LITTLE RIVER BAND OF OTTAWA INDIANS
TRIBAL COURT OF APPEALS

Ryan L. Champagne,
Appellant

Case No. 06-178-AP

On Appeal from:
v. Case No. 06-131-TM

The People of the Little River Band
of Ottawa Indians,
Respondent

Opinion and Order

For the following reasons, the Little River Band of Ottawa Indians Tribal Court of Appeals **dismisses** the appeal by Appellant Ryan L. Champagne, and **remands** the matter back to the Tribal Court for further proceedings. The Court of Appeals determines that no oral argument is necessary.

I. Procedural and Factual Background

On June 21, 2006, the People of the Little River Band of Ottawa Indians filed a criminal complaint against Ryan L. Champagne, a sitting

member of this Court, for attempted fraud. Mr. Champagne filed three motions to dismiss in response. The motions, respectively, asserted that the complaint should be dismissed for (1) lack of a criminal statute; (2) lack of probable cause; and (3) lack of jurisdiction. On August 21, 2006, the Tribal Court, per Judge Brenda Jones Quick, denied the motions to dismiss and filed an Opinion and Order explaining her reasons.

On September 2, 2006, Mr. Champagne filed an appeal of the denial of his motions and sought an order from this Court enjoining the Tribal Court from proceeding with the matter. On September 18, 2006, Michael Petoskey, Chief Justice of the Tribal Court of Appeals, recused himself from this matter.

II. The Interlocutory Appeal Must Be Dismissed

Appellant's appeal must be dismissed in accordance with Section 5.205 of the Little River Band Appellate Procedure. Section 5.205 provides, in relevant part:

> An appeal is properly brought before the Tribal Court of Appeals if:
>
> (A) The judgment, order or decree of the Tribal Court is final; …

(C) The appeal involves an order affecting a substantial right or claim which disposes of the matter as to that participant.

Appellant's appeal must fit within one of these two subject matters if this Court is to have jurisdiction over this matter. As explained below, the appeal meets neither of these provisions.

First, the appeal does not arise from a final judgment, order, or decree. No trial has been had on the merits of this case. Defendant has not been convicted or acquitted. As the Hopi Court of Appeals wrote, "Other jurisdictions have construed a final judgment as one which ends the litigation and leaves nothing for the trial court to do but to execute the judgment or which leaves no question open for any further judicial action." *Honie v. Hopi Tribal Housing Authority*, No. 96AP0000007, at ¶ 26 (Hopi Appellate Court 1998) (citations omitted). It is blackletter law that a criminal case cannot be a final judgment until the defendant has been convicted or acquitted *and*, if convicted, the defendant is sentenced. *See Caldwell v. Quarterman*, 549 U.S. __ (2006), slip op. at 2 (Stevens, J.) (citation omitted); *see also Navajo Nation v. McDonald*, No. A-CV-36-90, at ¶ 17 (Navajo Nation Supreme Court 1990); *Begay v. Tso*, No. A-CV-30-83, at ¶¶ 11-14 (Navajo Nation Supreme Court 1983). Moreover, "The purpose for this rule is to discourage 'piecemeal litigation,' that would tax" the court

system. *Wilson v. Keuren*, No. SC-CV-37-94, at ¶ 11 (Navajo Nation Supreme Court 1994).

Second, the appeal does not involve an order affecting a substantial right or claim that disposes of the matter as to the Appellant. The court rules are ambiguous as the meaning of "substantial right or claim which disposes of the matter…." Once before, this Court agreed to hear an interlocutory appeal. *See Willis v. Tribal Council*, No. 01034APP (Little River Band Tribal Court of Appeals 2001). In *Willis*, the trial court judge initiated his own investigation of the underlying facts of the case, a clear violation of the rules of the Tribal Court. *See id*. at 2-3. This Court took jurisdiction in order to issue an order disqualifying that judge from further proceedings and to vacate any orders issued by that judge relating to the investigation. *See id*. at 3. Other tribal courts in analogous circumstances have concluded that a claim of mandamus against the tribal court could be brought under such a provision. *See Begay, supra*, at ¶ 12. That case involved a serious and unprecedented violation of rules of judicial conduct by a trial judge.

This appeal does not rise to the level of importance required by Rule 5.205(C). If we were to hold that the Appellant could proceed, then every pre-trial motion in a criminal case denied by the trial judge would be cause for appeal. As a matter of preserving the limited resources of the court

system, it is imperative that this Court disfavor interlocutory appeals. *See generally Tulalip Tribes of Washington v. Seven Arrow, L.L.C.*, 4 NICS App. 183, 184 (Tulalip Tribal Court of Appeals 1997); *Wilson*, *supra*, at ¶ 11. While we do not today decide the full meaning of Rule 5.205(C), we do hold that denials of simple pre-trial motions to dismiss are not grounds for interlocutory appeal.

It bears noting that Appellant may raise the issues he raised in his three motions to dismiss on a later appeal if he is convicted.

IT IS SO ORDERED.

December 2006

Justice Loretta Beccaria	Date
Justice Matthew L.M. Fletcher	Date
Justice Kathryn Kraus	Date