

**IN THE APPELLATE COURT
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION, PABLO, MONTANA**

<p>CONFEDERATED SALISH AND KOOTENAI TRIBES,</p> <p style="text-align:center">Plaintiff/Appellant,</p> <p>vs.</p> <p>TASHINA RUNNING CRANE VALENZUELA,</p> <p style="text-align:center">Defendant/Appellee.</p>	<p>Appeals Cause No. AP-20-0229-CR</p> <p style="text-align:center">OPINION</p>
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Appeal from the Tribal Court of the Confederated Salish and Kootenai Tribes,
Honorable Bradley A. Pluff, presiding.

Appearances:

Thomas Myers, Tribal Prosecutors Office, Confederated Salish & Kootenai Tribes,
Pablo, MT, for Plaintiff/Appellant

Thane Johnson, Johnson, Berg & Saxy PPLP, Kalispell, MT, for
Defendant/Appellee

Before: BELCOURT, TENENBAUM, AND McDONALD

Opinion by Chief Justice Belcourt

Before this Court is an appeal by the Confederated Salish and Kootenai
Tribes of the Tribal Court's order of October 5, 2021 granting Defendant/Appellee
Tashina Running Crane Valenzuela's motion to dismiss for lack of a speedy trial.

OPINION ON PLAINTIFF/APPELLANT'S APPEAL

Because any delays in the processing of Defendant Valenzuela's criminal case were the direct result of the Tribes' legitimate response to the COVID-19 public health crisis, we reverse.

Background and Discussion

A more complete summary of the factual background may be found in the trial court's opinion below. Briefly, in early spring of 2020, Defendant Valenzuela was charged with aggravated DUI, driving while suspended or revoked, and operating without proof of liability insurance.

Approximately two (2) weeks after Defendant's initial appearance on March 2, 2020 and two (2) weeks before the date of her scheduled arraignment of April 6, 2020, the Confederated Salish and Kootenai Tribes declared a State of Emergency within the exterior boundaries of the Flathead Indian Reservation in response to the global COVID-19 pandemic¹. This emergency declaration authorized and set in motion a variety of essential measures to protect the public from the deadly virus outbreak, including government-wide shutdowns, shelter-in-place orders and,

¹ The CSKT Tribal Council, by Tribal Resolution 20-086, declared a State of Emergency on March 17, 2020. The United States, by Presidential Proclamation, declared a national emergency concerning the COVID-19 pandemic on March 13, 2020, and the State of Montana, by executive order, declared a state of emergency on March 12, 2020. Both Missoula and Lake Counties likewise made official emergency declarations within this time frame.

particularly relevant here, the CSKT Tribal Court closure and suspension of jury trials.

It is beyond any credible dispute that the CSKT, as a sovereign government with the uncontrovertible power and exclusive jurisdiction to regulate the internal affairs of the Tribes, was fully possessed of the right to make the emergency declaration and impose any and all measures necessary to safeguard community members. This is particularly true given that the global COVID-19 pandemic disproportionately affected Indian Tribes and Tribal members, including those in Montana.

The Tribes' legitimate and necessary emergency response to the uncertain and evolving crisis included close monitoring and making adjustments, as needed, and over time ultimately led to the CSKT Tribal Court's phased plan to resume normal operations, which occurred more or less on schedule, with the first in-person jury trial occurring in early October, 2021.

The CKST's sovereign status and its right to take action, including declaring a state of emergency and prohibiting gatherings of groups of people in confined indoor spaces such as jury trials, is beyond dispute. As a result, Defendant was not unduly burdened in the legal sense by any pandemic-related delays of her criminal trial. The unprecedented public health crisis and urgent community health concerns

were paramount. Defendant Valenzuela was therefore not denied the right to a speedy trial.

Conclusion

Based on our careful consideration of the record and the briefing filed herein², we rule that Defendant Valenzuela was not denied a speedy trial. The CSKT's inherent powers of Tribal self government, the unprecedented global pandemic, and the overriding interest of protecting the health and safety of community members within the Flathead Indian Reservation satisfy us that justice was served despite any delays in the scheduling of the criminal trial of the Defendant herein.

IT IS THE ORDER OF THIS COURT that the Tribal Court's decision is REVERSED and this matter is REMANDED.

Ordered this 21st day of June, 2023.



Daniel Belcourt

Honorable Daniel D. Belcourt
Chief Justice

² On May 25, 2022, Defendant/Appellee Valenzuela notified the Court that she was relying on the record rather than filing a brief on appeal and neither party requested oral argument.

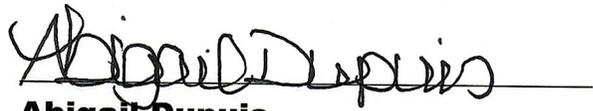
Certificate of Mailing

I, Abigail Dupuis, Appellate Court Administrator, do hereby certify that I mailed a true and correct copy of the Opinion to the persons first named therein at the addresses shown below by depositing same in the U.S. Mail, postage prepaid at Pablo, MT, or via email this 21st day of June, 2023.

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**Abigail Dupuis
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