



**SALT RIVER
PIMA-MARICOPA INDIAN COMMUNITY
Court of Appeals**

10,005 E. OSBORN RD. SCOTTSDALE, AZ 85256 (480) 850-8115

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY,**

Plaintiff,

VS.

JOSE RENTERIA,

Defendant.

Case No.: APCR-13-0003

(Case below: T-09-0689)

DECISION AND ORDER

Before Jan W. Morris, Judge Pro Tempore, Siera T. Russell, Judge Pro Tempore and Richard J. Trujillo, Judge Pro Tempore.

In this appeal, Appellant urges the Court to dismiss the traffic complaint against him because, after failing to appear for arraignment on the complaint and subsequently being arrested a year later on a bench warrant, Appellant was not brought before a judge within twenty-four hours after arrest as required by law. The appeal is dismissed on jurisdictional grounds as set forth below.

BACKGROUND

{1} On June 9, 2009, Officer Massey of the Salt River Police Department issued Traffic Ticket and Complaint No. 31349 to Appellant Jose Renteria, alleging violations of two sections of the Salt River traffic code.

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{2} The traffic complaint indicated that Renteria was to appear to answer the complaint in the Salt River Pima-Maricopa Indian Community Court on July 8, 2009 at 3:00 p.m. Appellant Renteria signed the promise to appear.

{3} However, on July 8, 2009, Renteria did not appear in the Community Court, as he had promised. The judge issued a bench warrant for Renteria's arrest due to his failure to appear.

{4} Renteria was arrested and the Bench Warrant was executed on Saturday, July 10, 2010 at 9:57 a.m., a year and a day after the warrant was issued.

{5} Appellant Renteria was brought before a judge shortly after 11:00 a.m. on Sunday, July 11, 2010, a few minutes beyond twenty-five hours after his arrest.

{6} Counsel for Renteria moved the trial court to dismiss the traffic complaint because Renteria had been held for one hour longer than the twenty-four hour limitation established by Section 5-35 of the Salt River Code. The motion was denied, but prosecution of the traffic case was stayed pending this appeal.

{7} On August 9, 2010, Appellant filed his Notice of Appeal.

{8} On August 12, 2010, the Community filed its responsive brief.

{9} The matter came for oral argument before this Court on June 27, 2014.

DISCUSSION

{10} Appellant urges this Court to dismiss the underlying traffic complaint as a consequence of his detention beyond the twenty-four hour limitation, citing Section 5-35 and Section 5-36 of the Salt River Code as authority.

{11} Appellee Community asserts *inter alia* that this action does not meet the jurisdictional requirements set forth in Sections 4-32 and 4-33 of the Salt River Code.

{12} Pursuant to Sec. 4-32, "any defendant found guilty in a criminal action may appeal from such verdict or judgment" While it is clear that Appellant is the defendant in a criminal action, he has not yet been found guilty of any offense. In fact, he has yet to enter a plea to the two traffic charges of the complaint. Unless and until he is found guilty of a crime and a judgment is entered against him, Appellant has no standing to appeal pursuant to Section 4-32, and this Court lacks subject matter jurisdiction. This premise is consistent with our decision regarding *In the Matter of A. K. W.*, Case No. APC-14-0001 (March 21, 2014).

{13} Appellee also notes that Renteria has failed to meet the requirements of Section 4-33 which discusses an appellant's responsibility to challenge either findings of fact or conclusions of law. Again, it is clear that Appellant can challenge neither since, without a judgment, there can be no finding of fact or conclusion of law.

CONCLUSION

{14} While it is quite tempting for this panel to address the substance of Appellant's misguided proposition (i.e., the appropriate "local" remedy for an unlawful infringement of Appellant's liberty is dismissal of the criminal charges against him), we decline to do so in this instance and, instead, will wait for the circumstance to occur that will properly bring that issue before us. Until then, we are confident that, at a minimum, a detainee's right to seek a writ of habeas corpus in the federal district court pursuant to 25 U.S.C. § 1303 will suffice.

{15} Unlike the subsequent amendments to the SRPMIC Code and the adoption of appellate rules, the state of the Community law at the time of Renteria's Notice of

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Appeal did not provide for interlocutory appeals. Without a judgment of guilt, this Court lacks jurisdiction pursuant to Salt River Code Sec. 4-32 to entertain Appellant's action and it must be dismissed.

THEREFORE, IT IS THE ORDER OF THIS COURT that the appeal is dismissed for lack of jurisdiction.

IT IS FURTHER ORDERED that this matter is remanded to the trial court for further proceedings on the underlying criminal traffic case according to law.

SO ORDERED this 9th day of July, 2014.

Electronically approved 7/9/14

Jan W. Morris, Judge Pro Tempore

Electronically approved 7/9/14

Siera T. Russell, Judge Pro Tempore

Electronically approved 7/9/14

Richard J. Trujillo, Judge Pro Tempore

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