

**IN THE COURT OF APPEALS  
FOR THE STOCKBRIDGE-MUNSEE COMMUNITY BAND  
OF MOHICAN INDIANS  
AT BOWLER, WISCONSIN**

**STOCKBRIDGE-MUNSEE COMMUNITY,  
o/b/o EDUCATION DEPARTMENT,  
Plaintiff/Appellee,**

**vs.**

**KAMILLE DAVIDS,  
Defendant/Appellant**

) **Appeal No.: 2021-AP-0002**

) **Trial No.: 2019-CV-0018**

) **Tribal Chief Judge Travis Miller**

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**ORDER**

FILED

STOCKBRIDGE-MUNSEE TRIBAL COURTS  
STOCKBRIDGE-MUNSEE INDIAN RESERVATION

*Before: Smith, Chief Justice; Bichler and Lochen, Justices*

**Opinion by: Smith, C.J.**

**JUL 26 2021**

**BRITTANY A KROENING  
DEPUTY CLERK OF COURT**

**ORDER DISMISSING APPEAL**

On April 20, 2021, the Stockbridge-Munsee Tribal Court, speaking through the Honorable Chief Judge Travis Miller, entered a “Decision and Order for Money Judgment” in favor of the Plaintiff/Appellee and against Defendant/Appellant. For the following reasons, this appeal must be dismissed.

**RELEVANT FACTS**

A final judgment was entered against Defendant/Appellant, Kamille Davids, (“Appellant”), and in favor of Plaintiff/Appellee, the Stockbridge-Munsee Community, o/b/o Education Department, (“Community”), for reimbursement to the Community for funds paid for college tuition for Appellant. This ruling was entered on April 20, 2021 and constitutes a final judgment for appeal purposes pursuant to TCT.03.03(a)(1). On May 20, 2021, Appellant, through her Lay Advocate,<sup>1</sup> emailed a notice of appeal to the Clerk of this Court on May 20, 2021, at 3:27 p.m., but filing fees did not accompany this lodged filing. The filing fee was eventually, (*but untimely*), paid by Appellant, and the appeal was finally deemed filed with the Court, on June 9, 2021.<sup>2</sup>

The Stockbridge-Munsee Tribal Court, in response to COVID-19 Pandemic, established Civil Procedure Rules for e-filing pleadings effective June 15, 2020. These rules are found on the home webpage of the Stockbridge-Munsee Tribal Court. *S-M e-Filing Rule 6(a)*, in relevant part, states the following:

<sup>1</sup> Appellant’s Lay Advocate is Mr. Steven J. Davids.

<sup>2</sup> The Stockbridge-Munsee Tribal Court webpage has a credit card payment option.

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**If a party fails to pay the applicable filing fee, the matter will be deemed *not filed* and no further action taken.**

BRITTANY A KROENING  
DEPUTY CLERK OF COURT

[Italics in original text]. On June 9, 2021, Appellant paid the filing fee for the lodged notice of appeal. On July 21, 2021, the Community moved to dismiss the Appellant's late-filed notice of appeal.

### ISSUES

- I. Are Lay Advocates held to the same standard of rule compliance as is required for licensed attorneys in the Stockbridge-Munsee Tribal Court System?
- II. Does this Honorable Court have the jurisdictional authority to waive condition-precedent mandates to subject matter jurisdiction?

### DISCUSSION – LAY ADVOCATES

Lay advocates may represent clients in the courts of the Stockbridge-Munsee Tribal Court System pursuant to TCT.01.10(b)(4). A Lay Advocate must be licensed by the Community and approved by the Chief Judge of the Stockbridge-Munsee Tribal Court pursuant to TCT.01.11(c). It does not appear disputed that Appellant's Lay Advocate met the above-cited conditions to act as representative for Appellant.

Tribal courts acknowledge that the same general rules that apply to attorneys practicing in the tribal court system must be followed by Law Advocates. *See e.g., In Re: Sekayumptewa*, 1997 Hopi App. Lexis 2 (Hopi Ct. App. 8/29/1997), at \*26 to \*27; *Lonetree v. Hoist*, 1999 Ho-Chunk Supreme Lexis 15 (Ho-Chunk Sup. Ct. 4/28/1999), at \*14; *Cleland v. Ft. Peck Tribal Court*, 1987 ML 5 (Ft. Peck Ct. App. 1/6/1987), at \*5; and *Oneida Bingo & Casino v. Palm*, 2002 Oneida App. Lexis 49 (Oneida App. Comm. 9/9/2002), at \*2. This Court adopts a rule that Lay Advocates must comply with statutory mandates when representing clients in the Stockbridge-Munsee Tribal Court System, just as licensed attorneys must meet said mandates on jurisdictional matters such as filing deadlines, statutes of limitations, ethics requirements and ordinance adherence.

### DISCUSSION – SUBJECT MATTER JURISDICTION<sup>3</sup>

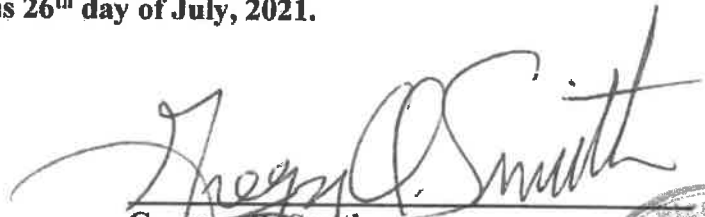
Subject matter jurisdiction is a condition-precedent to a court having the power to consider a case. *See e.g., W.J. Lazynski, Inc. v. Dept. of Indus., Labor & Human Rels.*, 332 N.W.2d 313 (Wis. App. 1983) (table) and *Sieber-Benson v. Conf. Tribes of Coos*, 2008 Coos Confederated Trib. Lexis 2 (Conf. Coos Ct. App. 7/10/2008), at \*2. The timely filing of a notice of appeal is jurisdictional and non-waivable by this Court according to TCT.03.06(a) and

<sup>3</sup> Since rules discussed in this opinion are foundational, the matter is being decided by a three (3) judge panel and is therefore binding precedent for future cases under TCT.03.04(c)(1).

TCT.03.04(a)(1).<sup>4</sup> Pursuant to Rule 6(a) of the *S-M e-Filing Rule*, Appellant's notice of appeal was not timely filed because the filing fee was not timely paid. Therefore, this Court is without subject matter jurisdiction to consider this appeal because all conditions-precendent to the appeal being timely filed were not met by Appellant and the Tribal Court did not allow the matter to proceed *in forma pauperis*. Therefore, this appeal is **DISMISSED**.

**IT IS ORDERED** that the above-cited appeal is dismissed with prejudice because this Honorable Court lacks subject matter jurisdiction to hear said appeal.

Entered this 26<sup>th</sup> day of July, 2021.

  
Gregory D. Smith  
Chief Justice



*Bichler & Lochen, Justices, concur*

cc: All parties

FILED  
STOCKBRIDGE-MUNSEE TRIBAL COURTS  
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<sup>4</sup> *Accord*, *Stacks v. Marks*, 127 S.W.3d 483, 485 (Ark. 2003); *State v. Hunter*, 904 N.E.2d 371, 373 (Ind. App. 2009); and *State v. Tully*, 2002 Ohio App. Lexis 1373 (Ohio App. 3/18/2002), at \*7. While these cases are not binding on this Court, their logic is persuasive and useful as this Court considers the case at hand.