

**IN THE HUALAPAI COURT OF APPEALS
HUALAPAI NATION
PEACH SPRINGS, ARIZONA 86434**

HUALAPAI TRIBE,
PLAINTIFF/APPELLEE

Appellate Court Case: 2006-AP-008
HTC No. 2006-CR-0126a

v.

ORDER

NAOMI SHONGO,
DEFENDANT/APPELLANT

This matter is before the Court on the Tribe's Motion to Dismiss Appeal for Lack of Jurisdiction. For reasons stated in this Order, this Court finds the Motion to Dismiss Appeal for Lack of Jurisdiction to be well founded and dismisses the above described appeal with prejudice.

The Defendant/Appellant was tried on October 30, 2006 on criminal charges that form the basis of this appeal. She was subsequently convicted. Sentencing was set for November 13, 2006.

Defendant/Appellant through her legal counsel, Monza Honga, sought to invoke the jurisdiction of this Court by filing a Notice of Appeal on November 6, 2006. Thereafter, on November 13, 2006 Defendant's legal counsel filed with the Tribal Court, a Motion to Stay the sentencing pending the outcome of the appeal. On the same day, the Tribal Judge denied the Motion to Stay in a written order that expressly *and correctly* advised the parties that "[u]ntil a judgment is entered, there is no final judgment in this case and [it] is not ripe for appeal." The Tribal Court accordingly entered a final sentence and judgment in this case on November 13, 2006. Despite having been clearly advised by the Tribal Court that the Notice of Appeal dated November 6, 2006 was premature, neither the Defendant/Appellant nor her legal counsel filed any Notice of Appeal *after* the entry of the final judgment on November 13, 2006.

In its Motion to Dismiss Appeal for Lack of Jurisdiction, the Tribe correctly notes that the jurisdiction of this Court to hear appeals is limited by Section 10.2(a) of the Hualapai Law and Order Code to hearing appeals from "*a final judgment* imposed by the Tribal Court in any criminal case." In appealing the conviction *before* entry of final judgment, the Defendant/Appellant did *not* appeal from the entry of a final judgment, as the Tribal Court expressly advised her and her legal counsel. Section 10.4(A)(a) of the Hualapai Law and Order Code expressly provides how an appeal is to be taken in a criminal case. Specifically the appeal must be taken by filing a "written notice of appeal within five days *after* the date of the action appealed." (Emphasis supplied) Neither

Defendant/Appellant nor her legal counsel filed any notice of appeal *after* entry of the final judgment of conviction and sentence entered on November 13, 2007 despite having been expressly warned in writing by the Tribal Court that the prior Notice of Appeal filed on behalf of the Defendant/Appellant was premature and therefore insufficient.

Thus, the Tribe is correct that the improper procedure invoked by the Defendant/Appellant and her counsel in this matter was insufficient as a matter of Hualapai law to invoke the jurisdiction of this Court to hear her appeal. For that reason, this appeal must be and hereby is dismissed with prejudice and the oral argument originally scheduled in this matter for June 15, 2007 is therefore cancelled.

Entered this 18th day of May, 2007

By: _____
Robert N. Clinton
Associate Justice