

**IN THE SUPREME COURT
FOR THE NOTTAWASEPPI HURON BAND OF THE POTAWATOMI
AT FULTON, MICHIGAN**

NATHANIEL WESLEY SPURR,)
) Petitioner/Appellee
)
vs.)
)
JOY SPURR, (a/k/a JOY JUDGE))
) Respondent/Appellant

Appeal No.: 17-287-APP
Trial No.: 17-046-PPO-ND
ORDER DENYING STAY

FILED

JUL 28 2017

NHBPT TRIBAL COURT

Before: Smith, Chief Justice; Bird and Fletcher, Justices

Tribal Court Judge:
Attorney for Appellant:

Honorable Melissa L. Pope
Stephen J. Spurr, *esq.*, 1114 Beaconsfield Ave.,
Grosse Pointe Park, MI 48230-1345
Angela Sherigan, *esq.*, 56804 Mound Road,
Shelby Township, MI 48316

Attorney for Appellee:

Pending before the Court is a *de facto* emergency motion to stay a permanent protection order (“PPO”) handed down by the Honorable Melissa L. Pope, Chief Judge of the Nottawaseppi Huron Band of the Potawatomi Tribal Court, on July 21, 2017. The Supreme Court met by conference call on July 27, 2017 and determined, pursuant to Chapter 9, § 13 of the NHBPI Rules of Court, that oral arguments are not necessary to resolve this *de facto* motion. For the following reasons, the *de facto* motion for an emergency stay of the Tribal Court’s ruling is denied.

PROCEDURAL HISTORY

On February 3, 2017, the Tribal Court issued a temporary *ex parte* PPO against Appellant. On February 17, 2017, after conducting a hearing where both Appellant and Appellee¹ testified, the PPO was extended by the Tribal Court for one (1) year. On March 6, 2017, Appellant’s husband, Mr. Stephen Spurr, *esq.*, filed a notice of

¹ Appellant, Joy Spurr is the step-mother of Appellee, Nathaniel Wesley Spurr. Since both parties share the same last name, they shall be referred to as “Appellant” and “Appellee” in this order.

appearance to represent his wife, Appellant, against his son, Appellee. The Tribal Court noted in a footnote of its July 21, 2017 opinion that after retaining counsel, Appellant still regularly appeared to be acting as if she was *pro se* in this litigation.

The gist of the *de facto* motion for an emergency stay is that a Spurr family reunion is set to occur from July 28-30, 2017 in Dover, New Hampshire. Appellant, a non-member and non-resident of the NHBPI tribe, sought to have the February, 2017 PPO rescinded so that Appellant could attend the family reunion of her husband's (and Appellee's) family. On Friday, July 21, 2017, the Tribal Court denied this request. Much aggrieved, on Saturday, July 22, 2017, Appellant, through her attorney, fax-filed a brief on why the PPO should be immediately rescinded, modified, or stayed, by this Honorable Court. No motion, pursuant to Chapter 9, § 14 of the NHBPI Rules of Court, was filed, but this Court, in its discretion, deems the fax-filed brief to be a motion, even though the fee to pursue said motion has not yet been paid.² Due to the timing of the family reunion, which Appellee anticipates attending, the *de facto* motion is being addressed in an expedited fashion.

ISSUE

Does Appellant show good cause for this Court to immediately stay or overturn the July 21, 2017 PPO ruling of the Tribal Court so that Appellant may attend a family reunion of the victim's family when Appellant is not a blood relative of said family?

² Appellant is hereby charged the \$30.00 required for filing motions with this Honorable Court. Said fee shall be paid on or before August 15, 2017 or this appeal may be subject to dismissal for failure to prosecute and comply with the rules of court.

DISCUSSION

Missing a family reunion which is not one's own blood family is not such a grave or extenuating circumstance that Appellant should be allowed to bypass or circumvent the traditional appellate review process. The Tribal Court made detailed and extensive findings of fact and conclusions of law. The Appellant and Appellee will be allowed to address the Tribal Court's decision in an orderly and structured manner that offers Due Process of Law to all litigants as promised in 25 U.S.C. § 1302(a)(8). Both Appellant and Appellee, through their respective attorneys,³ will be allowed to present their positions and arguments to this Court in due course, but not in an impromptu fashion. The motion to stay is denied.

WHEREFORE, PREMISES CONSIDERED;

IT IS ORDERED that the *de facto* motion for stay is **DENIED**. The costs of bringing this motion are hereby assessed against Appellant, Joy Spurr and shall be paid to the Clerk of this Court on or before August 15, 2017 or this appeal will be dismissed with prejudice.

IT IS FURTHER ORDERED that the Clerk of this Court shall not file any further pleadings in this matter that are not personally signed by an attorney of record if the party attempting to file a pleading has legal counsel of record.

³ A litigant that is represented by counsel is not at liberty to file *pro se* pleadings, nor make personal arguments to the court, apart from their attorney. U.S. v. Whitesel, 543 F.2d 1176, 1180 (6th Cir. 1976); Burke v. Burke, 425 N.W.2d 550, 552 (Mich. App. 1998); and In Re: LCM, 2005 WL 6234618 (Pawnee 1/24/2005), at page 11. While these cases are not binding on this Court due to the Tribe's federally recognized sovereignty, the Court finds the logic discussed in these opinions persuasive. See, Santa Clara Pueblo v. Martinez, 436 U.S. 49, 55-56 (1978). An attorney or record shall personally sign all pleadings pursuant to NHBPI Rules of Court Chapter 5, § 10(C)(1). Accord, Mich. R. Ct. 2.114(B).

IT IS FURTHER ORDERED that the Appellant's brief in this case shall be filed by September 21, 2017 and the Appellee's brief filed by October 21, 2017. Any reply brief shall be filed by November 3, 2017. See, Chapter 9, § 12 of the NHBPI Rules of Court. Upon all briefs being filed, the Court shall set the place and time for oral arguments. Briefing rules shall be strictly followed. See, Chapter 9, § 12 of the NHBPI Rules of Court.

Entered this 28th day of July, 2017.

FOR THE COURT:



Gregory D. Smith,
Chief Justice

Concur:

Matthew L.M. Fletcher

Matthew L.M. Fletcher, Justice *with permission HLC*

See Attached for Signature

Holly T. Bird, Justice

HLC

Cc: Attorneys for all parties

IT IS FURTHER ORDERED that the Appellant's brief in this case shall be filed by September 21, 2017 and the Appellee's brief filed by October 21, 2017. Any reply brief shall be filed by November 3, 2017. See, Chapter 9, § 12 of the NHBPI Rules of Court. Upon all briefs being filed, the Court shall set the place and time for oral arguments. Briefing rules shall be strictly followed. See, Chapter 9, § 12 of the NHBPI Rules of Court.

Entered this 28th day of July, 2017.

FOR THE COURT:

Gregory D. Smith,
Chief Justice

Concur:

Matthew L.M. Fletcher, Justice



Holly T. Bird, Justice

Cc: Attorneys for all parties