

Appellate Court
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FILED

JUL 15 2019

**Fort Peck Tribal Court
of Appeals**

**FORT PECK COURT OF APPEALS
ASSINIBOINE AND SIOUX TRIBES
FORT PECK INDIAN RESERVATION
POPLAR, MONTANA**

DOYLE BLACK THUNDER, Jr. APPELLANT, vs. FORT PECK TRIBES, APPELLEE	CAUSE NO. AP # 781 ORDER AFFIRMING
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Appeal from the Fort Peck Tribal Court, Marvin Youpee, Presiding Judge.

Appellant appeared pro se

Appellee did not appear.

Before Smith, Chief Justice, Desmond and Shanley, Associate Justices

BACKGROUND

¶1 On February 26, Appellant filed a Motion to Withdraw Guilty Plea and a Request for Amended Sentence. The February 28, 2019 orders issued by the lower court denied both the Motion and the Request, although Appellant's release date was modified to reflect credit for days he worked as a trustee. Appellant timely appealed the lower court's decisions.

STATEMENT OF JURISDICTION

¶1 The Fort Peck Appellate Court may review final orders from the Fort Peck Tribal Court. 2 CCOJ §202. The February 28, 2019 order is a final order for purposes of review. Appellant has an automatic right to review in criminal matters when notice of appeal is timely filed. 2 CCOJ §205 (a).

STANDARD OF REVIEW

¶2 This Court reviews de novo all determinations of the lower court on matters of law, "but shall not set aside any factual determinations of the Tribal Court if such determinations are supported by substantial evidence". *Id.*

ISSUES

¶3 Although it is not clear precisely what Appellant is challenging in his appeal, two possible issue exist. This Court evaluated whether the lower court erred when it denied Appellant's Motions to Withdraw his Guilty Plea and Reduction of Sentence.

DISCUSSION

¶4 A review of the record reflects that the original sentence imposed on August 27, 2018 did not violate any applicable laws.

¶5 The Fort Peck Tribal Code 7 CCOJ 403, Withdrawal of a Guilty Plea, grants the Court discretion in allowing a Defendant to withdraw his/her guilty plea if the interests of justice and fairness would be served by doing so. In order to determine whether it is in the interests of justice, the Court must determine if the guilty plea was given knowingly, voluntarily, and intelligently. A Court must thoroughly question the

Defendant at the time of entering the plea in order to determine whether or not that plea was given voluntarily and not as the result of force or threats. The Court must also determine that the Defendant understands the nature of the charge, the maximum penalty provided by law, and that, by entering a guilty plea, the Defendant is giving up his constitutional rights pursuant to the Indian Civil Rights Act, the Fort Peck Constitution and Tribal Code.

¶6 In its Order Denying Motion to Withdraw Guilty Plea, the Tribal Court acknowledged that Appellant was advised of his rights and understood the implications of waiving those rights by pleading guilty to the charges. The Court further inquired as to whether his pleas were voluntarily given and whether he was of sound mind when entering his guilty plea. Based on this inquiry, the Court denied the Motion to Withdraw Guilty Plea, thereby finding Appellant had entered his plea knowingly, voluntarily, and intelligently.

¶7 There is no legal requirement that a valid sentence be reduced under any applicable law. Whether Appellant has demonstrated sufficient grounds for modifying his sentence is within the discretion of the lower court. Absent a showing that the lower court abused its discretion or misapplied the law, this Court will not overturn a lower court's decision. This Court encourages the lower court always to articulate the precise reasons for its decision, so the parties can clearly understand the bases for and requirements of an order. However, nothing in this record reflects any abuse of discretion or misapplication of law by the lower court. The Appellant's request for relief is, therefore, denied.

ORDER

¶8 The lower court's order is **AFFIRMED**.

SO ORDER the 12th day of July 2019.

FORT PECK COURT OF APPEALS

BY

Maylinn Smith
Maylinn Smith, Chief Justice

Erin Shanley, Associate Justice

Pearle C Desmond