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

NATHANIEL WESLEY SPURR,	)	**Appeal No.: 17-287-AAP**
Petitioner/Appellee	)	**Trial No.: 17-046-PPO-ND**
	)	**Chief Judge Pope**
vs.	)	
	)	
JOY SPURR, (a/k/a JOY JUDGE)	)	
Respondent/Appellant	)	

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

ADMINISRATIVE ORDER

This matter came before the NHBPI Supreme Court upon Appellant's motion to bypass the Tribal Court and to *sua sponte* supplement the pending appeal involving these parties with a Show Cause hearing that has not yet occurred. For the following reasons, this motion is **DENIED**.

RELEVENT FACTS

There is an appeal pending before the NHBPI Supreme Court relating to a one (1) year Personal Protection Order, ("PPO"), entered by the Honorable Melissa L. Pope, Chief Judge of the NHBPI Tribal Court on February 17, 2017. The pending appeal has been delayed several times due to requests for extensions and resets filed or made by Appellant. This appeal is set for oral arguments on Monday, January 15, 2018, at 10:00 a.m., prevailing time in Fulton, Michigan.

On January 2, 2018, Appellant moved this Honorable Court to allow Appellant to append a *de facto* restraining order request to the pending appeal in a fashion closely associated to the contract theory of anticipatory repudiation. Basically the Appellant's argument is as follows:

A) On October 2, 2017, Appellee sought a Show Cause Order from the Tribal Court to determine if Appellant had violated the February 17, 2017 P.P.O. This show cause hearing was set to be heard on December 13, 2017.

B) On December 12, 2017, Appellant informed the Tribal Court, quoting the current motion before this Honorable Court, "The Respondent therefore respectfully declines to attend the Show Cause Hearing scheduled in the court on Wednesday, December 13, 2017 at 1:00." Appellant did not appear for court on December 13, 2017, but Appellant's counsel did appear.

C) In response to Appellant ignoring the show cause order of the Tribal Court, Chief Judge Pope set a second show cause hearing for January 31, 2018. This second order was entered on December 21, 2017.

D) Appellant claims this December 21, 2017 show cause order, which set a January 31, 2018 hearing, arrived at Appellant's home on December 28, 2017. Two (2) days later, Appellant filed the pending motion to append the above-cited scenario to the appeal set for oral argument on January 15, 2018.

The basis for Appellant's motion is that Appellant should be allowed to bypass a trial on the merits of the show cause so long as Appellant ***politely*** tells the Tribal Court "I will not respect your orders." Appellant is wrong.

DISCUSSION

There is an old proverb from India which says *"The only way to eat an elephant is one bite at a time."* While there appears to be a multitude of disputes between these parties, this Honorable Court will focus solely on the case actually pending before this Court. Once that "bite" of the litigation is digested, the next bite may be taken.

An appellate court generally acts as an error correction court reviewing records developed and fleshed out at the trial court level. As insightfully noted Judge Jed S. Rakoff, a federal court district judge from New York:

> No principle of federal jurisprudence has proved more efficacious than the "final judgment rule," by which a district court's interim rulings may not normally be appealed until the case is over and final judgment rendered.

> Naturally, any party that loses an important interim ruling wants to appeal immediately, believing that a parade of horribles will follow if the district court's supposed error is not immediately corrected. But, as many state jurisdictions have learned to their detriment, the result of permitting interim appeals is vexatious and duplicative litigation, prolonged uncertainty, and endless delay. Since, moreover, interim appeals are typically taken before a full record is developed, the appellate courts that permit them must rule without the broader perspective that comes from knowing the while story. Whether on the ballfield or in court, "it ain't over till it's over" is both shrewd observation and sound advise.

Picard v. Katz, 466 B.R. 208, 208-209 (S.D.N.Y. 2012), footnotes omitted.

This Court cannot, and will not, allow a deliberate by-pass of the trial court. A trial court must be allowed to try cases because the trial court is in a unique position to see witnesses and note demeanor and credibility. Coin v. Mowa, Hopi Appeal No. AP-005-95 (Hopi Tribal Ct. App. 3/25/1997). This Court will only allow a litigant to by-pass the normal appellate process by direct petition except in extreme circumstances. *Accord*, Ashworth v. Nicholson, Appeal No. 06-1525 (Vet. App. 9/11/2006). The Appellant's motion does not present an extreme circumstance justifying a by-passing of the Tribal Courts' rightful place in the NHBPI judicial system. If Appellant is still much aggrieved ***after*** the Tribal Court rules on Appellant's case, Appellant is welcome to appeal, but Appellant must wait until the Tribal Court actually rules on Appellant's case before the appeal process begins.

The motion to append new issues to the pre-existing appeal set for oral arguments on January 15, 2018, is ***DENIED***.

Entered this 8th day of January, 2018.

Chief Justice Gregory D. Smith
Gregory D. Smith, Chief Justice With permission HLC

Justice Holly T. Bird
Holly T. Bird, Justice With permission HLC

Justice Matthew L.M. Fletcher
Matthew L.M. Fletcher, Justice With permission HLC

Cc: Attorneys for all parties