CHEYENNE RIVER SIOUX TRIBAL COURT OF APPEALS
CHEYENNE RIVER SIOUX TRIBE
CHEYENNE RIVER INDIAN RESERVATION

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IN THE MATTER OF: C.S.N., DOB: 1/28/2013 and T.R.S., DOB: 12/28/2007 MINOR CHILDREN, and concerning	)	Appeal No.
TED TAYLOR, JR. and JESSICA DUCHENEAUX, RESPONDENTS/APPELLEES, v. TRICIA TAYLOR, AARIN NYGAARD, and TERRANCE STANLEY, PETITIONERS/APPELLANTS	)	ORDER

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Per curiam (Chief Justice Frank Pommersheim and Associate Justices Taylor Bald Eagle and Franklin Ducheneaux)

On June 14, 2017, Aarin Nygaard and Terrance Stanley, fathers to the children named in this proceeding, filed through their counsel, a Petition for a Writ of Mandamus with this Court. The "relief" sought is that a "special judge be appointed to immediately hear and decide the jurisdiction issues in this matter."

The petition for said writ is hereby denied on both procedural and substantive grounds. The three page petition cites no law or authority whatsoever. It cites no law or procedure of the Cheyenne River Sioux Tribe that identifies or authorizes such relief. See e.g. Rule 35 ("Extraordinary Writs") of the Cheyenne River Sioux Tribal Rules of Civil Procedure. It does not cite by way of analogy any federal (or even state) law that would provide (potential) persuasive authority from another jurisdiction.

A writ of mandamus is historically understood to be an extraordinary writ that permits a higher court to order a lower court to perform any part of its judicial responsibility when there is a demonstration that exceptional circumstances exist. As noted, such a writ is 'extraordinary' and rarely granted. See e.g. *Banker's Life and Cas. Co. v. Holland*, 346 U.S. 379 (1953).

The failure to cite any authority for such extraordinary relief is fatal to the petition for mandamus in this matter. To issue such relief without the touchstone of any proffered authority is to weaken the mutual and necessary respect that reviewing court must accord to trial courts. It risks a destabilizing interference with the ongoing functioning of the trial court.

This is particularly true in this case when the 'substantive' claims – such as they are – have essentially become moot. In the trial court's order of June 16, 2017 (rendered after the filing of the petition for a writ of mandamus), it expressly ordered immediate visitation be put into place for Messrs. Nygaard and Stanley. Such visitation was endorsed by both the children's guardian ad litem and current guardians of the children, namely Ted Taylor, Jr. and Jessica Ducheneaux. There is no one in this matter who is opposed to immediate visitation for the fathers of these children.

In fact a follow up hearing is scheduled for July 24, 2017 to review implementation of the court's visitation order and to proceed on the comity and due process issues, as ordered by this Court in its September 1, 2016 decision. These are the exact substantive issues raised by the Petition before this Court and they have become moot as a result of the trial court's order of June 16, 2017.

For all of the above stated reasons, the Petition for Writ of Mandamus is denied.

Ho Hec'etu Ye Lo

IT IS SO ORDERED.

FOR THE COURT:

Frank Pommersheim
Chief Justice

Dated July 20, 2017