

STEVEN D. SANDVEN

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STEVEN D. SANDVEN

*Admitted in South Dakota,
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March 17, 2015

Honorable Warren Arganbright, Special Judge
Rosebud Sioux Tribe
P.O. 129
Mission SD 57570

Re: Scott v. Walking Eagle, et al., CV 14-490

Dear Judge Arganbright:

This memorandum supplements my March 13th letter regarding Defendants' request for dismissal of the underlying matter in the above-described matter with prejudice at tomorrow's hearing. *Ex. 1*

Please find for your review the following opportunities provided by the Court for Plaintiff to dismiss the underlying action in the above described matter:

1. **December 11, 2014 hearing excerpts** – *Ex. 2:*

MR. ARENDT: You know, Judge, I don't have a problem with you issuing the order today with prejudice.

THE COURT: Relative to the temporary restraining order?

MR. ARENDT: Right. (10:7-11)

THE COURT: Thank you. As I review 41(a), I don't think 41(a) requires any showing of reason. I think it's discretionary, and I don't think there is any requirement for any justification for dismissal. But I don't think we're here either because we have an order that's been entered. And based on the motion and the argument, I am going to vacate the temporary restraining order. I'm also going to order that no further applications for TROs may be filed under this particular case and that complaint. (18:6-15)

(Proceedings adjourned.) (Court reopened the hearing.)

THE COURT: Mr. Arendt, do you have a motion?

MR. ARENDT: I do, Your Honor. I propose that this action be dismissed with prejudice.

THE COURT: The underlying action?

MR. ARENDT: The underlying action be dismissed with prejudice in its entirety by stipulation of the parties. I propose that I draft and submit to my client that

motion, have him sign off on it. I'll sign off on it. I will then mail it to Mr. Sandven and obtain his signature. And once all the signature are obtained, we will present it to you with a proposed order of dismissal with prejudice. (25:11-22)

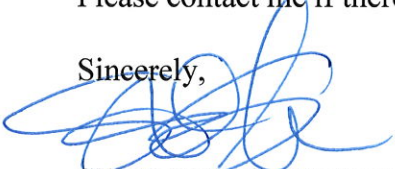
THE COURT: The Court is going to enter a conditional order of dismissal that – conditioned upon the plaintiff executing a stipulation to dismissal and filing it in the Court file. I don't necessarily know that I need Mr. Sandven's signature since he has been here present in court today and so stipulated, but if you wish to sign it, that would be fine as well, the stipulation, the dismissal.

MR. SANDVEN: It's not required, Judge. I don't need to. (26:1-10)

2. **December 12, 2014 Order:** "The Court, being duly advised in the premises, does vacate the Temporary Restraining Order previously entered herein by this Court, with prejudice ... Plaintiff, by Al Arendt, moved the Court to dismiss the underlying action and Complaint filed herein, with prejudice. There being no objections, the Court enters a Condition Order of dismissal...." *Ex. 3*
3. **January 27, 2015 Order:** "In the event that the Defendant wishes to proceed with the Defendant's counsel's motion as previously orally recited in Court on December 11, 2014, the Defendant shall file original executed written Stipulation to dismissal, executed by the Plaintiff, on or before the 17th day of February, 2015." *Ex. 4*
4. **February 20, 2015 Order:** "The Court Clerk has advised that Plaintiff has not filed an original signed stipulation to dismissal as provided in the Order of this Court entered January 27, 2015." *Ex. 5*
5. **March 4, 2015 Order:** "In the event Plaintiff desires to dismiss the action with prejudice as recited by Plaintiff's counsel in open court on December 11, 2014, then an originally executed Stipulation to dismissal with prejudice ... The Court does further order that Defendant's Motion to Dismiss filed per Order of the Court of this day, shall be heard on the 18th day of March, 2015 at 9:00 A.M...." *Ex. 6*

Please contact me if there are any questions.

Sincerely,



STEVEN D. SANDVEN
Attorney for Defendants

Enclosures

Cc: Al Arendt
Clerk of Court

STEVEN D. SANDVEN

LAW OFFICE PC

PRINCIPAL
Steven D. Sandven

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March 13, 2015

Honorable Warren Arganbright, Special Judge
Rosebud Sioux Tribe
P.O. 129
Mission SD 57570

Re: Scott v. Walking Eagle, et al.
CV 14-490

Dear Judge Arganbright:

This memorandum is provided in response to Mr. Arendt's email received at 11:44 a.m. today that states:

How was the hearing set for the 18th? I did not get any calls on this. I have found my letter of 12/15 to the RST Clerk filing the original of the Stipulation and Proposed order and am mailing that out to all concerned parties.

Your Order dated March 4, 2015 set the March 18th hearing. Mr. Arendt's described mailing does not fulfill your repeated requirement that an "original" be filed. I have not received notice that Mr. Scott appeared in "open court and on the record" and entered his stipulation. Hence, Defendants are prepared to proceed on March 18th with their motion to dismiss filed on March 3rd and supplement filed on March 5th.

Please contact me if there are any questions.

Sincerely,



STEVEN D. SANDVEN
Attorney for Defendants

Cc: Al Arendt
Clerk of Court



From: Al-Arendt Law <al-arendtlaw@qwestoffice.net>

To: Steven D. Sandven <ssandvenlaw@aol.com>; warganbright <warganbright@inebraska.com>; rhonda <rhonda@rstcourts.org>

Subject: Re: CV 14-490

Date: Fri, Mar 13, 2015 11:44 am

J. Argenbright-

How was the hearing set for the 18th? I did not get any calls on this.

I have found my letter of 12/15 to the RST Clerk filing the original of the Stipulation and Proposed order and am mailing that out to all concerned parties.

Al Arendt

From: Steven D. Sandven

Sent: Friday, March 13, 2015 10:54 AM

To: warganbright@inebraska.com ; rhonda@rstcourts.org

Cc: al-arendtlaw@qwestoffice.net

Subject: Re: CV 14-490

Judge:

I will appear in person at the 18th hearing.

Thank you.

Steven D. Sandven
Steven D. Sandven Law Office PC
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Sioux Falls SD 57106
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-----Original Message-----

From: Steven D. Sandven <ssandvenlaw@aol.com>

To: warganbright <warganbright@inebraska.com>; rhonda <rhonda@rstcourts.org>

Cc: al-arendtlaw <al-arendtlaw@qwestoffice.net>

1 ROSEBUD SIOUX TRIBAL COURT)
2 ROSEBUD INDIAN RESERVATION :SS
3 ROSEBUD, SOUTH DAKOTA)

IN CIVIL COURT

4 * * * * *

5 Cyril Scott,

6 Plaintiff,

7 -vs-

8 Lorraine Walking Eagle, Chairman,
9 RST Ethics Committee; Julie Peneaux,
10 RST Tribal Secretary, on behalf of
11 the RST Tribal Council; and William
12 Kindle, Vice-Chairman of the RST
13 Tribal Council,

14 Defendants.

15 * * * * *

Civ. Docket #14-490

HEARING

16 BEFORE: The Honorable Warren R. Arganbright
17 Special Tribal Court Judge
18 Rosebud Sioux Tribe

19 APPEARANCES: Mr. Al Arendt
20 Arendt Law Office
21 Pierre, South Dakota

22 Attorney for the Plaintiff.

23 Mr. Steven D. Sandven
24 Steven D. Sandven Law Office
25 Sioux Falls, South Dakota

Attorney for the Defendants.

PROCEEDINGS: The above-entitled matter came on for
hearing on the 11th day of December,
2014, at Rosebud, South Dakota.

EXHIBIT

2

1 terms as of today. I'm not asking for a preliminary
2 injunction. And that's at the directive of my client.

3 THE COURT: And if I may, one more question. And I
4 have read Mr. Sandven's materials. The question is what
5 prevents you from bringing another -- requesting another
6 temporary restraining order?

7 MR. ARENDT: You know, Judge, I don't have a problem
8 with you issuing the order today with prejudice.

9 THE COURT: Relative to the temporary restraining
10 order?

11 MR. ARENDT: Right. Because I don't want to play
12 games with the Court. I'm not trying to play games.
13 Right now if you dismiss the TRO, my underlying lawsuit
14 and the relief that we request in that is still
15 available. And we're going -- we're going to deal with
16 that because Mr. Sandven has made it very clear, he's
17 going to try and get this lawsuit dismissed. But that's
18 not an argument for today.

19 The underlying lawsuit is still there. And if I can
20 talk to Mr. Sandven privately some time, I think we
21 possibly could resolve that.

22 THE COURT: Okay. Well, that's for --

23 MR. ARENDT: Another time.

24 THE COURT: -- another time and another place. Thank
25 you, Mr. Arendt.

1 given.

2 The bottom line is we are here today for one simple
3 thing. And if I had made this -- if I had got this done
4 last week, I think I could have done it by notice of
5 dismissal. Dismiss the TRO with prejudice. That's all.

6 THE COURT: Thank you. As I review 41(a), I don't
7 think 41(a) requires any showing of reason. I think it's
8 discretionary, and I don't think there is any requirement
9 for any justification for dismissal. But I don't think
10 we're here either because we have an order that's been
11 entered.

12 And based on the motion and the argument, I am going
13 to vacate the temporary restraining order. I'm also
14 going to order that no further applications for TROs may
15 be filed under this particular case and that complaint.

16 And I guess the next thing we need to do is talk
17 about where we go next on this action that is pending.
18 We -- are there any other -- do you want some time to
19 file motions, do you want to set a trial date?

20 MR. ARENDT: I'd like to respond to the pleadings
21 that have been filed to the extent that they deal with
22 other issues than that. I think the one I received this
23 morning deals with basically that. What I think we need
24 is a scheduling order, Your Honor. You want to do that
25 in open court or can we do that with the clerk's office?

1 excused.

2 (Proceedings adjourned.)

3 THE COURT: All right. This is, again, Warren
4 Arganbright, Special Tribal Court Judge appointed to
5 preside over case Civ. 14-490. We previously adjourned
6 court. After a conference with counsel in chambers, we
7 have reopened the hearing at this time.

8 Present in the courtroom is Al Arendt for the
9 plaintiff without the plaintiff, and Steven Sandven for
10 the defendants without the defendants.

11 Mr. Arendt, did you have a motion?

12 MR. ARENDT: I do, Your Honor. I propose that this
13 action be dismissed with prejudice.

14 THE COURT: The underlying action?

15 MR. ARENDT: The underlying action be dismissed with
16 prejudice in its entirety by stipulation of the parties.
17 I propose that I draft and submit to my client that
18 motion, have him sign off on it. I'll sign off on it. I
19 will then mail it to Mr. Sandven and obtain his
20 signature. And once all the signatures are obtained, we
21 will present it to you with a proposed order of dismissal
22 with prejudice.

23 THE COURT: Any objection, Mr. Sandven.

24 MR. SANDVEN: Not as long as those contingencies are
25 (inaudible).

1 THE COURT: The Court is going to enter a conditional
2 order of dismissal that -- conditioned upon the plaintiff
3 executing a stipulation to dismissal and filing it in the
4 Court file. I don't necessarily know that I need
5 Mr. Sandven's signature since he has been here present in
6 court today and so stipulated, but if you wish to sign
7 it, that would be fine as well, the stipulation, the
8 dismissal.

9 MR. SANDVEN: It's not required, Judge. I don't need
10 to.

11 THE COURT: Fair enough.

12 MR. ARENDT: I can just go ahead and obtain my
13 signature and his signature and send it to you?

14 THE COURT: That's it. Actually send it to the clerk
15 and copy me.

16 MR. ARENDT: Okay.

17 THE COURT: Original to the court.

18 MR. ARENDT: And I will cc. everything to
19 Mr. Sandven.

20 THE COURT: Anything else?

21 MR. SANDVEN: Thank you, Your Honor.

22 THE COURT: Thank you.

23 (End of proceedings.)
24
25

ROSEBUD SIOUX TRIBAL COURT
ROSEBUD INDIAN RESERVATION
ROSEBUD, SOUTH DAKOTA

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:ss
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IN CIVIL COURT

CIV DOCKET # 14-490

CYRIL SCOTT,

Plaintiff,

vs.

ORDER OF DISMISSAL

LORRAINE WALKING EAGLE,
Chairman, RST Ethics Committee;
JULIE PENEUX, RST Tribal Secretary,
on behalf of the RST Tribal Council;
and WILLIAM KINDLE, Vice-Chairman
of the RST Tribal Council,

Defendant.

Now on this 11th day of December, 2014, this matter came on for hearing before the Rosebud Sioux Tribal Court, the Honorable Warren R. Arganbright, Special Tribal Court Judge, present and presiding. The matter comes on before the Court in the above entitled case on Plaintiff's Motion to Dismiss Temporary Restraining Order filed October 10, 2014. Appearances: Al Arendt for Plaintiff, Cyril Scott, without the Plaintiff; and Steven D. Sandven, with the Defendants.

The matter proceeded to hearing on Plaintiff's Motion to Dismiss Temporary Restraining Order. Plaintiff presented argument. Defendant presented argument. Plaintiff presented rebuttal argument. Plaintiff requested that any Order sustaining the Motion to Dismiss Temporary Restraining Order provide for dismissal with prejudice.

The Court, being duly advised in the premises, does vacate the Temporary Restraining Order previously entered herein by this Court, with prejudice.

The matter then proceeded to progression hearing. Discussion was had. Dates were

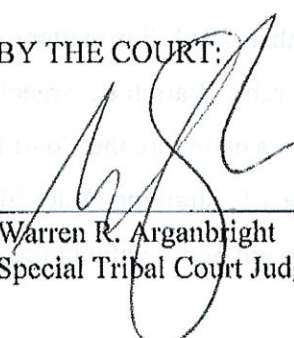


proposed and established. Court was adjourned.

Court reconvened with the following appearances: Al Arendt for the Plaintiff, without the Plaintiff; and Steven D. Sandven for the Defendants, without the Defendants. Plaintiff, by Al Arendt, moved the Court to dismiss the underlying action and Complaint filed herein, with prejudice. There being no objections, the Court enters a Conditional Order of Dismissal. The matter will stand dismissed upon filing of Stipulation to Dismissal executed by the Plaintiff personally and his counsel. Defendant, having no objection, is not required to execute the Stipulation. In the event that Stipulation of Dismissal is not filed in the Court file within ten (10) days, the Court will enter a Progression Order relative to the discussions had in open Court for progression.

DATED AND ENTERED this 12th day of DECEMBER, 2014.

BY THE COURT:



Warren R. Arganbright
Special Tribal Court Judge

ATTEST:

Clerk of Courts

ROSEBUD SIOUX TRIBAL COURT
ROSEBUD INDIAN RESERVATION
ROSEBUD, SOUTH DAKOTA

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IN CIVIL COURT

CYRIL SCOTT,

Plaintiff,

vs.

LORRAINE WALKING EAGLE,
Chairman, RST Ethics Committee;
JULIE PENEUX, RST Tribal Secretary,
on behalf of the RST Tribal Council;
and WILLIAM KINDLE, Vice-Chairman
of the RST Tribal Council,

Defendant.

CIV DOCKET # 14-490

ORDER

Now on this 27th day of January, 2015, this matter came on before the Rosebud Sioux Tribal Court, the Honorable Warren R. Arganbright, Special Tribal Court Judge, present and presiding, in chambers in Rosebud, South Dakota, on the Court's own motion. The Court, in response to various requests regarding the Progression Order entered by this Court on the 24th day of December, 2014, and based further upon the passage of deadlines provided in said Order, and on the motion of dismissal of the underlying cause of action which the Court conditioned upon receipt of a Stipulation to dismissal signed by the Plaintiff and filed in the Court file, based on the Plaintiff's non-appearance at said hearing, and further based on Defendant's counsel's written affirmation of mailing of the Stipulation to dismissal and upon the Court's review of the Court file finding no receipt of the same, and, finally, based on the Defendant's counsel's requested extension of proceedings under the terms of the previously entered Progression Order pending his return to the area from a previously arranged trip away from South Dakota, the Court



does enter the following Order.

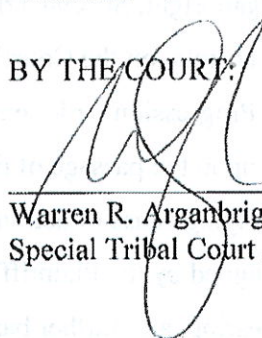
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. In the event that the Defendant wishes to proceed with the Defendant's counsel's motion to dismiss as previously orally recited in Court on December 11, 2014, the Defendant shall file original executed written Stipulation to dismissal, executed by the Plaintiff, on or before the 17th day of February, 2015.
2. It is further ordered that, failing filing of original executed Stipulation to dismissal signed by the Plaintiff, that the parties are ordered to appear before this Court on the 4th day of March, 2015, for the purposes of considering amendments to the previous Progression Order entered on December 24, 2015. In the event that counsel for the parties consent to participate in said progression hearing telephonically, Plaintiff is to arrange telephonic progression hearing.

SO ORDERED.

DATED AND ENTERED this 27th day of JANUARY, 2015.

BY THE COURT:


Warren R. Arganbright
Special Tribal Court Judge

ATTEST:

Clerk of Courts

ROSEBUD SIOUX TRIBAL COURT
ROSEBUD INDIAN RESERVATION
ROSEBUD, SOUTH DAKOTA

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IN CIVIL COURT

CYRIL SCOTT,

Plaintiff,

vs.

LORRAINE WALKING EAGLE,
Chairman, RST Ethics Committee;
JULIE PENEUX, RST Tribal Secretary,
on behalf of the RST Tribal Council;
and WILLIAM KINDLE, Vice-Chairman
of the RST Tribal Council,

Defendant.

CIV DOCKET # 14-490

ORDER

Now on this 20th day of February, 2015, this matter came on before the Rosebud Sioux Tribal Court, the Honorable Warren R. Arganbright, Special Tribal Court Judge, present and presiding, in chambers and on the Court's own motion. The Court Clerk has advised that Plaintiff has not filed an original signed stipulation to dismissal as provided in the Order of this Court entered January 27, 2015. The Court has been further advised that the Order entered by the Court on January 27, 2015, providing for a Progression Conference for March 4, 2015, failed to set a time for said hearing.

The Court, being duly advised in the premises, orders that hearing on amendment of Progression Order entered December 24, 2015, shall be held before this Court on March 4, 2015, at 9:00 A.M., or so soon thereafter as the same may be heard.

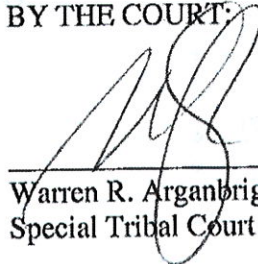


It is further ordered that, due to Defendant's counsel's declination of telephonic progression conference received by the Court via email with copy shown provided to Plaintiff's counsel, the progression conference shall be held on the date and time set forth above, in open court.

SO ORDERED.

DATED AND ENTERED this 20th day of FEBRUARY, 2015.

BY THE COURT:



Warren R. Arganbright
Special Tribal Court Judge

ATTEST:

Clerk of Courts

ROSEBUD SIOUX TRIBAL COURT
ROSEBUD INDIAN RESERVATION
ROSEBUD, SOUTH DAKOTA

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IN CIVIL COURT

CYRIL SCOTT,

Plaintiff,

vs.

LORRAINE WALKING EAGLE,
Chairman, RST Ethics Committee;
JULIE PENEUX, RST Tribal Secretary,
on behalf of the RST Tribal Council;
and WILLIAM KINDLE, Vice-Chairman
of the RST Tribal Council,

Defendants.

CIV DOCKET # 1s4-490

ORDER

Now on this 4th day of March, 2015, this matter came on for hearing before the Rosebud Sioux Tribal Court, the Honorable Warren R. Arganbright, Special Tribal Court Judge, present and presiding. Plaintiff appears by attorney, Al Arendt, appearing telephonically, without the Plaintiff. Defendants appear by Steven Sandven, attorney for the Defendants, without the Defendants.

The matter comes on for Progression Hearing per Order of the Court of February 24, 2014, and continued per Order of the Court entered January 27, 2015, and continued per Order of the Court entered February 20, 2015. On review of the Court file, the Court finds that the Order continuing the matter to this date entered by the Court on February 20, 2015, is not filed in the Court file. The Court has, in its file, an executed copy of the Order and provides the same to the Court Clerk for filing this day. The Court further advises that it has in its possession an emailed letter, from Steven B. Sandven, attorney for the Defendants, together with Motion to Dismiss, Memorandum of Law and Certificate of Service which the Court orders filed in the Court file, and which, in open Court, counsel for Plaintiff acknowledges receipt of.

Discussion, on the record, between Court and counsel was had. The Plaintiff advises the Court that Plaintiff's attorney will obtain and execute a Stipulation to dismissal with prejudice to



be executed by the Plaintiff and filed in the Court file. Plaintiff presented argument. Defendant presented argument.

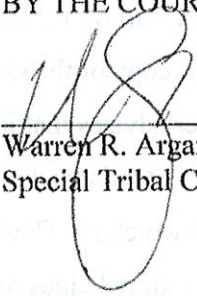
The Court, being duly advised in the premises, enters the following Order:

1. In the event Plaintiff desires to dismiss the action with prejudice as recited by Plaintiff's counsel in open Court on December 11, 2014, then an originally executed Stipulation to dismissal with prejudice, signed by the Plaintiff, must be filed in the Court file, which execution shall be witnessed by a Court officer, whether Clerk, Court Service Officer or other sworn officer of the Court.
2. In the event that no originally executed Stipulation to dismissal with prejudice is filed by the Plaintiff, Plaintiff may, alternatively, on notice and hearing and personal appearance in Court, with or without Counsel, enter his Stipulation to dismissal with prejudice, in open Court and on the record.
3. The Court does further order that Defendant's Motion to Dismiss filed per Order of the Court of this day, shall be heard on the 18th day of March, 2015, at 9:00 A.M., or so soon thereafter as the same may be heard. The parties are advised that in the event no evidence is required relative to Defendant's Motion to Dismiss With Prejudice, that Counsel may appear telephonically.

SO ORDERED.

DATED AND ENTERED this 4th day of MARCH, 2015.

BY THE COURT:


Warren R. Arganbright
Special Tribal Court Judge

ATTEST:

Clerk of Courts