

TRIBAL COURT  
FOREST COUNTY POTAWATOMI COMMUNITY

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In the Matter of:

Appeals in the Forest County  
Potawatomi Tribal Courts

Rules of the Court  
Order Number 8  
March 4, 1997

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By Virtue of the Authority Invested in the Court Under Section 1.04 of the Forest County Tribal Court Code, the Following Is Hereby Promulgated as Rule of the Court, Order Number 8, Appeals in the Forest County Tribal Courts effective this date:

**Authorization For  
Rules Governing Appeals**

**I. Appeals From Decisions of the Trial Court**

Section 1.30 of the Tribal Court Code authorizes and governs appeals from the Forest County Potawatomi Tribal Trial Court to a three-judge Court of Appeals.

**II. Appeals From Administrative Hearings of the Tribe**

Section 1.03 P of the Tribal Court Code grants the Court appellate jurisdiction over all administrative hearings of the Tribe. Administrative hearings consist of any final actions by Tribal programs, agencies or boards and include final actions on Gaming Commission licensing decisions by the Forest County Potawatomi Community Gaming Commission. All such programs, agencies, boards or commissions shall hereafter referred to as the "agency" in these Rules.

**Rules For Appeals  
From Tribal Administrative Hearings**

**I. Assignment of Judges and Finality of Decisions**

A. Appeals from administrative hearings shall be heard by one Judge of the Forest County Potawatomi Tribal Court. Assignment of the Judge to hear any appeal under this provision shall be made by the Chief Judge and may be the Chief Judge or any Associate Judge.

B. Appellate decisions made by the Court under Section 1.03 P and this Rule shall be final and no further appeal is allowed in the Tribal Court, to the Executive Council or to the General Council.

## **II. Procedure For Appeals From Tribal Administrative Hearings**

### **A. Filing**

1. Appeals from Tribal Administrative Hearings shall be initiated by filing a Notice of Appeal with the Clerk of the Forest County Potawatomi Tribal Court and serving a copy by personal service or first class U.S. mail on the Chairperson or other principal officer of the Tribal agency. The Notice of Appeal shall specify whether the appeal is from the whole or a part of the agency's decision, and if a part what portion of the decision is being appealed. It shall also specify what relief is being sought. A copy of the agency's decision shall be attached to all copies of the Notice of Appeal

2. Appeals shall be filed within twenty (20) days from the date of mailing of the decision appealed from.

3. In all documents pertaining to the appeal the person filing an appeal shall be designated as the Appellant and the other party as the Respondent.

4. There shall be a Fifty (\$50.00) Dollar filing fee paid by the Appellant to the Clerk of Court at the time of filing the Notice of Appeal.

5. The agency shall have the responsibility of preparing and filing a transcript of the proceedings leading to its decision and assembling and filing the record and all exhibits and other evidence received during the course of its proceedings. The Appellant shall pay to the agency 10 cents per page for copies of the transcript and the record and all exhibits upon receipt of same. The Clerk of Court has no responsibility to prepare the transcript or the record or to make copies thereof.

6. If the agency fails to prepare and file the transcript and record and make a copy of same available to the Appellant with thirty (30) days of the filing of the Notice of Appeal without good cause being shown, the Court may grant the Appellant the relief sought in the Notice of Appeal.

### **B. Briefs and Oral Arguments**

1. Three copies of all briefs shall be filed with the Court and served upon the opposing party.

2. Briefs shall be on pages 8 1/2 inches by 11 inches, double spaced except that brief portions of quoted material may be single spaced and indented.

Appellants Brief and Respondents Reply Brief may be fifteen (15) pages long and the Appellant may file a ten (10) page Response to Respondents Reply Brief.

3. Each parties brief shall set forth a table of contents, a statement of the issues presented, a statement of the relevant facts with citations to the hearing record, arguments with citations to legal authorities relied upon, and a brief conclusion specifying what relief that party seeks from the Court. The briefs may also contain a short appendix of relevant materials essential to an understanding of the issues raised which shall not be counted against the page limitation in Rule III B 2 above.

4. The Court will determine whether it wishes to have oral arguments, and if so, will advise the parties of the time and date thereof.

### III. Standard of Review

A. If the agency's determination is reasonable, the Court will sustain the agency's determination even though an alternative view may be equally reasonable.

B. In determining whether the agency's determination is reasonable, the Court will consider:

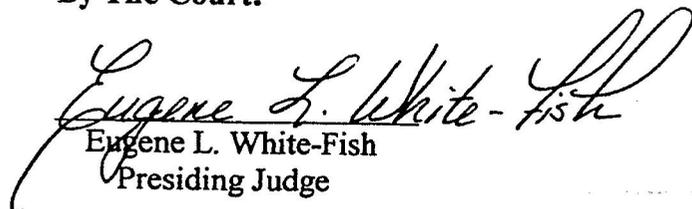
1. That the decision is supported by credible evidence in the record;
2. That the decision is consistent with applicable law and regulations; and
3. That the decision is consistent with fundamental standards of due process of law.

### IV. Orders in Appeals from Administrative Hearings.

The Court may affirm or reverse the decision reached by the agency, or remand the case for such further proceedings as may be necessary to reach a just result, and enter Orders accordingly.

Dated this 4th day of March, 1997

By The Court:

  
Eugene L. White-Fish  
Presiding Judge