

THE COURT OF APPEALS OF THE
CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA

Josephine Steele,)	CAUSE NO. AP-95-324-RO
Plaintiff/Appellee)	
v.)	ORDER DISMISSING APPEAL
Stephen Smith,)	
Defendant/Appellant.)	

Appellee Josephine Steele moves the court to dismiss Stephen Smith's appeal of the trial court's denial of his motion to dismiss the complaint for failure state a claim upon which relief can be granted. We grant Steele's motion and hereby dismiss Smith's appeal.

Rule 3-2-303 of the Tribal Appellate Court Procedures, Ordinance 90B, provides that this court's exclusive jurisdiction is limited, in relevant part, to appeals from final judgements or orders. See also 9 Moore's Federal Practice, ¶110.06 at 36 (1992). A final judgment is one that "ends the litigation on the merits and leaves nothing for the court to do but execute the judgement." *Id.* at 38-39. The policy underlying the final judgment rule is to prevent "piecemeal" disposition of litigation. *Id.*

An order denying a motion to dismiss is interlocutory, i.e., it is not a final order, and therefore is not appealable. See 9 Moore's Federal Practice, ¶110.08[1] at 48 (1992); *In re Ramona Cajune*, No. AP -01-93 (CS&KT Ct. App., Mar. 22, 1993) at 20-22.

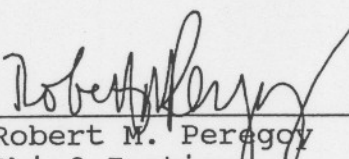
Such an interlocutory order is normally reviewable on appeal from final judgment. *Id.*

Here, the merits have yet to be adjudicated. Because the trial court's denial of Smith's motion to dismiss for failure to state a claim is not a final order, this court is without jurisdiction to review Smith's appeal. It is therefore dismissed for want of jurisdiction.

APPEAL DISMISSED AND CASE REMANDED FOR FURTHER PROCEEDINGS

IT IS SO ORDERED this 30th day of March, 1996.




Robert M. Peregoy
Chief Justice

CERTIFICATE OF MAILING

I, Abigail Dupuis, Appellate Court Administrator, do hereby certify that I mailed true and correct copies of the ORDER DISMISSING APPEAL to the persons first named therein at the addresses shown below by depositing same in the U.S. Mail, postage prepaid at Pablo, Montana, or hand-delivered this 5th day of April, 1996.

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Clerk of Court
Tribal Court

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Appellate Court Administrator