

2016-CI-APL- 002

ORDER DISMISSING APPEAL

**ROBERT KELLY, Chairman of the
Nooksack Tribal Council, et al.,**

Defendants/Appellants.

The Nooksack Indian Tribe filed a Notice of Appeal dated March 24, 2016. The Tribe seeks review of the trial court's March 21, 2016 order. An Amended Notice of Appeal was filed March 30, 2016, which included an address for Respondent, Michelle Roberts, under the identification of the parties and a footnote stating that she has not filed a Notice of Appearance nor provided Appellants with a record address but that the Appellants believe that the address listed for her is correct based upon an inquiry with the Nooksack Enrollment Department.

An aggrieved party who claims, in good faith, that the Nooksack Tribal Court made a mistake in determining a question of fact, a question of law, or a mistake with regard to an issue within the Court's discretion that affected the outcome of the case may seek review in the Court of Appeals of any final order, commitment, or a judgment of the Nooksack Tribal Court.

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Under NTC 80.04.030,

A notice of appeal or notice for permission to appeal shall be entitled as such and shall:

- (a) Name the parties and their spokespersons, if any;
- (b) State the case number, date and nature of the decision appealed from;
- (c) Specify those parts of the decision which the party wants reviewed; and
- (d) List each error of fact, law or procedure which the appellant claims was committed by the Nooksack Tribal Court and its effect on the outcome of the case.

The Notice of Appeal and Amended Notice Appeal assert the court erred in applying the doctrine of Judicial Notice, that the order will require the Appellants to provide documents that are outside the scope of the initial complaint, and that part of the order that requires the Tribal Council to provide Respondents with Resolution #16-28 violates the doctrine of sovereign immunity and Tribal policy.

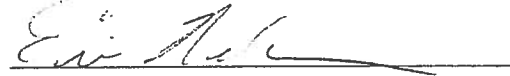
The court has not entered any order resolving the merits of the case. The order addresses issues that do not bear on the merits of the case. Thus, the order appealed from is not a final order or judgment that effected the outcome of the case. Moreover, neither Notice of Appeal asserts any "effect on the outcome of the case" based on the errors of fact, law or procedure it lists as is required by NTC 80.04.030(d). We assume that is because the claimed errors do not have any effect or any effect is unknown until the case is tried and decided, and this is an additional reason why the order is not a final order under NTC 80.03.010. Because the order appealed from is not a final order², the procedural mechanism for appellate review of the order is an interlocutory appeal. NTC 80.03.020. Appellants have not sought permission to file an interlocutory appeal and have not asserted review meets the criteria for an interlocutory appeal.³

The order that Appellants asks us to review is not a final order, commitment or a judgment of the Nooksack Tribal Court. Therefore, the appeal is dismissed. NTC 80.09.010.⁴

It is so ordered, this 26th Day of April, 2016, for the panel,

Douglas Nash, Associate Judge

Gregory Silverman, Associate Judge



Eric Nielsen, Chief Judge

² This order should not be construed as an endorsement of the trial court's order. We make no finding on whether the trial court erred in granting the Respondent's motion.

³ This Court will not review a trial court's order that is not final where a party does not seek permission and convinces us an interlocutory appeal is appropriate under the relevant factors in NTC 80.03.020 that we are required to use to guide our discretion.

⁴ Appellants have requested this Court a stay the order. Our decision renders that request moot.