

FILED

SISSETON-WAHPETON-SIOUX  
TRIBAL COURT

SISSETON-WAHPETON OYATE COURT  
LAKE TRAVERSE INDIAN RESERVATION  
AGENCY VILLAGE, SOUTH DAKOTA

1/15/16

Date

By:

*[Signature]*

Clerk of Courts

Jesselynn - Lorenalynn  
Cloud Cloud

Plaintiff,

APP - 16 - 007-001

D-15-574-394

NOTICE OF APPEAL

vs.

Justin J Cloud

Defendant.

PLEASE TAKE NOTICE THAT THE \_\_\_\_\_ hereby appeals from the  
decision of the lower court (Judge Name BJ Jones) dated

Jan 12, 16 for the following reasons: (Explain in detail why you feel  
the Court committed error)

not really looking at the  
living way to many people living in the  
house dont have there own beds  
Tried to kill herself in front of <sup>all</sup> the kids  
and got out of the hosp. went drink  
about 9 people living in a 3 bedroom house and there  
uncle being mean to them Thats Child abuse  
~~to~~ <sup>just</sup> she left them at my uncles house  
she said they had no food to eat, and she left  
them with no ~~clothes~~ clothes for 4 months. So I picked them  
up and she had <sup>clothes</sup> custody

Respectfully submitted this 15 day of Jan, 2016

Justin J. Cloud  
Party Appealing

CERTIFICATE OF SERVICE: This notice must be served on the opposing parties by  
mail. Please indicated date this has been sent to opposing parties: \_\_\_\_\_

and I no she ant no  
good mother at all

She got raped by her uncle at  
his house and the girls where  
there when that happen she

told me that and she become pg  
with child what happen to  
that baby.

And she pushes my mom and  
~~she~~ would that be ~~early~~ Elderly  
Abuse

FILED

SISSETON-WAHPETON-SIOUX

SISSETON- WAHPETON TRIBAL COURT TRIBAL COURT  
LAKE TRAVERSE INDIAN RESERVATION 1/12/16 IN TRIBAL COURT  
STATE OF SOUTH DAKOTA

IN THE INTEREST OF:  
JESSELYNNE CLOUD,  
LORENALYNN CLOUD,

Date  
by: *[Signature]* D-13-574-394  
Clerk of Court

**CUSTODY ORDER**

Minor Children.

On August 26, 2015 this Court denied the mother’s petition for custody of these children after a contested hearing in which the mother claimed that the father was drinking alcohol around the children and that it was not a safe home. The Court had the children interviewed by its Juvenile Counselor who indicated that the children wished to remain with the father and that they denied any alcohol use by the father.

After that hearing an incident occurred where the father was arrested for child neglect and CPP intervened to put the children with the mother after the father was arrested. This incident arose after the father was trying to contact the mother to pick up the children. Because the father sounded intoxicated the mother contacted law enforcement and CPP and when they went to the father’s home they found him intoxicated along with another individual. He was arrested and the children turned over to the mother. The father pled not guilty and a bench trial was scheduled for December 23, 2015 before this Court. On that date the father appeared with legal counsel, Robert Doody, and entered a plea of guilty to child neglect admitting the allegations in the petition.

The mother then filed an emergency custody petition and was awarded emergency custody until a hearing could be held on October 28, 2015. The mother appeared in person along with her mother and they both testified that the children have adjusted well to their current living situation- with their mother in a three-bedroom home in one room with the mother sleeping on a mattress on the floor and the children together in a bed. The Court had great concerns about this current living situation but noted at that hearing on October 28, 2015 that the father called CPP on the home and James Bird and a law enforcement officer came to the home and did not find any grounds to believe the children were endangered or neglected. The Court does not believe that this home would be appropriate long-term for the children however.

The father explained what occurred the day of his arrest. He admits that he was drinking but denies that the children were in any danger and that he always places the children with his mother when he drinks. He testified that the mother was not even involved in the children’s lives for approximately six years while he raised the children and that it is not fair to the children to remove them from him for one incident, which he believes is being overblown.

Despite this testimony at the prior hearing the father pled guilty to child neglect in lieu of going to trial on December 23, 2015. A criminal conviction for child neglect constitutes a substantial and material change in circumstances that would justify a modification of a prior custody order. However, there still must be a showing that the change is in the children’s best interests.

After this Court continued custody with the mother pending the father’s criminal trial, another child of the mother’s committed suicide at the home of the mother and these children. This prompted the father to file for emergency custody based upon his concern that this suicide occurred in the same home his daughters were now living in. The Court consolidated that motion with the hearing on permanent custody set for December 23, 2015.

Both parents appeared for the hearing on December 23, 2015 without legal counsel. The mother testified as follows:

*Her current residence is 21 TC Barker Hill, the home of Tom and Derek Locke who also live there. Her girls had started having emotional outbursts when she would ask them if the girls*

*whether they wanted to stay with the father. She claimed that the kids were wearing old clothes while with the father and telling her that their father continued to drink around them. The mother is still trying to find a place to live- everything is full- she waited until – Jesselynn has been hesitant to go with the father on the weekends- she wants to live with her mother- she starts acting up on Thursday. She also claimed that the teachers at the children's school told her that the girlfriend of the father showed up high on meth, but the school officials who were subpoenaed did not confirm this. The mother testified that her employer is willing to change her shift to accommodate caring for the children. She also testified that her daughter did commit suicide at her home and that she has gotten the children into counseling and that both children have been diagnosed with mental stresses resulting from living with their father. She offered documents from the Human Services Agency that both children are suffering from various mental conditions including disruptive behavior disorder, depressive disorder and a detachment disorder arising from the mother's lack of contact for many years. The counselor recommended that the mother and children continue therapy together.*

The mother also called Evelyn Pilcher from CPP to testify and she indicated that she had no concerns arising from the suicide in the home and that the mother appeared to be an appropriate caretaker for the children. Melanie Seaboy also testified in support of the mother's ability to provide for her children.

The father testified as follows:

*He is now 48 yrs of age and had permanent custody of his daughters for six years while the mother had little or no contact. He denied the mother's claim that he was denying her visitation and instead alleged that the mother chose not to have contact because she was travelling all over the place with no stable home and was using. He denied that the children ever had any mental health issues while with him and that any problems may be stemming from the mother using while pregnant although he acknowledged that the children tested negative for FAE or FAX. He states that the children want to come home to him where they are more comfortable and have their own rooms instead of staying in one bedroom together. He also stated that people told him to file for custody because of the suicide and that things were happening in the home that could impact his girls. He denied telling the school not to permit their mother to see the girls when he had custody. Justin says that the girls ask every weekend- when they will be going back to him. He says that the kids never had any problems in school until the mother started coming around again. He provided the Court with school records that demonstrate that the children were doing very well in his custody in school. He is requesting that the Court visit with the children to get their wishes as he is confident they want to come home.*

The paternal grandmother also testified in support of the father and indicated that he does not drink alcohol around the children and when he does the children are left with her or Justin's daughter. She also stated that her grandchildren told her that they were mean to her at her mother's house. Justin's adult daughter testified that the children are being manipulated against their father and that the children were at her home recently and were scared when they thought they were going to be picked up by their mother. She said that Loraelynn told her that her uncles were mean to her, including her uncle Cole who allegedly hurts her, and she did not want to come back to her mother's house. She said her father raised her appropriately and feels the children should come back to him.

The Court directed that the children be brought in to visit with Rhonda Fatland and they were on January 5, 2016. Ms. Fatland provided a report to the Court indicating that both children expressed a desire to stay with their mother and spend weekends with their father. She indicated that the children did not appear to have been coached and the statements appeared to be genuine.


WHEREFORE the Court finding that the child neglect conviction is a substantial and material change in circumstances and that the suicide of the mother's daughter was not due to condition in the home and that such does not constitute a substantial and material change in circumstances and the children indicating a desire to maintain the current situation it is hereby

ORDERED, ADJUDGED AND DECREED that Justin Cloud and Lindsey Richotte shall continue to have joint custody of these children with the mother having custody during the school week and the father on the weekends. The father shall also have 8 weeks extended custody during the summer months and the mother custody on the weekends during that time.

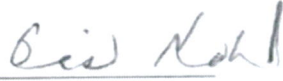
THERE SHALL BE NO ALCOHOL USE BY THE FATHER OR MOTHER WHILE THEY HAVE THE CHILDREN.

So ordered this 12<sup>th</sup> day of January 2016. .

BY ORDER OF THE COURT:



Chief Judge

ATTEST: 

Sisseton Wahpeton Oyate Tribal Court

# Payment Receipt

*Jesselynne & Lorenalynn Cloud, Minor Children*

*Case No AP-16-007-001*

<b>Date</b>	<b>Type</b>	<b>Receipt</b>	<b>Paid By</b>	<b>Pmt Type</b>	<b>Category</b>	<b>Amount</b>
1/15/2016	Payment	16-6801	Justin Cloud	Cash	Filing Fee	(\$100.00)

