

Trudi TONASKET, Appellant,
vs.
COLVILLE CONFEDERATED TRIBES, Appellee.
Case No. AP07-009, 5 CTCR 11
9 CCAR 44

[Appellant appeared pro se.
Appellee represented by Juliana Repp.
Trial Court Case No. CV-TC-2001-21174.]

Argued December 14, 2007. Decided March 26, 2008.
Before Presiding Justice David Bonga, Justice Dennis Nelson and Justice Earl
McGeoghegan

Bonga, J

After hearing oral arguments and review of the files the Appellate Panel holds
that
Appellant's appeal is **DENIED**.

DISCUSSION

A long standing tenet of Indian law is that in the absence of express legislation by
Congress to the contrary, an Indian tribe has complete authority to determine all
questions of its own membership. It may thus by usage or written law, or by treaty with
the United States or intertribal agreement, determine under what conditions persons
shall be considered members of the Tribe. Felix S. Cohen, *Handbook of Federal Indian Law*,
1942 Edition, P.133.

This Panel finds that by and through the Colville Tribal Constitution and the
Membership Code, only the Colville Business Council is empowered to enact legislation
regarding membership in the Colville Confederated Tribes. Therefore it was wholly
within the purview of the Council to develop specific written rules governing the

procedures to be used in determining membership and associated benefits.

The Council was specific and clear when it enacted Tribal Resolution C-5 in 1939 that has remained effective through the adoption of Constitutional Amendment IX and enactment of the Membership Code. The membership Code, Title 8, Enrollment, Referendums and Elections, Chapter 8-1 Membership, CTC 8-1-1, et seq. outlines criteria and procedures for applying for membership into the Colville Tribes and which also specifies if and when the Colville Business Council has authorized unpaid per capita payments for newly admitted tribal members. CTC 8-1-126 only permits unpaid per capita payments to persons obtaining membership into the tribes by enrollment, not adoption into membership. The Appellate Panel therefore finds that Appellant Trudi Tonasket who was adopted for membership in the Colville Tribes is not legally entitled to prospective pay of past per capita or tribal claims settlement payments.

As to Appellant's appeal for court costs and fees the Appellate Panel finds no harm or mistake as to the Trial judge's decision of the award of \$85.00 for trial court costs. The Appellate Panel also agrees that the Trial Court is not in a position to know the costs or the reasonableness of any fees on appeal. This Court of Appeals finds no merit to the appellant's action to force the Trial court to award additional court costs and fees to cover the expenses of an appeal.

This Panel understands ...the judiciary is to make decisions that...are considered fair and just by the Tribal membership. *Senator v CCT, AP95-002 (1996)*. This Panel also finds that the Appellate Court has a history of supporting the statement found in *Senator* as the Appellate Court has stated "greater latitude in providing the pro se defendant with...in-court advice in light of ...the ramifications of the issue" is fair. *Thomas v CCT, APO90-1425 (1990)*. The Panel finds that the Appellant did not correctly appeal the cost and fees for her blood correction case that we decided in 8 CCAR 109, as she attempted to recover her cost through the trial court on remand. We therefore invite the appellant to file an action with the office of the Clerk for the Court of Appeals for the Confederated Tribes of the Colville Reservation to recover the costs and fees that she may receive under CTC 8-1-249.

IT IS SO ORDERED.