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**THE SUPREME COURT OF  
THE SISSETON-WAHPETON OYATE  
OF THE LAKE TRAVERSE RESERVATION**

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APPEAL NO. 19-002-021

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IN THE MATTER OF KADEN RENVILLE,  
Minor Child, and concerning

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AMANDA RENVILLE,  
Petitioner and Appellant

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v.

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JONATHAN ADAMS,  
Respondent and Appellee.

**ORDER OF AFFIRMANCE**

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Per Curiam (Thor Hoyte, Chief Justice and Associate Justices John Murphy and Pat Donovan)

Appellant Renville (hereinafter Mother) appeals the trial court's order finding her in contempt of court and ordering a change of custody of the minor child. She asks this Court to quash the contempt citation and vacate the trial court's order granting Appellee Adams (hereinafter Father) custody of the minor child, Kaden Renville (hereinafter Child). For the reasons set forth above, this Court affirms the trial court's order.

**PROCEDURAL AND FACTUAL HISTORY**

This case involves a four year long visitation dispute between Mother and Father. Only a short summary of the factual and procedural history of case is necessary for purposes of this decision. At oral argument, Mother and Father admitted that all of the essential facts set forth below were accurate.

1 Mother resides and is domiciled on the Lake Traverse Reservation and is a member of  
2 the Sisseton Wahpeton Oyate. Father is a non-member living off reservation in South Dakota.  
3 Father consented to this dispute being resolved in tribal court and does not contest the  
4 jurisdiction of the trial court to preside over the matters addressed herein.

5 Since 2015, Mother has repeatedly violated the trial court's orders regarding visitation.  
6 She has been held in contempt repeatedly for her refusal to comply with the trial court's  
7 orders. She has not purged herself of any of these contempt citations by complying with the  
8 trial court's visitation orders (past or present). And, at oral argument in this appeal, she  
9 reiterated her position that she did not have to comply with the trial court's visitation order  
10 (see Issue Three, below).

11  
12 In what appears to be a last-ditch effort by the trial court to get Mother to comply with  
13 its visitation orders, the trial court's most recent contempt citation includes an order awarding  
14 custody of Child to Father if Mother fails to comply with the most recent visitation order. All  
15 Mother has to do to avoid that change in custody provision is to follow the trial court's  
16 visitation orders.  
17

18 Though an extreme remedy, it appears that the trial court had run out of options. Past  
19 attempts to get Mother to comply by fashioning gradual/transitional visitation schedules, to  
20 get the parties into counseling, or to use fines as an incentive for compliance, have failed.  
21 And, these attempts at pushing Mother into compliance were having the unintended effect of  
22 harming Child: Fines imposed against Mother were merely being deducted from Father's  
23 child support obligation, meaning that Child was receiving less financial support than he  
24 would have if his Mother complied with the trial court's orders.  
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1 First, Mother provides no authority for the proposition that the trial court was required  
2 to conduct an *in camera* interview with Child. The Code *permits* the trial court to conduct  
3 such an interview if it desires, but does not require it. See SWO Tribal Code Sec. 38-20-05.  
4 Thus, Mother has the high burden of establishing that it was an abuse of the trial court's  
5 discretion to fail to conduct such an interview.  
6

7 At the time of the evidentiary hearing, Child was seven years old. By the time of the  
8 hearing, Child had already been interviewed by numerous professionals trained in the art and  
9 science of interviewing children in a non-leading, non-harming manner. The record reflects  
10 he was interviewed by a forensic interviewer at Child's Voice in Sioux Falls and medical  
11 professionals at IHS. In fact, Mother introduced some of these records at the hearing. And, at  
12 the hearing, Mother, the maternal grandfather, and others, were allowed to testify about  
13 Child's attitude and demeanor regarding visitation with Father.  
14

15 Thus, the trial court had an ample record from which it could make determinations as  
16 to what was in Child's best interests. We cannot say that the trial court abused its discretion  
17 in not conducting this interview when there is no legal mandate requiring such an interview  
18 and the trial court had sufficient evidence before it to render a just decision.  
19

20 Second, assuming *arguendo* that the trial court should have interviewed Child, Mother  
21 has not demonstrated any prejudice as a result of the alleged error. Mother has not identified  
22 any specific information that the trial court could have elicited from Child that was not  
23 otherwise provided to it in the form of testimony and exhibits. Mother presented the trial  
24 court with evidence that Child did not want to go to visit Father and acted out prior to visits.  
25 The trial court factored that in to its previous orders which required the parents to gradually  
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1 phase in visitation with the assistance of counselors, and which limited visitations to daylight  
2 hours of relatively short duration (10:00 a.m. to 6:00 p.m.). Notwithstanding those  
3 accommodations to her concerns, Mother violated these court orders and refused to follow the  
4 visitation schedule as instructed.

5 Because there was no requirement that the trial court conduct an interview with Child,  
6 and because there was no prejudice to Mother from the failure to do so, we find that the trial  
7 court did not abuse its discretion.

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9 Issue Two: Consideration of Father and Paternal Grandfather's Testimony

10 Mother's second issue is that the trial court erred "by allowing the testimony of the  
11 Paternal Grandmother and Father to impact the outcome of this court decision."

12 Memorandum in Support of Appeal, paragraph 7. Mother claim of error is not legally or  
13 factually supported.

14 Mother does not articulate a legal basis for this objection and cites to no authority.  
15 Thus, it does not appear that Mother has identified anything that the trial court did that was  
16 legally erroneous.

17 Mother's factual argument is contradicted by claims she makes elsewhere in her  
18 appeal. On the one hand, Mother faults the trial court for considering the testimony of the  
19 paternal grandmother. On the other hand, Mother relies in substantial part on the testimony  
20 from her father, the maternal grandfather. Mother does not explain why the trial court should  
21 have only listened to her extended family, or how it erred in also listening to Father's.  
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23  
24 Mother also claims in this section of her brief that Father and the paternal grandmother  
25 acknowledged during their testimony that there were no Dakota language classes or other  
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1 culturally appropriate instruction in their community. This assertions by Mother is important  
2 in two regards.

3 First, it is at odds with her claim that the trial court should not have considered this  
4 testimony. By citing to this testimony, Mother tacitly acknowledged that the evidence  
5 provided by the witnesses was relevant.  
6

7 Second, and more importantly, this claim by Mother underscores her lack of concern  
8 for Child's best interests. From the onset, this case has been about Father seeking visitation  
9 with Child. When allegations of abuse were raised by Mother, the trial court terminated  
10 Father's visitation until the matter could be investigated. This shows the trial court's concerns  
11 for Child's best interests. Once the investigation revealed there was no evidence to believe  
12 abuse had occurred, Father was granted limited visitation that was to be slowly increased over  
13 time so that Father and Child could grow comfortable with each other and Child would not be  
14 left with Father overnight or for long periods of time. Rather than follow this schedule,  
15 Mother violated the trial court's orders and refused to follow the trial court's visitation  
16 schedule. Had Mother followed the trial court's orders, there would not be an issue of Child  
17 being deprived access to his traditional culture and language because he would be living with  
18 Mother, on the reservation, with his Mother and grandparents to provide him with dancing  
19 and language instruction and exposure. By forcing the trial court's hand through her repeated  
20 violations of the visitation order, Mother has created the situation where Child may be placed  
21 in a community that lacks these resources. Father cannot be blamed for this, nor can the trial  
22 court. The responsibility for this rests with Mother.  
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1 The trial court did not abuse its discretion when it listened to evidence from both sides  
2 in this litigation, including extended family members.

3 Issue Three: The Request for Further Investigation

4 Mother's next claim is that the "court erred by not issuing a further investigation."  
5 Memorandum in Support of Appeal, paragraph 5. As authority for this proposition, Mother  
6 cites to the general code provision requiring the trial court to consider the best interests of the  
7 child, and to sections in the juvenile code defining abuse and neglect.  
8

9 It is clear from the record in this case that the trial court has been consistently  
10 considering the best interests of Child. It suspended visitation when the initial abuse  
11 allegation was made and while that was being investigated. After that investigation  
12 determined that abuse had not occurred, the trial court imposed a visitation schedule designed  
13 to re-acquaint Father and Child. And, as evidenced by the repeated contempt citations, the  
14 trial court has repeatedly given Mother another chance to comply with its orders.  
15

16 As for the definition of abuse cited by Mother, this has little value to the present case.  
17 Child was interviewed by Child's Voice, an organization designed to identify cases of child  
18 abuse. And, the Child was brought to IHS by Mother to be interviewed about potential abuse.  
19 It is common knowledge that both organizations are mandatory reporters, and that if either felt  
20 that Child was subject to abuse, the authorities would have been notified. Neither reported the  
21 matter to authorities, and the record reveals that neither found abuse to be an issue.  
22

23 Mother's claim of error is that the trial court should have further delayed the  
24 proceedings to conduct more investigation. Nothing in the record supports this contention.  
25 As discussed above, extensive investigation had been going on for years. Child had been  
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1 interviewed by professionals. Further, Child was in Mother's custody throughout this  
2 process, and she could have taken child to other authorities or interviewers to have her  
3 concerns addressed had she so desired. She did not.

4 It was not an abuse of discretion for the trial court to rely upon the substantial record it  
5 had before it rather than conduct another investigation into years old abuse allegations that  
6 had previously been determined to be unfounded.

7  
8 Issue Four: Whether Mother's Contempt Can Be Excused by Traditions and Customs

9 The most important issue raised by Mother was whether her refusal to follow the trial  
10 court's visitation orders should be excused because she was doing what her father, Felix  
11 Renville, told her to do. Her position is that because Felix is the patriarch in the family, and  
12 that he did not want visitation to occur until his concerns about Child being abused were  
13 addressed to his satisfaction, she was not able to comply with the trial court's order. At oral  
14 argument she repeatedly affirmed that the trial court's contempt citation should be quashed  
15 based on tradition and custom.

16  
17 This Court, and the trial court, are duty bound to consider the traditions and customs  
18 of the Sisseton Wahpeton Oyate in all judicial proceedings. SWO Code Sec. 21-02-02. There  
19 is nothing in the record to suggest that these traditions and customs were not considered by  
20 the trial court judge. And, they are not being ignored by this Court.

21  
22 Mother admitted at oral argument that Felix Renville and others testified at the  
23 evidentiary hearing about Child's involvement in dancing and learning the Dakota language.  
24 And, the trial court heard testimony about Felix Renville's role as the patriarch.



1 In reaching its decision as to the best interest of Child, the trial court had to weigh  
2 those concerns against Father's right to have contact with his child, and the value of the  
3 father-son relationship to Child. Notwithstanding the value of grandfather's role in the  
4 family, Mother does not argue that the Oyate's customs and traditions suggest that fathers are  
5 unimportant or irrelevant in a child's life.

6  
7 Moreover, the issue presented is not whether the trial court considered the traditions  
8 and customs of the Oyate. Rather, the issue is one of control. Mother's position is that until  
9 the maternal grandfather believed the allegations of abuse had been investigated to *his*  
10 satisfaction, she was free to disregard the trial court's visitation order. In essence, her  
11 argument is that the grandfather's opinion controls whether Father gets visitation with Child.

12 The record is clear that the trial court was presented with a wealth of information from  
13 both parents about this abuse allegation, and that the authorities who investigated it  
14 determined that abuse had not occurred. Mother and her father may not agree with this  
15 outcome, or be skeptical of the findings of the various experts. But, they are not free to  
16 disregard the trial court's orders simply because they don't like the end result.

17  
18 Mother cannot absolve herself of her contemptuous behavior by claiming that since  
19 her father is the patriarch, and because he wasn't satisfied with the outcome of the child abuse  
20 allegation, she did not have to obey the trial court's various visitation orders. To permit the  
21 "traditions and customs" clause to be used in the manner suggested by Mother would render  
22 all trial court orders meaningless and unenforceable.

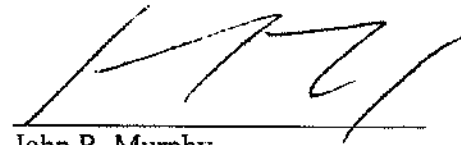
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24 The trial court did not abuse its discretion in awarding Father visitation and granting  
25 him custody of Child if Mother does not comply over the maternal grandfather's objection.

1 The parties agreed to the jurisdiction of the court to preside over the matter, and are obligated  
2 to abide by the decisions rendered by it.

3 Accordingly, the Order for Contempt and Order for Change of Custody with a  
4 Temporary State, issued by the Tribal Court on February 26, 2019, is AFFIRMED in its  
5 entirety.  
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7 BY THE COURT:

8 Dated this 7<sup>th</sup> day of May, 2019.



10 John R. Murphy  
11 Associate Justice