

1 MANDAN, HIDATSA & ARIKARA NATION

SUPREME COURT

2
3 FORT BERTHOLD RESERVATION

NEW TOWN, ND 58763

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6 Carol Good Bear, Terrance Fredericks, Todd)
7 Hall, Patti Jo Hall, Kelly Hosie, and Edward S.)
8 "Tyke" Danks.)

9 Appellees,)

ORDER DENYING
MOTION
FOR RECONSIDERATION
AP-2024-002
CV-2-23-0469

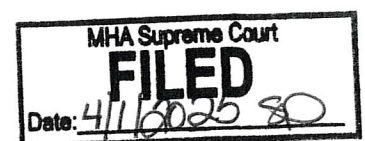
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14 vs.)
15)

16 Mark N. Fox, as Three Affiliated Tribes')
17 Tribal Chairman, Cory Spotted Bear, as)
18 Three Affiliated Tribes' Vice-Chairman, Fred)
19 Fox, as three Affiliated Tribes' Executive)
20 Secretary, Mervin Packineau, as Three)
21 Affiliated Tribes' Treasurer, Robert Whie, as)
22 Three Affiliated Tribes' Councilman, Sherry)
23 Turner-Lone Fight, AS Three Affiliated Tribes')
24 Councilwoman, Monica Mayer, as Three)
25 Affiliated Tribes' Councilwoman, and The)
26 Three Affiliated Tribes' Tribal Business)
27 Council,)

28 Appellants.)
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30 This case comes before this Court based upon Appellant's Motion for
31 Reconsideration filed on February 6, 2025. This Court issued an Opinion and Order
32 dated January 17, 2025 denying the appeal filed February 6, 2025 and holding that a
33 May 9, 2024 Order issued by the Fort Berthold District Court (FBDC) was
34 interlocutory and not an order based upon a final adjudication. This Court noted
35 that the FBDC must first determine whether or not the surviving allegations set
36 forth in the May 9, 2024, Order on a Motion To Dismiss, and underlying the
37 sovereign immunity defense had merit. Determining the merit of such allegations
38 required the FBDC to further develop the lower court record through evidence and
39 testimony. That had not occurred when this matter was first appealed to this Court.
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41 This Court hereby denies the Motion for Reconsideration and writes to provide
42 guidance on future appeals grounded in the limited, qualified waiver of tribal



sovereign immunity set forth in the MHA Constitution at Article VI, Section 3(b) which states:

The people of the Three Affiliated Tribes, in order to achieve a responsible and wise administration of this sovereignty delegated by this Constitution to the Tribal Business Council, hereby specifically grants to the Tribal Court the authority to enforce the provisions of the Indian Civil Rights Act, 25 U.S.C. 1301 et. seq., including the award of injunctive relief only against the Tribal Business Council if it is determined through an adjudication that the Tribal Business Council in a specific instance violated the Act.

This Court's denial of the Appeal on January 17, 2025, as interlocutory stands for the following reasons:

1. The limited, qualified waiver of tribal sovereign immunity set forth in the MHA Constitution at Article VI, Section 3(b) allows for suit against the MHA Tribal Business Council but is narrowly tailored to provide a waiver of sovereign immunity only for Indian Civil Rights Act violations and only allows the remedy of injunctive relief.
2. The provision also requires determination, through an adjudication, finding that the Tribal Business Council violated the Indian Civil Rights Act and notes that the only relief is injunctive relief.

The Appeal of the May 9, 2024, Order of the FBDC, is clearly interlocutory and is missing the FBDC's adjudication on whether the Tribal Business Council, in a specific instance violated the Indian Civil Rights Act. The May 9, 2024, Order of the FBDC also failed to find the type of injunctive relief to be awarded, if any. An adjudication is not typically provided in an Order related to a Motion to Dismiss because a Motion to Dismiss requires the FBDC to view the facts in a light most favorable to the opposing party as opposed to a fact-finding focus.

Generally, the MHA Supreme Court is not a fact-finding court. The primary function of this Court is to review the record and evidence presented in the FBDC. This Court typically reviews the lower court findings for errors and ensures that the law was applied correctly.

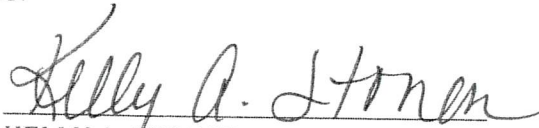
The Appellant's argue that an order denying a motion to dismiss based on sovereign immunity is immediately appealable as an exception to the general rule requiring an appeal from a final judgement. That may be true in many cases, but in this case whether the MHA Constitution at Article VI, Section 3(b) which is a limited, qualified waiver of sovereign immunity applies makes the issue in this case distinct. This

83 waiver specifically requires an adjudication in the FBDC on the issue of whether the
84 MHA Tribal Business Council violated the Indian Civil Rights Act in a specific
85 instance and whether the relief awarded by the FBDC was injunctive relief. If the
86 FBDC finds no Indian Civil Rights violation, the limited, qualified waiver of sovereign
87 immunity does not apply. That had not occurred as of the date the appeal was filed.
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89 The Motion for Reconsideration is hereby Denied.
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92 It is so Ordered this 31st day of March, 2025.
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95 (SEAL)
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KELLY A. STONER
JUSTICE
MHA NATION SUPREME COURT

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MICHELLE RIVARD PARKS
CHIEF JUSTICE
MHA NATION SUPREME COURT

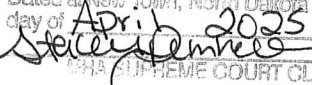
JAMES MAXSON
JUSTICE
MHA NATION SUPREME COURT

JOHN MAHONEY (recused)
JUSTICE
MHA NATION SUPREME COURT

OFFICE OF MHA SUPREME COURT

I hereby certify that I have compared the
within instrument with the original Case No. AP2024-0002
Now on file in my office, and that it is a true
copy of the same, and the above is true copy of the filing
thereon. CI-2023-04169

Dated at New Town, North Dakota this 2nd
day of April, 2025


MHA SUPREME COURT CLERK

MANDAN, HIDATSA, & ARIKARA NATION
FORT BERTHOLD RESERVATION

SUPREME COURT
NEW TOWN, NORTH DAKOTA

Carol Good Bear Terrance
Fredericks, Todd Hall, Patti
Jo hall, Kelly Hosie, and
Edward S. "Tyke" Danks
APPELLEE,

CERTIFICATE OF MAILING

AP2024-002
CV-2023-0469

Vs.

Mark N. Fox, as Three Affiliate
Tribes' Tribal Chairman, Cory
Spotted Bear, as Three Affiliate
Tribes' Vice-Chairman, Fred
Fox, as Three Affiliate Tribes'
Executive Secretary, Mervin
Packineau, as Three Affiliated
Tribes' Treasurer, Robert White
as Three Affiliated Tribes'
Councilman, Sherry Turner-
Lone Fight, as Three Affiliated Tribes'
Councilwoman, Monica Mayer,
as Three Affiliated Tribes'
Councilwoman, and The Three
Affiliated Tribes' Tribal
Business Council,
APPELLANT,

STATE OF NORTH DAKOTA)
)ss
COUNTY OF MOUNTRAIL)

COMES NOW, Stacey Drumheller, MHA Supreme Court Clerk and states the following:

Order Denying Motion for Reconsideration
Certificate of Mailing



Was served by me on April 2, 2025 to the following individuals by sending true and correct copies of such documents in the U.S. Mail postage prepaid, in New Town, North Dakota.

Timothy Q Purdon

**1207 W. Divide Ave Ste 200
Bismarck ND, 58501**

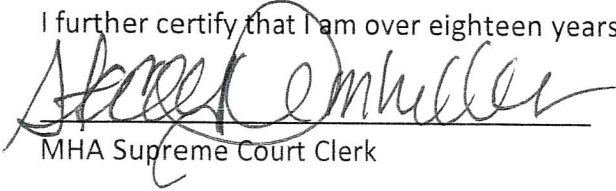
Timothy W. Billion

**150 E. 4th Place Ste 704
Sioux Falls SD, 57104**

Jack E. Zuger

**30 E. Seventh St
2800 Wells Fargo Pl
St. Paul MN, 55101**

I further certify that I am over eighteen years of age and not a party to this action.


MHA Supreme Court Clerk