raise Minor in the Catholic faith are REVERSED, and this matter is REMANDED to the Trial Court for Orders consistent with this Opinion.

Tannis DOGSKIN, Appellant,
vs.
CHILDREN & FAMILY SERVICES, et al., Appellees,
AP07-001, 5 CTCR 02
9 CCAR 7

[Wayne Svaren, Spokesperson for Appellant;
Chad Marchand, Spokesperson for Appellee Children & Family Services;
Tom Wolfstone, Spokesperson for Appellee minor;
Tim Liesenfelder. Spokesperson for Appellee father; and
Mike Larsen, Spokesperson for Appellee father.
Trial Court Case Number MI-2006-26024]

Decided February 15, 2007.
Before Chief Justice Anita Dupris, Justice Dennis L. Nelson and Justice Theresa M. Pouley

Dupris, CJ

SUMMARY

This matter came before the Court of Appeals upon a Notice of Appeal filed by Tannis Dogskin on January 23, 2007. Prior to the Initial Hearing set for February 16, 2007, the Court of Appeals Panel met by telephone conference call to discuss the record in the Trial Court case and the Notice of Appeal. A review of the record and Notice of Appeal show us that the Order from which the appeal is taken is from a temporary custody hearing, which does not meet the criteria for a "final" order pursuant to Court Rule 5(b)[9]. Therefore, we find cause to dismiss the Notice of Appeal without further hearing on the matter.

RELEVANT FACTS

It appears a Petition for Minor-In-Need-of-Care (MINOC) was filed herein on

[9] For purposes of filing an appeal with the COA, "final" orders and decisions set out in part (a) above are the written orders or decisions issued by the Trial or Administrative Court that dispose of the substantive issues and not the oral bench orders entered in the matter to be appealed.

July 16, 2006. On September 14, 2006 Colville Tribes' Children and Family Services (CFS) filed a Petition for Temporary Custody. The allegation in this Petition was verbatim with the Petition for MINOC filed in July.

On September 20, 2006, after a hearing on the temporary custody petition, the Court found it did not have subject matter jurisdiction because the children did not reside on the Reservation at the time the petition was filed. Appellant (mother) submitted a proposed order, which was signed by the judge. The proposed order stated the matter was dismissed with prejudice.

CFS objected to the dismissal with prejudice; after a hearing on the issue the judge amended the order to reflect a dismissal without prejudice finding there was no hearing on the merits yet. It is this Order from which the Appellant appeals.

ISSUES

Appellant appeals the dismissal with prejudice because the petition was dismissed for lack of subject matter jurisdiction. Before we would address this issue, we must determine if the criteria for an appealable order is met. Our first question is: does an order which dismisses a temporary custody qualify as a "final" order for purposes of an appeal? We find it does not, based on the reasoning below.

DISCUSSION

Court Rule 5(b) states that final orders for purposes of an appeal are the written orders or decisions issued by the Trial or Administrative Courts that "dispose of the substantive issues." A temporary order is not a "final" order for purposes of an appeal. *See Ortiz v. Pakootas*, 5 CCAR 50 (2001). The Order appealed herein is not from an adjudicatory hearing, which would be final for appeals purposes. CTC §5-2-202. *See, In Re Welfare of R./W./W.*, 1 CCAR 49 (1991).

The question of whether the Trial Court committed a procedural error by not dismissing with prejudice when it lacked subject matter jurisdiction is anticipatory. There is nothing in the file to show that a new petition has been filed. We do not consider anticipatory appeals either. *See, CCT v/ Rickard*, 6 CCAR 15 (2002).

Based on the foregoing, we find this Appeal does not meet the requirement that the order being appealed is "final," and disposes of substantive issues. Therefore it does

not raise an appealable issue. We so hold.

ORDER

Based on the foregoing we hereby DENY the Appeal and REMAND to the Trial Court for the appropriate actions.

The Initial Hearing for February 16, 2007 at 11:00 a.m. in Courthouse II, Agency Campus, Nespelem, Washington will be stricken from the docket.

COLVILLE TRIBAL CREDIT, Appellant,
vs.
Eldon WILSON, Appellee.
Case No. AP05-017, 5 CTCR 03
9 CCAR 09

[Dave Shaw for Appellant.
Eldon Wilson pro se.
Trial Court Case No. CV-CD-2003-23270]

Argued July 21, 2006. Decided April 2, 2007.
Before Justice Gary Bass, Presiding; Justice Dennis Nelson; and Justice Conrad Pascal

SUMMARY

Judgment was entered in favor of Appellant Colville Tribal Credit against Appellee Eldon Wilson on November 3, 2003 for an amount certain. The Trial Court issued an order on September 2, 2005, granting Appellee's post-judgment motion, ordering Appellant to reimburse certain per capita payments. The Trial Court did not establish the burden of proof on the motion, and did not place the burden of proof on Appellee as the moving party. Appellant timely appealed. The Appeals Court bifurcated the appeal, and one of the issues argued was whether the Trial Court had failed to establish the burden of proof on Appellee's post-judgment motion, and had failed to place the burden of proof on Appellee. This opinion is based on that issue alone, and the other issues on appeal are not dealt with in this opinion.

ISSUE