decision of the LDT may be appealed to the Tribal Court.⁴ The Court has conducted a close examination of the SRMT LDRO to determine what constitutes a "final decision" of the SRMT LDT. The SRMT LDRO states,

A quorum for rendering any Tribunal decision, both ancillary and final, shall be five (5) members and the affirmative vote of a majority of quorum is required to render a decision.⁵

¹ SRMT LDRO § XV.B.

² SRMT LDRO § XV.A.2.

³ Appellants Letter January 4, 2016.

⁴ SRMT LDRO § XV.A.1.

⁵ SRMT LDRO VII (D)(3).

If the SRMT LDT decision issued on December 15, 2014 was a valid final decision, then it would be appealable and the Court would then have to take up the issue as to whether the appeal was filed in a timely manner or whether there was a reason for the Court to waive the thirty (30) day requirement. If the SRMT LDT decision issued on December 15, 2014 was not a valid final decision, because the SRMT LDT did not have quorum, then the decision is not appealable.

The Appellees argue that the SRMT LDT must be allowed to make a procedural decision, such as not having quorum, and that thus this decision would be appealable. And as a result, the Court should move onto the timeliness argument. The Court is cognizant of the argument raised by the Appellee during oral arguments on the motion to dismiss that the inability of the SRMT LDT to issue ANY decision because of failure to meet quorum could result in an endless cycle of non-resolution of a case before the SRMT LDT.⁶

However, the SRMT LDRO is very clear that it is not simply final decisions that must meet the quorum requirement. The SRMT LDRO states a quorum is required for “both ancillary and final” decisions.⁷ A decision on whether the SRMT LDT has quorum is ancillary to a final decision. So while the Court agrees that the language contained in the controlling law does not allow the SRMT LDT any ability to issue a decision stating they do not have quorum and this may create an endless cycle of non-resolution of cases, the Court cannot change the law. Only the Tribal Council, with its legislative powers, can fix the quandary faced by future SRMT LDTs when and if they lack of quorum.

By the SRMT LDT's own admission in their "decision" dated December 15, 2014, the SRMT LDT did not meet the quorum requirement to conduct the initial hearing, let alone conduct a final hearing and then issue a "decision" in this matter. Because the SRMT LDRO requires a quorum for all decisions, ancillary and final, the SRMT LDT had no authority to issue the decision in this case. Thus, there was no final decision in this case and this case is not ripe for review by the Tribal Court.

Dismissal of Land Dispute Tribal Appeals

The SRMT LDRO is silent as to whether the voluntary or involuntary dismissal of appeals from the SRMT LDT to the Tribal Court are to be dismissed with or without prejudice. The SRMT Rules of Civil Procedure are also silent as to whether a voluntary or involuntary dismissal of a complaint is dismissed with or without prejudice.⁸ Given that the SRMT Civ Pro Rules and the SRMT LDRO do not provide any direction, the Court will use its discretion in making the determination as to whether the appeal is dismissed with or without prejudice. As the Appellants are before the Court in a civil case containing the merits of this case, this appeal is dismissed with prejudice.

⁶ Record Oral Argument August 25, 2016.

⁷ SRMT LDRO § VII.D.3.

⁸ SRMT Civ Pro § X.B. [Rule 7].

ORDER

Because the SRMT LDT lacked quorum when they issued the December 15, 2014 decision, the Appellants' request to withdraw their appeal is GRANTED and the Court hereby DISMISSES the appeal with PREJUDICE as the case is NOT RIPE for review by the Court.

Signed by my hand this 7th day of October, 2016.



Carrie E. Garrow,
Chief Judge
Saint Regis Mohawk Tribal Court

