

SAINT REGIS MOHAWK TRIBAL APPELLATE COURT

In re Estate of Allan J. Gorrow.

DECISION AND ORDER

Case No. 20-APP-00004

**[Consolidated for all purposes with
20-APP-00003]**

Opinion by: Barnes, R., *Associate Appellate Judge*

Decision

On May 22, 2020, Appellant Lorrie Wells noticed an appeal of an order from the SRMT Tribal Court issuing letters of administration to Barbara Montour, CPA. Ms. Wells appealed the order on behalf of herself and Jonathan Garrow. Six days later, Clair Montroy III filed a notice of appeal of the same order on behalf of his clients Jonathan Garrow and Lorrie Wells (separately from her individual appeal).

As indicated in the prior appellate decision of this case, an order that is not a “final judgment” of the tribal court cannot be appealed, subject to certain exceptions. *See In re Estate of Allan Gorrow*, 19-APP-00004. This appeal is not one of them. The parties can appeal any issues they may contend are wrongly decided once a final decision has been issued by the Tribal Court.

The refusal to hear this appeal now “emphasizes the deference that appellate courts owe to the trial judge as the individual initially called upon to decide the many questions of law and fact that occur in the course of a trial.” *Firestone Tire and Rubber Co. v. Risjord*, 449 U.S. 368, 374 (1981). This also avoids piecemeal appeals that “undermine the independence of the [trial court] judge, as well as the special role that individual plays in [the] judicial system.” *Id.* “The rule is [also] in accordance with the sensible policy of ‘avoiding the obstruction to just claims that would come from permitting the harassment and cost of a succession of separate appeals from the various rulings to which a litigation may give rise, from its initiation to entry of judgment.’” *Id.*

The Court of Appeals does not exist as a means to “bar [the Tribal Court] Judge from issuing orders” that the parties disagree with. (11/15/2020 L. Wells Brief at p.1.) The Court of Appeals does not exist to circumvent the authority of the Tribal Court to rule on issues of fact and law as the first adjudicator. To the extent parties believe the Tribal Court incorrectly applied fact and law in issuing an order, the parties are afforded that right to appeal that order at the appropriate time. Contrary to Ms. Wells’ argument that the parties “are in a true Catch-22 situation,” the remedy for the parties to challenge this order of the Tribal Court remains available once a final decision is rendered. Appealing orders that the Tribal Court issues that are known to not be either *final decisions*, permissible interlocutory appeals (as indicated in this Court’s Administrative

Order, dated July 17, 2019 and 28 U.S.C. § 1292), or collateral orders, as referenced in this Court's previously issued decision in this matter, obstructs this case from progressing without further delay. (emphasis added).

This Court dismisses Ms. Wells' appeal and the appeal consolidated here for these reasons.

Order

It is hereby:

ORDERED that, Lorrie Wells and Jonathan Garrow's appeals 20-APP-0004 and 20-APP-00003 are dismissed without prejudice.

Dated: January 4, 2021.



Patricia Lenzi, Chief Appellate Judge
SRMT Court of Appeals



Kyle Montour, Associate Appellate Judge
SRMT Court of Appeals



Rowennakete Barnes, Associate Appellate Judge
SRMT Court of Appeals