

RECEIVED
NOOKSACK COURT CLERK

AUG 14 2013

FILED BY

Bobby Johnson

IN THE NOOKSACK TRIBAL COURT OF APPEALS
NOOKSACK INDIAN TRIBE
DEMING, WASHINGTON

SONIA LOMELI; TERRY ST. GERMAIN;
NORMA ALDREDGE; RAENNA
RABANG; ROBLEY CARR, individually
on behalf of his minor son, LEE CARR,
enrolled member of the Nooksack Indian
Tribe,

Plaintiffs/Appellants,

v.

ROBERT KELLY, RICK D. GEORGE,
AGRIPINA SMITH, BOB SOLOMON,
KATHERINE CANETE, LONA
JOHNSON, JEWELL JEFFERSON, AND
ROY BAILEY,

Defendants/Appellees.

NO. 2013-CI-CL-001

ORDER ACCEPTING APPELLATE
REVIEW AND STAYING
PROCEEDINGS

Appellants, who were notified they along with others were the subjects of disenrollment proceedings initiated by the Nooksack Tribal Council, filed a suit alleging the Nooksack Tribal Council's resolutions to proceed with disenrollment violate the Nooksack Constitution and Title 63 of the Nooksack Tribal Code.

On August 9, 2013, the trial court entered a judgment following its August 7, 2013 order dismissing Appellants' complaint. The Nooksack Tribal Council has scheduled disenrollment proceedings for August 16, 2013. On August 12, 2013, Appellants filed a Notice of Appeal from the trial court's order and judgment, and an emergency motion to stay the disenrollment proceeding.

Under Nooksack Tribal Code (NTC) 80.03.010, an aggrieved party may seek appellate review of a final order or judgment. To initiate an appeal a party must file a Notice of Appeal within 14 days from the trial court's decision, pay the filing fee, and serve the opposing party

with the notice. NTC 80.04.010, 80.04.020 and 80.04.040. The Notice of Appeal must name the parties; state the case number, date and nature of the decision appealed from; specify those parts of the decision the party wants reviewed; and list the each error of fact, law or procedure and its effect on the outcome of the case. NTC 80.04.030. The Chief Judge of the Court of Appeals is required to review the record and if the party initiating an appeal substantially complies with the above procedures the Chief Judge “shall” accept the appeal on behalf of the Court of Appeals. NTC 80.05.010.

The trial court’s decision dismissing Appellants’ complaint is a final judgment. After reviewing the documents, I find Appellants have substantially complied with the procedural requirements for initiating an appeal.

Under NTC 80.06.010 “[t]he judgment or order of the Nooksack Tribal Court appealed from shall not be carried out unless and until the Court of Appeals upholds the judgment or dismisses the appeal.”¹ If a Notice of Appeal is properly filed this provision automatically stays the trial court’s order and judgment.²

¹ The only exception to the stay provision is where the order appealed from is an injunction. There are no other exceptions.

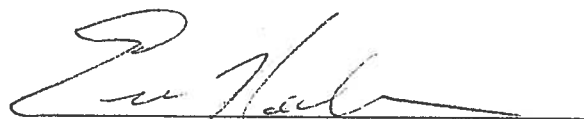
² Because the appeal has been accepted NTC 80.06.010 applies. It is therefore unnecessary to address the Emergency Motion To Stay.

IT IS ORDERED

The appeal from the trial court's order and judgment is hereby accepted, and disenrollment proceedings authorized by the order and judgment shall be stayed pending this Court's final decision.

The parties shall comply with the procedures governing appellate review in NTC Chapter 80.08.

Dated this 14th day of August, 2013



Eric Nielsen, Chief Judge