



The Honorable Bradley T. Dakota — Chief Judge
The Honorable William W. Jondreau — Associate Judge

May 21, 1996

Ms. Marilyn K. Hall, State Court Administrator
State Court Administrative Office
309 South Washington Square, North
Lansing, MI 48909

RECEIVED

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JACK CHANDALL
REGIONAL ADMINISTRATOR
REGION 4

RE: Michigan Court Rule 2.615 - Enforcement of Tribal
Judgments in State Courts

Dear Ms. Hall:

The Keweenaw Bay Indian Community (KBIC) is a federally recognized Indian tribe with a reservation and trust properties located in the Upper Peninsula of Michigan. The above-referenced court rule provides for the enforcement of tribal judgments in state courts provided that the tribe or tribal court (1) enacts an ordinance or rule that obligates the tribal court to enforce judicial acts of state courts, and (2) transmits the ordinance or rule to the State Court Administrative Office. Rule 2.615(B)(1) and (2). I am writing this letter in order to transmit our tribal ordinances regarding the enforcement of state court judicial acts to your office. As provided for in Rule 2.615(B)(2), please make these materials available to state courts.

Section 9.104 of the KBIC Tribal Code provides that "[f]ull faith and credit shall be given by the court to all orders, judgments, and other process of civil nature issued by tribal courts upon any other federal Indian reservation, any federal court, and any state court." Section 9.104, KBIC Tribal Code (emphasis supplied).

Chapter 2.4 of the Tribal Code sets forth the extradition procedure followed by our court, i.e. the full faith and credit

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provisions followed by our court with regard to criminal processes issued by state courts. Under section 2.402, a state law enforcement officer seeking extradition of a person within the jurisdiction of our court may present a warrant for the arrest of the person to the Chief Judge of the Trial Division. The judge is required to review the warrant to determine the warrant's apparent validity. "If the judge shall be satisfied as to the apparent validity of the warrant, he shall issue a bench warrant for the arrest of the person... Such warrant shall empower any police officer to take the individual into custody and bring him before the court." Section 2.402, KBIC Tribal Code. Any person brought before the court in this manner is entitled to a hearing for the sole purpose of determining whether he or she "is the same person charged in the warrant of the jurisdiction seeking extradition". Section 2.403, KBIC Tribal Code.

Pursuant to the above-cited code sections, our court has granted full faith and credit to judicial acts of the courts of the State of Michigan for quite some time. As a practical matter, this has occurred most frequently in the case of extraditions. We are looking forward to the application of Michigan Court Rule 2.615, and the cooperation between our respective judicial systems which this rule will engender.

Thank you for your time and attention. For your convenience I have enclosed copies of the tribal code provisions cited in this letter.

Sincerely,



Bradley T. Dakota
Chief Judge
Keweenaw Bay Indian Community

Enclosures

cc: Mr. Jack C. Crandall, Regional Administrator

CHAPTER 2.4 — EXTRADITION

§2.401 Extradition; When Available.

Any person over whom the court may exercise jurisdiction who shall be found within the territorial jurisdiction, may be arrested and taken into custody by a police officer for the purpose of transferring such person to the jurisdiction in which the warrant was issued in accordance with the procedures hereinafter set forth.

§2.402 Extradition; Procedure.

A law enforcement officer of another jurisdiction seeking extradition of a person within the jurisdiction of the court may present a warrant for the arrest of such individual to the Chief Judge of the Trial Division.

Such judge shall review the warrant as to the date, offense charged, and the person named therein for the purpose of determining the warrant's apparent validity. If the judge shall be satisfied as to the apparent validity of the warrant, he shall issue a bench warrant for the arrest of the person therein named. Such warrant shall empower any police officer to take the individual into custody and bring him before the court.

§2.403 Extradition Hearing.

Any person arrested pursuant to such a bench warrant shall be taken by the arresting officer before the Trial Division of the Court where a hearing shall promptly be held to determine whether the person in custody and before the court is the same person charged in the warrant of the jurisdiction seeking extradition; guilt or innocence of such person shall not be an issue at such hearing.

If after such hearing the judge shall be satisfied that the person is the same person named in the warrant of the jurisdiction seeking extradition, the judge shall issue an order authorizing extradition to such jurisdiction.

§2.404 Waiver of Extradition Hearing.

A subject of such a warrant may in writing waive his right to an extradition hearing

in which case an order allowing his removal to the jurisdiction seeking his extradition shall be forthwith entered without hearing.

CHAPTER 2.5 — SEARCH WARRANTS

§2.501 Definition.

A search warrant is the written order of the Court, signed by a judge of the trial division authorizing police officers to search specifically defined areas for specific items or classes of items, as designated in the warrant, and authorizing the seizure of such items if found for use as evidence.

§2.502 Issuance and Contents.

A search warrant shall not be issued except upon the sworn affidavit or testimony of a person or persons establishing probable cause for the issuing judge to believe that the items or class of items to be seized are evidence of a specified crime committed by a specified person or persons; that the things to be seized are unlikely to be available for use as evidence unless seized and held; and that they are unlikely to be available for use as evidence unless seized and held; and that they are unlikely to be voluntarily delivered to a police officer upon his request.

When issued a search warrant shall describe with specificity the area to be searched; the articles to be searched for and which are subject to seizure; and the person in whose custody the items are believed to be.

§2.503 Effective Period of Search Warrant.

A search warrant shall be effective for the period of time specified thereon. The search warrant may be executed any time from the date of its issuance until the expiration date stated on the search warrant.

§2.504 Execution of Warrant.

A search warrant shall be served by a police officer during any time of the day or night unless the Court shall find sufficient reason to limit the time and manner in

CHAPTER 9.1 — JUDGEMENTS

§9.101 Judgements; Definition.

A judgement is an order entered in a civil action granting or denying relief to a party as a result of a cause of action asserted in a civil action.

§9.102 Stay of Judgement Pending Appeal.

Upon motion of a party against whom a judgement has been entered the court may, for good cause shown, stay the enforceability of the judgement pending appeal.

As a condition of staying enforcement of a judgement, the court may require the party seeking a stay to post a cash or surety bond with the court, for the following purposes:

a. To insure the prompt filing and processing of an appeal within time limitations and to be set by the court.

b. To satisfy the judgement entered, in whole or in part, in the event that an appeal shall not be processed in accordance with the requirements set by the court, or in the event that the judgement is sustained on appeal.

§9.103 Stay; Notice to Prevailing Party; Hearing.

No stay of effectiveness of a judgement shall be entered by the court without a hearing of which the prevailing party shall receive adequate notice, and at which the prevailing party shall have an opportunity to oppose the motion for a stay.

If a stay shall be granted, the stay shall be in the form of an order, and the court shall retain jurisdiction over the proceeding even though it may be on appeal to the extent required to enforce the conditions upon which the stay may have been granted.

§9.104 Full Faith and Credit.

Full faith and credit shall be given by the court to all orders, judgements, and other process of a civil nature issued by the tribal courts upon any other federal Indian reservation, any federal court, and any state court.

CHAPTER 9.2 — EXECUTION

§9.201 Writ of Execution; Definition.

A writ of execution is an order of the court, available under circumstances hereinafter defined, which shall allow an authorized official to seize and sell assets which shall be individually owned by a person against whom a judgement shall have been entered by this court, for the purpose of satisfying such judgement.

§9.202 Writ of Execution: Availability.

A party entitled to a writ of execution as above described may, at any time within six years after entry of judgement in his favor, apply to the clerk of the tribal court for a writ of execution provided, however, that a judgement creditor may apply to the tribal court at any time prior to the expiration of such six year period for an extension of its effectiveness, and the court on an ex parte basis, shall extend the effectiveness of such judgement for an additional six years.

§9.203 Writ of Execution: Unavailability After Death of Judgement Debtor.

No writ of execution shall issue after the death of the judgement debtor, and a judgement creditor's remedy upon the death of the judgement debtor shall be in the form of a creditor's claim against such debtor's estate.

§9.204 Writ of Execution; Contents.

A writ of execution shall be addressed to a police officer and shall direct such officer to forthwith seize and deliver to the court unrestricted and non-exempt personal property owned by the debtor of a value sufficient to satisfy the judgement and costs of sale.

A writ of execution shall specify the property to be seized.

§9.205 Return of Writ.

Within fifteen (15) days, a police officer to whom a writ of execution shall be delivered, shall return the same to the court with

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