

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES H. ANDERSON,

Petitioner,

Hon. Janet T. Neff

v.

Case N^o: 1:10-CV-676

GRAND TRAVERSE BAND OF
OTTAWA AND CHIPPEWA INDIANS
TRIBAL COURT,

Respondent.

_____ /

RESPONSE TO ORDER TO SHOW CAUSE

Respondent Grand Traverse Band of Ottawa and Chippewa Indians Tribal Court (“Tribal Court”) by undersigned counsel submits this response to the Order To Show Cause filed December 9, 2010 (Dkt. #8), by which Respondent was directed to submit competent evidence in support of its motion to dismiss showing that the Tribal Court has accepted Petitioner’s appeal and/or that such appeal is still pending. Submitted with this response as Exhibit A is a certified letter from the Tribal Court Clerk attesting that the appeal has been accepted and is pending with the Grand Traverse Band Appellate Court.

Although submitted in letter format addressed to undersigned counsel from the Tribal Court Clerk and Administrator, Exhibit A is certified by the Tribal Court Clerk. Likewise, the order attached to the December 10, 2010 letter and included as part of Exhibit A is certified as “a true and exact copy of the original record” of the Tribal Court. As such it is competent evidence under FRE

803(8) and/or 902(4). As is indicated at page 2 of 3 of the December 10, 2010 letter (Exhibit A),
Petitioner's appeal was accepted and is pending before the Tribal Court.

Respectfully submitted,

Dated: December 16, 2010

s/ William Rastetter
William Rastetter (P26170)
Of Counsel
Olson, Bzdok & Howard, P.C.
420 East Front Street
Traverse City, MI 49686
231-946-0044
rastetter@envlaw.com

EXHIBIT A



The Grand Traverse Band of Ottawa and Chippewa Indians

Tribal Court

2605 N. West Bay Shore Drive • Peshawbestown, MI 49682

(231) 534-7050 • Fax (231) 534-7051

Friday, December 10, 2010

Mr. William Rastetter
Olson, Bzdok & Howard, PC
420 E. Front Street
Traverse City, MI 49686

RE: 2010-000009-AP, Charles Anderson, Sr. vs. Grand Traverse Band Tribal Court

Dear Mr. Rastetter:

Boozhoo - Hello. Please let this letter serve as certification of the status of the Appellate Case currently pending in Tribal Appellate Court regarding Charles Anderson, Sr. [2010-000009-AP, Charles Anderson, Sr. vs. Grand Traverse Band Tribal Court]:

1. 09/15/10 Charles Anderson, Sr. filed his Notice of Appeal (dated 09/14/10) and Application and Order for Waiver of Suspension of Fees and Court Costs. He attached the same documents he filed in Case Number 2009-316-CR on 11/09/09, to wit: Motion for Appointment of Appellate Counsel and Proof of Service (dated 11/09/09), Motion for Waiver of Fees and Cost (dated 11/09/09), Affidavit of Indigency (dated 11/09/09), and Verification (dated 11/09/09).
2. 09/23/10 Notice and Order of Transmittal/Certification of Records to Transmit Record on Appeal (dated 09/23/10) generated.
3. 09/23/10 Copy of complete originating criminal file (2009-316-CR), Notice of Appeal, Petition to Waive Fees, and all supporting documentation forwarded to Appellate Justices and the parties (minus copy of complete originating criminal file to the parties).
4. 10/18/10 & 10/19/10 Order Regarding Submission of Application for Waiver of Fees and Court Costs and Petition for Appointment of Counsel (dated 10/18/10 & 10/19/10) [Attached] generated.
5. 10/25/10 Order dated 10/18/10 & 10/19/10 was sent to Charles Anderson, Sr. (Appellant) and Matthew Feil (Appellee). In addition, a new Application and Order for Waiver of Suspension of Fees and Court Costs and Petition for Court Appointed Attorney was sent to Charles Anderson, Sr., Appellant.
6. 12/10/10 As of Friday, December 10, 2010 Tribal Court has not received a new/current Affidavit and Application from Charles Anderson, Sr., Appellant, as ordered on 10/18/10 & 10/19/10.

I HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE AND EXACT COPY
OF THE ORIGINAL RECORD AS IT
APPEARS ON FILE IN MY SAID OFFICE.

DATED THIS 10th DAY OF December, 2010
BY: *Shirley V. [Signature]*

G.T.B. TRIBAL COURT CLERK

1 of 3

GRAND TRAVERSE

CHARLEVOIX

LEELANAU

BENZIE

MANISTEE

ANTRIM

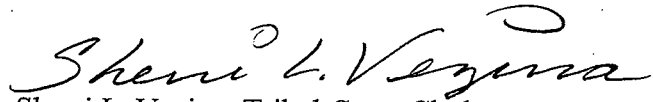
In summary, Charles Anderson, Sr. has filed an Appeal with the Grand Traverse Band Appellate Court. This Appeal was received, filed and forwarded to the Appellate Justices. The Appellate Justices subsequently issued an Order Regarding Submission of Application for Waiver of Fees and Court Costs and Petition for Appointment of Counsel on 10/18/10 and 10/19/10 whereby they required further documentation from Charles Anderson, Sr. As of 12/10/10, Appellant Charles Anderson, Sr. has failed to comply with the Order dated 10/18/10 and 10/19/10.

As Appeals Court Clerk, I am awaiting the information ordered from Charles Anderson, Sr. and/or further direction from the Appellate Court Justices.

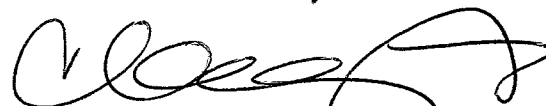
Should you have any questions, I may be reached at (231) 534-7117, or you may contact Cristine Quitugua, Court Administrator at (231) 534-7041. Thank you for your time and attention in this matter.

Sincerely,

Date: 12/10/10


Sherri L. Vezina, Tribal Court Clerk

Date: 12.10.10

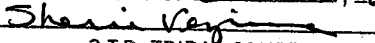

Cristine Quitugua, Court Administrator

Encl: Copy of Order Regarding Submission of Application For Waiver of Fees and Court Costs and Petition for Appointment of Counsel, order dated 10/18/10 & 10/19/10.

CC: Appellate Court File, Appellate Court Justices, Charles Anderson, Sr. and Matthew Feil

I HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE AND EXACT COPY
OF THE ORIGINAL RECORD AS IT
APPEARS ON FILE IN MY SAID OFFICE.

DATED THIS 10th DAY OF December, 2010

BY: 
G.T.B. TRIBAL COURT CLERK

**IN THE TRIBAL APPELLATE COURT
FOR THE
GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS**

CHARLES H. ANDERSON, SR.,

Defendant/Appellant,

v.

2010-000009-AP

(Tribal Court File No. 2009-316-CR)

GRAND TRAVERSE BAND OF OTTAWA
AND CHIPPEWA INDIANS,

Plaintiff/Appellee.

**ORDER REGARDING SUBMISSION OF APPLICATION FOR WAIVER OF FEES
AND COURT COSTS AND PETITION FOR APPOINTMENT OF COUNSEL**

The defendant, Charles Anderson, submitted an Affidavit and Application for Waiver or Suspension of Fees and Court Costs (the "Application") on September 15, 2010. The Appellate Court takes judicial notice of the fact that the defendant was released from jail after the Application was submitted to it, and therefore, the financial information provided on the Application must be updated.

The Appellate Court also notes that the defendant's Notice of Appeal was submitted with an attached photocopy of a Motion for Appointment of Appellate Counsel, a Motion for Waiver of Fees and Costs, and an Affidavit of Indigency. Each of these motions was originally submitted to the Tribal Court and dated November 9, 2009.

Having reviewed the above Affidavit/Application for Waiver or Suspension of Fees and Court Costs, and the motions attached to the Notice of Appeal, the Appellate Court concludes that the affidavits and motions submitted to it are not current and are not properly submitted to the Appellate Court.

IT IS HEREBY ORDERED:

1. That the defendant must submit a new Affidavit and Application for waiver or suspension of fees and court costs reflecting the defendant's current financial information; and
2. If the defendant wishes to request that the Appellate Court appoint appellate counsel, he must submit a new Petition for Court Appointed Attorney with accurate, current information directly to the Appellate Court. The petition should specify whether the defendant agrees to pay the cost for the court appointed

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DATED THIS 10th DAY OF December, 2010

**BY: Sharon Virginia
G.T.B. TRIBAL COURT CLERK**

attorney. If the defendant cannot afford this expense, then the defendant must submit a request to the Tribal Council requesting the funds for the appointment of counsel.

Dated: 10/18/10

Wenona T. Singel

Hon. Wenona T. Singel, Chief Appellate Judge

Dated: 10-19-10

Quinton A. Walker

Hon. Quinton A. Walker, Associate Appellate Judge

Dated: 10-19-10

Mary Roberts

Hon. Mary Roberts, Associate Appellate Judge

OCT 22 4:25

POS: I sent a certified copy of this letter dated 12/10/10 and its attachment (certified) via first class mail, inter-office mail and email to:

Appellate Court File Inter-Office Mail

William Rastetter Olson, Bzdok & Howard, PC, 420 E. Front
Street, Traverse City, MI 49686 and email

Charles Anderson, Sr. C/O: Leelanau County Jail, 8527 E.
Government Center Drive, Suite 103, Suttons Bay, MI 49682

Matthew Feil Inter-Office Mail and email

Appellate Judges Addresses on record, and email to Justice
Singel

Dated: 12/10/10



Sherri Vezina, Tribal Court Clerk

I HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE AND EXACT COPY
OF THE ORIGINAL RECORD AS IT
APPEARS ON FILE IN MY SAID OFFICE.
DATED THIS 10th DAY OF December, 2010
BY: Sherri Vezina
G.T.B. TRIBAL COURT CLERK

GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS

TRIBAL COURT – COURT OF APPEALS

2605 N. West Bayshore Drive, Suttons Bay, MI 49682
(231) 534-7050, Main (231) 534-7051, Fax

Charles Anderson, Sr.
Vs.
GTB

CASE NO. 2010-00009-AP

I, Sherri Lee Vezina, being duly sworn, deposes and says that on the date below I sent by:

[X] first class mail, [] certified, [] restricted, [x] inter-office mail, or [] personal service

addressed to their last known address by placing a copy of the same in the United States Postal Service Mail in Omena, Michigan.

Proof of mailing for: Order Regarding Submission of Application for Waiver of Fees and Court Costs and Petition for Appointment of Counsel,

To:	Court File	Original	
	Charles Anderson, Sr.	11192 O-de-to-min Mi-kun, Suttons Bay, MI 49682	+ New waiver form
	Matthew Feil	Inter-Office Mail	+ New Pet. for Ct. Appell.
	Appellate Judges	Addresses on record	

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date: 10/25/10

Sherri Lee Vezina

SLV

Sherri Lee Vezina, Clerk of the Court

I HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE AND EXACT COPY
OF THE ORIGINAL RECORD AS IT
APPEARS ON FILE IN MY SAID OFFICE
DATED THIS 10th DAY OF December, 2010 .
BY: Sherri Vezina