

IN THE COURT OF APPEALS
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD INDIAN RESERVATION

IN THE MATTER OF THE ESTATE OF)	CAUSE NO. AP-13-193-P #3
)	
CALVIN MATT,)	ORDER DISMISSING THIRD
)	APPEAL
Deceased.)	

Genevieve Huitt appeals, for the third time, the above-captioned matter to which she is not a party. The Appellate Court has been presented this case on two other occasions, dismissing Ms Huitt’s appeal each time.

This Court dismissed Huitt’s appeal on procedural grounds on June 10, 2015 for failing to file a timely Notice of Appeal (hereinafter Dismissal #1). This Court, then sua sponte, issued an Order to Show Cause why the case should not be dismissed, after recognizing that the Court may have miscalculated the days for determining whether or not Huitt’s appeal was timely. In answering the Show Cause inquiry, Ms Huitt rebriefed the issue through her counsel of record. The opposing party, in this matter, was also given a chance to submit her objections to the Court. The Court set the matter for a Show Cause hearing on October 7, 2015. At that hearing, Ms Huitt and her counsel failed to appear. (See Matt Estate: Order Affirming Dismissal, November 16, 2015, hereinafter Dismissal #2). Opposing party’s counsel did appear. This Court found at that time:

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“At the Show Cause Hearing on October 7, 2015, Ms. Matt was represented by Philip J. Grainey, *Esq.* Neither Ms. Huitt nor her counsel were present.¹

During oral arguments, Mr. Grainey made a compelling legal argument that Ms. Huitt was not an actual party to the below action, and that therefore she had no standing to appeal. This Court may fully utilize the arguments of Ms. Matt's counsel when neither Ms. Huitt nor her counsel make an appearance. CSKT Rules of Appellate Procedure, Rule 16(4).

CSKT Code Codified, §1-2-817 states: "The Court of Appeals has exclusive jurisdiction over appeals from an aggrieved party from a judgement or order in the following cases. (1) From a final judgement entered in an action or special proceeding commenced in the Tribal Court. . . ."

"A party is a technical word having a precise meaning. It refers to those by or against whom a legal suit is brought. . . . All others who may be affected by the suit, directly or indirectly, are persons of interest, but not parties." *Golatte v. Matthews*, 394 F.Supp. 1203, 1207 (M.D. Ala. 1975).

We find that Ms. Huitt was not an aggrieved party to the below proceedings, and that therefore this Court does not have jurisdiction to hear this matter.”

¹ Apparently Court of Appeals Administrator Abigail Dupuis received a recorded telephone message from Ms. Huitt's counsel the morning of October 7, 2015, advising Ms. Dupuis that she would be available by telephone to answer the Court's questions. As the CSKT Rules of Appellate Procedure neither contemplate nor authorize telephonic hearings, this recorded message will not be considered an appearance. (FOOTNOTE PER THE NOVEMBER 16, 2015 ORDER)
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Having made such a finding, this Court dismissed Huitt's appeal with prejudice on November 16, 2015(D dismissal #2). We, clearly, found that Ms. Huitt was not a party for the purposes of appeal.

On February 25, 2016, Ms. Huitt, through her counsel filed another appeal. She appeals the Honorable Judge Bradley Pluff's third determination that Ms Huitt has no standing to interject herself into settlement of Calvin Matt's estate.

Specifically, the lower court found:

On January 27th, 2016, Gen Huitt, by and through her attorney, Andrea Olson, submitted a Request for Oral Argument regarding her position as heir to the estate of Calvin Matt. On February 3rd, 2016, Felicia Mapes, A.K.A. Felicia Matt, by and through her attorney, Philip J. Grainey, filed a Response to Request for Oral Argument. After careful review of the file in this case, the Court finds that there is no need for oral arguments in this case, as Ms. Huitt's previous attempts to interject herself into this estate have already been denied by this court on two other occasions. (Order, February 15, 2016).

This Court determined that Ms. Huitt was not a party who can appeal in our Order of November 16, 2015. Ms. Huitt ignores that finding and continues to attempt to intervene in this estate. The lower court, again, rejects that attempt.

This Court must, also, reject that attempt. This Court has already determined that we have no jurisdiction to hear Ms. Huitt's appeals because she is not a party under the legal definition we found in Dismissal #2.

ORDER

IT IS HEREBY ORDERED that this Appeal is DISMISSED.

Appellant Huitt is **ORDERED to pay** the costs incurred by Ms. Matt to defend this appeal.

SO ORDERED THIS 31st day of July, 2017.



Eldena Bear Dont Walk, LLM

ELDENA BEAR DONT WALK,LLM

Chief Justice

Thor Hoyte

THOR HOYTE

Associate Attorney Justice

Robert McDonald

ROBERT MCDONALD

Associate Justice

Cc: Andrea Olsen, Attorney for Appellant
Philip Grainey, Attorney for Appellee

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Certificate of Mailing

I, Abigail Dupuis, Appellate Court Administrator, do hereby certify that I mailed a true and correct copy of the Order Dismissing Third Appeal to the persons first named therein at the addresses shown below by depositing same in the U.S. Mail, postage prepaid at Pablo, Montana, this 1st day of August, 2017.

**Philip Graine, Esq
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Clerk of the Tribal Court
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Pablo, MT 59855**



**Abigail Dupuis
Appellate Court Administrator**