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

CONFEDERATED SALISH AND	*	CAUSE NO.AP-003-90
KOOTENAI TRIBES,	*	
Plaintiff-Appellee,	*	
vs.	*	APPELLATE OPINION
	*	
DANNY TENAS,	*	
Defendant-Appellant.	*	
	*	

The Appellate Court was convened on August 10, 1990 with the Honorable

Judges Louise C. Burke, Associate Judge Josephine D. Neuman, and Associate

Judge Stephen A. Lozar for a hearing on an Final Decision on the matter of

CR-446-89, Criminal charge of Theft against said Defendant-Appellant, Danny

Tenas ordered by Judge Gary Acevedo.

Notice of Appeal was filed timely by Defendant-Appellant, by and through

counsel Leslie Kallowat. The Court issued and Order Granting the Appeal and

a briefing schedule was established.

The Appellate Court heard the Court record of the trial and witnesses

tesimonies of Lt. Pablo Espinoza, Jr. Jim Finley and Officer Archie Fuqua.

Briefs and the final verdict of the above named cause were reviewed and the

Appellate Court finds the following:

1. That there were no eye witnesses to the cutting of the trees.

2. That the trees that were allegedly cut were never entered into
   evidence or the government did not prove that the trees came from
   the closed area of South Fork.

3. That the defendant was found Guilty of cutting Christmas trees in a
   closed area by circumstantial evidence only. Where in a Criminal
   case the government must prove beyond a reasonable doubt that the
   defendant did in fact commit the crime.

The circumstantial evidence leads away from the proof beyond that reasonable doubt and it could have been anyone in the area besides the defendant.

Therefore, the Appellate Court hereby reverses the Lower Court decision and finds the defendant Danny Tenas not guilty as charged.

SO ORDERED this _15th_ day of _August_, 1990.

Louise C. Burke
Appellate Court Forman

Stephen A. Lazar
Appellate Court Judge

Josephine D. Newman
Appellate Court Judge

CC: THOMAS PARO,
COURT PROSECUTOR

LESLIE KALLOWAT
COUNSEL FOR DEFENDANT