
Brian Libby,
Appellant

v.

APP 00-01

People of the
Sault Ste. Marie Tribe
of Chippewa Indians,
Respondent

Sault Ste. Marie Tribe of Chippewa Indians
Court of Appeals

Argued August 21, 2000
Decided and Filed November 28, 2000

Appellant appeals a conviction from the Sault Ste. Marie Chippewa Tribal Court for child abuse alleging that he was deprived of his right to counsel. The Court of Appeals affirmed the trial court.

Brian Libby, represented himself.

James Bias, represented the Sault Ste. Marie Tribe of Chippewa Indians.

Before: CASTAGNE, GABLE, and HARPER, Appellate Judges.

CASTAGNE, C., delivered the opinion of the court, in which GABLE, J. joined.
HARPER, D., dissented in a separate opinion.

OPINION

CASTAGNE, Appellate Judge.

This Court on motion for reconsideration is asked to decide whether Appellant was denied his right to indigent counsel under the United States Constitution and/or the Sault Ste. Marie Tribe of Chippewa Indians Constitution.

On May 9, 2000 this Court held oral arguments to determine whether Defendant was denied his right to counsel. Without benefit of the Respondent's brief, this Court held that Appellant was denied his right to counsel under Article 8 of the Sault Ste. Marie Tribe of Chippewa Indians Constitution. On motion for reconsideration, briefs from both parties were reviewed and this Court held oral arguments on August 21, 2000 to determine

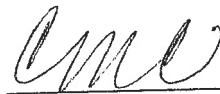
whether Appellant's right to counsel was violated.

This Court on motion for reconsideration, reverses its prior ruling and holds that Appellant's right to counsel was not violated and Appellant's conviction stands. This ruling is predicated on the Court's reliance on the Indian Civil Rights Act which specifically states:

Sec. 1302 Constitutional Rights

(6) . . . and at his own expense to have the assistance of counsel for his defense. 25 U.S.C.A. 1302

Therefore, this Court's previous remand to the trial court is rescinded and Appellant's conviction stands.

 12-11-2000

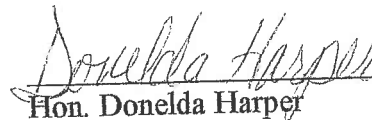
Hon. Catherine Castagne

HARPER, D. dissenting.

The Sault Ste. Marie Tribe of Chippewa Indians Constitution clearly spells out Tribal members right to counsel in Article 8 where it states:

No member shall be denied any of the rights or guarantees enjoyed by citizens under the Constitution of the United States, including but not limited to freedom of religion and conscience, freedom of speech, the right to orderly redress or grievances, and due process of law.

Therefore, Appellant's right to counsel was denied and I would uphold the Court's previous ruling.

 12-13-00

Hon. Donelda Harper