

**PRO SE GUIDE FOR SELF-REPRESENTATION
IN RST TRIBAL SUPREME COURT**

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INTRODUCTION

This guide is provided to help guide the self-represented litigant (pro se) in the appeals process. It is provided for informational purposes only and is not to be construed as giving legal advice.

For whatever reason, you have either been unable to secure legal representation or you have chosen to represent yourself in an appeal before the Rosebud Sioux Tribe Supreme Court.

Pro se in its most basic terms means that you are representing yourself in court without the assistance or presence of an attorney. An attorney has knowledge and training in the law and court procedure you may not have. You may lack the legal and court procedure knowledge and training or the courtroom skills that an attorney possesses.

By representing yourself pro se, the Court will expect you to have some knowledge of Supreme Court procedure and to be competent in presenting or defending against an appeal.

This guide will cover some general issues related to appeals in general and the Rules of Appellate Procedure. You can find a copy of the Rules on the Court's website.

The guide should be read in its entirety first and then you can refer to each part of the appeals process of this guide when you prepare for that part of that particular process. Hopefully this guide will give you a better understanding of each part of the process and to help you prepare for each part of the process to prepare for the appeal.

It is imperative to read each section as there are potential appellate documents and forms for your use even if the section doesn't apply to you. For example, if the Appellant files its Notice of Appeal past the last day to file an appeal, there is motion to dismiss the appeal for failure to file a timely appeal the other party (the Appellee) to use found in the section called "Notice of Appeal".

This guide also refers to appellate forms, motions and sample briefs you can find on the Court's website under "Appellate Forms" or you can ask a clerk for a specific form or forms. In each section below you will be referred to a specific form or motion along with instructions and tips to use and file with the Court if a particular motion is applicable to you or your case.

You should also familiarize yourself with the Rules of Appellate Procedure and you should have a copy at your disposal.

WHAT IS AN APPEAL

An appeal is a process by which a litigant asks a higher court to review the decision of a lower court (trial court) where a litigant feels the court made an error. An Appeal is not a re-trial of the case. It is a review of the trial court's decision and the evidence it is based on. You are not

allowed to introduce any new evidence or witnesses. The Supreme Court will only review evidence and testimony admitted into evidence by the trial court and that you ask to be included in the appeal.

The party or parties appealing the trial court's decision is called the Appellant. The party or parties not appealing and who won at the trial level is called the Appellee.

WHEN CAN I FILE AN APPEAL

You can only file an appeal after the Tribal Court has issued its final order in the case. A final order is an order or judgment that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.

There is one exception to the final order rule. Rule 2 allows for interlocutory appeal (meaning you can appeal an order of the Tribal Court before a final order or judgment is rendered. This type of appeal is so rare and too complex for a pro se appellant to attempt. If you think you are entitled to an interlocutory appeal you should consult legal counsel for help. The issue can always be appealed when the Tribal Court makes a final judgment.

WHAT CAN BE APPEALED

You can appeal a variety of issues. They can include a finding of fact or conclusion of law made by the Tribal Court in its Findings of Fact and Conclusions of Law, any court orders and any rulings made by the Tribal Court. Some examples of legal errors that can be made by the Court include: whether the Tribal Court improperly admitted or excluded evidence, whether there was insufficient evidence to support the verdict, any procedural mistakes made by the Tribal Court (how the jury was selected or how the trial was conducted), whether the Tribal Court applied the wrong rule or legal standard, or your Constitutional rights were violated. An example of the Tribal Court making an error regarding the facts is when the factual findings supporting the verdict are against the weight of the evidence. Give a brief statement for each ground on how the Court erred when you file your Notice of Appeal.

HOW TO START AN APPEAL

An appeal is started when the Appellant files a notice of appeal, a designation of record and posts an appellate bond unless waived. You must do all three in order to perfect your appeal. That means your appeal isn't filed until you do all three.

NOTICE OF APPEAL

Filing a notice of appeal is the first step in the appeal process. This gives the Court and other parties notice that you are appealing an issue(s) from the Tribal trial Court to the Tribal Supreme Court. It also gives them notice what issues or errors you are appealing. There is a **Notice of**

Appeal form on the Court's website found under Appellate Forms or ask the clerk for one.

There are sensitive time lines you must abide by or you will lose your right to appeal and you will have to live the lower court's decision. You must file a Notice of Appeal, a Designation of Record and post an appellate bond with the Clerk of Court of the Tribal Court (Rules 2) within 30 days of notice of entry of final judgment in all Civil cases and within 10 days of notice of entry of the final judgment or other appealable order in all Criminal cases. Work days, weekends and holidays are counted as days when computing time. Don't count the first day but count the last day unless the last day falls on a Saturday, Sunday or legal holiday in which case the last day is the end of the following day (Rule 8 (4)). No extensions of these deadlines will be granted. So failure to file your appeal within these time frames will result in the appeal being rejected or dismissed. If you are the Appellee and the Appellant failed to file their appeal within in the time limits you can use the **Motion to Dismiss Appeal for Failure to File a Timely Appeal** form found in this packet.

Rule 2 of the RST Rules of Appellate Procedure requires that an Appellant (the party bringing the appeal) post an appellate bond when the Appellant files its Notice of Appeal. Filing a Notice of Appeal won't start the appeal until you also file a Designation of Record and you either post the appeal bond or ask for a waiver.

Failure to file a designation of record or post an appellate bond (or ask for a waiver) with your notice of appeal could result in dismissal of your appeal or loss of your right to appeal.

Rule 5 provides the notice of appeal shall contain the following information:

1. The name, address, phone number (if applicable) of the party taking the appeal and their counselor or attorney of record (if represented)
2. The date and title of the Tribal Court Order or Judgment from which the appeal is taken
3. The name, address, phone number (if known) of all other parties to the Tribal Court action and their counselor or attorney of record
4. An itemization of all assignments of error or legal or factual issues desired to be considered in the appeal and a brief statement of issues being appealed. So you will need to itemize the rulings, findings of fact and conclusions of law made by the Court you want reviewed by the Supreme Court. You can appeal a variety of issues. They can include a finding of fact or conclusion of law made by the Tribal Court in its Findings of Fact and Conclusions of Law, any court orders and any rulings made by the Tribal Court. Some examples of legal errors that can be made by the Court include: whether the Tribal Court improperly admitted or excluded evidence, whether there was insufficient evidence to support the verdict, any procedural mistakes made by the Tribal Court (how the jury was selected or how the trial was conducted), whether the Tribal Court applied the wrong rule or legal standard, or your Constitutional rights were violated. An example of the Tribal Court making an error regarding the facts is when the factual findings supporting the verdict are against the weight of the evidence. Give a brief statement for each ground on how the Court erred.
5. A Certificate of Service indicating service of the Notice of Appeal upon all opposing parties

and the date and manner of such service

CAUTION: Rule 2 requires you to post an appellate bond or ask for a waiver when you file your notice of appeal. Rule 6 requires you to file a designation of record with your notice of appeal. Failure to file a designation of record with your notice of appeal could result in dismissal of your appeal or loss of your appeal.

DESIGNATION OF RECORD

Rule 6 requires the Appellant (the party filing the appeal) to file a Designation of Record when the Appellant files their the notice of appeal. Failure to file a Designation of Record with a Notice of Appeal will result in you losing your appeal or even dismissal of appeal. You can find a **Designation of Record** form for your use on the Tribe's website or ask the clerk for one.

The Supreme Court will only review the Appellate Record that you request in the Designation of Record and can consist of transcripts of hearings and trials, papers filed with the Court, pleadings, exhibits and court rulings and orders issued by the Court requested in the Designation of Record filed by the Appellant. Any of these items you fail to request in the Designation of Record will not be reviewed by the Supreme Court and could cause you to lose your appeal.

You must file a Designation of Record with the Clerk of the Tribal Court along with the Notice of Appeal and it must contain a Certificate of Service indicating service on all parties to the action and the date and manner of service.

Failure to request any Transcripts of hearings and trials, papers filed in court, pleadings, exhibits and court rulings and orders will result in any items not requested not being included in the appellate record and won't be reviewed by the Supreme Court and could cause you to lose your appeal.

In your designation of record you will need to itemize all pleadings, papers, orders and judgments and findings of fact and conclusions of law made by the Tribal Court that you want to be a part of the appellate record or supports your appeal or contain errors by the Court. Always request the Court's Final Judgment and Findings of Fact and Conclusions of Law that the final judgment or order is based on and for each non-final order and/or judgment you request. Please be as specific as possible what pleading, paper, order, judgment and findings of fact and conclusions of law you want to be a part of the appellate record. Also indicate the date of each pleading, paper, order or judgment and findings of fact to help the Clerk identify and make part of the appellate record. Here is an example: 1. Final Judgment and Findings of Fact and Conclusions of Law dated April 2, 2022; 2. Order Denying Motion to Suppress Evidence and Findings of Fact dated February 10, 2022; 3. Motion to Suppress Evidence dated January 8, 2022; 4. All pleadings by both parties.

You will also need to itemize any parts of transcriptions of any hearings requested in the Designation of Record that you want to be part of the appellate record. A transcription of a trial

or hearing is a typed transcript of recordings of what was said at the trial or hearings, what evidence was introduced and any oral rulings made by the Tribal Court on the record you want to appeal. You are required to include the date, time and name of hearing in your designation of record. Here is an example: 1. The trial held on April 2, 2022; 2. Hearing on Motion to Suppress Evidence held on February 10, 2022.

If you are the Appellee and the Appellant failed to file a Designation of Record with their Notice of Appeal you can file a motion to dismiss the appeal. There is a **Motion to Dismiss Appellant's Appeal for Failure to file Designation of Record** form found on the Court's website.

After the Appellee's Statement of Issues and Designation of Record and the Appellant's Designation of Record has been filed with the Clerk of the Tribal Court, the Clerk will then transmit only those portions of the record indicated by the parties that will include a table of contents indicating the names and dates of all documents included chronologically. This would include all documents and orders requested in the Designation of Record and transcriptions of any hearings requested in the Designation of Record.

APPELLATE BOND

Rule 2 of the RST Rules of Appellate Procedure requires that an Appellant (the party bringing the appeal) post an appellate bond when the Appellant files its Notice of Appeal. Your Notice of Appeal won't be filed until you either post the appeal bond or ask for a waiver. Remember you must file your appeal within 30 days of notice of entry of judgment in a civil case and within 15 days in a criminal case.

In a civil case (not a criminal case) the appellate bond is set at \$50.00 and the Appellant is required to file a statement of financial responsibility equal to the amount of the judgment in Tribal Court. A **Statement of Financial Responsibility** form for your use is on the Court's website. If you cannot file the statement of financial responsibility you will have to pay cash or surety in the amount of the Tribal Court Judgment unless the appellate bond is waived. If there is no money judgment the bond is just the \$50.00. If there is a money judgment you may have to pay the \$50.00 bond plus the amount of the money judgment.

In a criminal case the appellate bond is set at the amount of the set in the Tribal Court bond schedule for each offense being appealed. You can contact the RST Clerk of Criminal Court to find out what the bond is for each offense you are appealing.

If you had the filing fee's waived in Tribal Court you will be allowed to proceed In Forma Pauperis (meaning the appellate bond and any fees will be waived) on your appeal. Attach a copy of Order Waiving Filing Fees issued by the Tribal Court to your Notice of Appeal.

There is an **Application and Affidavit to Proceed on Appeal In Forma Pauperis** form found

on the Court's website for your use if you cannot pay the appellate bond and fees to file with your Notice of Appeal. Rule 2 allows for waiver of the appellate bond and fees if you are indigent. Rule 2 doesn't define what indigent means but if you can show posting an appellate bond will cause a financial hardship the Supreme Court may waive the bond requirement. You must be completely honest about any and all information you provide on the application as it is an affidavit where you swear all the answers are truthful. If you give false information you could face perjury charges. You must sign the application and affidavit in the presence of a notary public as you are swearing to tell the truth in the application. If the Supreme Court denies your application, you will have to post an appellate bond.

MOTION TO STAY

If you are appealing your case, the judgment against you that was issued by the Tribal Court is still valid and you may have to abide by the judgment unless you file a motion to stay with the Tribal Court that entered the judgment and then you need to file a stay with the Supreme Court if the Tribal Court denies your motion to stay. The Supreme Court will not entertain your motion to stay unless you filed one with the Trial Court and attach a copy of the order denying the stay from the Trial Court. You can find a **Motion to Stay Proceedings to Enforce Judgment** form on the Court's website that you must file in Tribal Civil Court before you can file a Motion to Stay with the Supreme Court and a **Motion to Stay Sentence in Tribal Criminal Court** form you must file with Tribal Criminal Court before you can file a Motion to Stay with the Supreme Court.

Use the form **Motion to Stay** found on the website to file a stay with the Supreme Court only if you filed a motion for stay in the Tribal Court and that Court denied your motion for stay. Rule 11 of the RST Rules of Appellate Procedure provides that a motion to stay filed with the Supreme Court will not be considered unless the moving party certifies that a Motion to Stay was denied by the Tribal Court. You must also attach a copy of the Tribal Court order, decision, judgment, decree or opinion denying your request for stay.

In your motion to stay you will need to describe any circumstances of why the Court should stay the judgment in a civil case or stay your sentence or probation in a criminal case pending its appeal. For a criminal judgment this could include employment, need to care for a child or disabled adult, you are breast-feeding your child or a medical condition would make serving a jail sentence a hardship. For a case where the Tribal Court changes custody of your children to another party the child insert that the child would be harmed and it would not be in the best interest of the child to abruptly change custody to a virtual stranger with little or no ties to the child.. For a money judgment it could include your inability to pay and would create a hardship on your family if collection on the judgment isn't stayed. You can ask for stay of judgment if you have paid a bond sufficient to pay the judgment. There could be a variety of reasons why the judgment should be stayed.

In the motion to stay you will have to certify that you filed and the Tribal Court denied your

motion for stay and attach a copy of order denying your request a for stay.

APPELLEE ALLOWED TO ASK FOR REVIEW OF ANY ADVERSE RULINGS BY THE TRIBAL COURT

Hey, I won at the trial court level why should I appeal any issues? It is important for an Appellee to appeal an adverse ruling or an adverse admission of evidence by the Tribal Court because if the case is remanded by the Supreme Court back to the Tribal Court for a new trial or hearing and you did not appeal the adverse ruling or admission will stand and be considered valid and cannot be challenged by you if there is retrial ordered by the Supreme Court. If you lose the retrial and you appeal you cannot bring up the adverse rulings you could have appealed in the first appeal brought by the Appellant because you failed to file a statement of issues to review those rulings in the first appeal by the Appellant.

Rule 6 gives the Appellee (the party that did not file the original appeal) 15 days after the Appellant's designation of record is served on Appellee to file an Appellee's Statement of Issues and Designation of Record for any issues the Appellee wants reviewed by the Supreme Court and to request any documents or transcripts the Appellee wants included in the appellate record.

Use the **Appellee's Statement of Issues and Designation of Record** form found on the Court's website or ask a clerk for one if you are the Appellee (the party that did not file the appeal) and there are issues want to appeal where you feel the Tribal Court erred. The Supreme Court will only review the Appellate Record that you ask for in your Appellee's Statement of Issues and Designation of record that consists of transcripts of hearings and trials, papers filed in court, pleadings, exhibits and court rulings and orders requested. Any these items you fail to request in the Appellee's Statement of Issues and Designation of Record will not be reviewed by the Supreme Court and could cause you to lose your appeal.

So you will need to itemize the rulings, findings of fact and conclusions of law made by the Court you want reviewed by the Supreme Court. You can appeal a variety of issues. They can include a finding of fact or conclusion of law made by the Tribal Court in its Findings of Fact and Conclusions of Law, any court orders and any rulings made by the Tribal Court. Some examples of legal errors that can be made by the Court include: whether the Tribal Court improperly admitted or excluded evidence, whether there was insufficient evidence to support the verdict, any procedural mistakes made by the Tribal Court (how the jury was selected or how the trial was conducted), whether the Tribal Court applied the wrong rule or legal standard, or your Constitutional rights were violated. An example of the Tribal Court making an error regarding the facts is when the factual findings supporting the verdict are against the weight of the evidence. Give a brief statement for each ground on how the Court erred.

In your designation of record you will need to itemize all pleadings, papers, orders and judgments and findings of fact and conclusions of law made by the Tribal Court that you want to be a part of the appellate record or supports your appeal or contain errors by the Court. Always request the

Court's Final Judgment and Findings of Fact and Conclusions of Law that the final judgment or order is based on and for each non-final order and/or judgment you request. Please be as specific as possible what pleading, paper, order, judgment and findings of fact and conclusions of law you want to be a part of the appellate record. Also indicate the date of each pleading, paper, order or judgment and findings of fact to help the Clerk identify and make part of the appellate record. Here is an example: 1. Final Judgment and Findings of Fact and Conclusions of Law dated April 2, 2022; 2. Order Denying Motion to Suppress Evidence and Findings of Fact dated February 10, 2022; 3. Motion to Suppress Evidence dated January 8, 2022; 4. All pleadings by both parties.

You will also need to itemize any parts of transcriptions of any hearings requested in the Designation of Record that you want to be part of the appellate record. A transcription of a trial or hearing is a typed transcript of recordings of what was said at the trial or hearings, what evidence was introduced and any oral rulings made by the Tribal Court on the record you want to appeal. You are required to include the date, time and name of hearing in your designation of record. Here is an example: 1. The trial held on April 2, 2022; 2. Hearing on Motion to Suppress Evidence held on February 10, 2022.

After the Appellee's Statement of Issues and Designation of Record and the Appellant's Designation of Record has been filed with the Clerk of the Tribal Court, the clerk will then transmit only those portions of the record indicated by the parties that will include a table of contents indicating the names and dates of all documents included chronologically. This would include all documents and orders requested in the Designation of Record and transcriptions of any hearings requested in the Designation of Record.

Failure to request any Transcripts of hearings and trials, papers filed in court, pleadings, exhibits and court rulings/orders will result any such items not being included in the appellate record and won't be reviewed by the Supreme Court and could cause you to lose your request for the Supreme Court to review your issues.

If you are the Appellant and the Appellee failed to timely file their Statement of Issues and Designation Record (within 15 days after the Appellant's designation of record is served on Appellee) there is a **Motion to Dismiss Appellee's Statement of Issues for Failure to Time File** form for use on the Court's website.

If you are the Appellant and the Appellee failed to file a Designation of Record with their Statement of Issues use the **Motion to Dismiss Appellee's Statement of Issues for Failure to File Designation of Record** form found on the website or from the Clerk of Courts.

RESEARCH

You will want to do some research on the Tribal Code and laws, as well as on some Tribal case law that backs up your arguments the Tribal Court erred in order to prepare your appeal, to prepare your brief and to prepare for you oral arguments to the Supreme Court.

You can ask the Clerk of Courts for Parts of the RST Tribal Law and Order Code and Tribal Constitution that are relevant to your appeal that you may need to prepare your brief and for oral arguments.

You will want to do some research on case law from Tribal Courts from various Tribes. You can cite any cases on point in your brief and at oral arguments. Tribal Court Clearinghouse has a search engine for tribal court case law at <http://www.tribal-institute.org/lists/decision.htm> You will have to enter a search word or term to find cases on point. If your issue is sovereign immunity you would enter “sovereign immunity” in quotes. Then cite any relevant cases in your brief to back up your argument that the Tribal Court made a mistake or was correct depending on if you are the Appellant or Appellee.

You will also want to do some research on case law from State and Federal courts. These cases are not binding in Tribal Court but the Supreme Court may find them instructive or persuasive. Google Scholar has a search engine for finding state and federal case law relevant and hopefully on point for the issues in the appeal. You can find and use Google Scholar at this site to type your search terms <http://scholar.google.com/>

BRIEFS

Rule 8 of the Rules of Appellate Procedures requires all the parties to the appeal to file a brief. Failure of either party to file briefs in a timely manner as required shall be sanctioned by the Court by summary dismissal unless excused by the Court and failure to ask for an extension prior to the Brief due date will result in summary dismissal of your appeal.

The Clerk of the Supreme Court will issue a briefing schedule where the appellant will be required to file its brief by a certain date and where the appellee will be required to file their brief by a certain date. If the appellant fails to file its brief by the due date and has failed to move the Supreme Court for an extension the appeal could be dismissed if the appellee files a motion to dismiss. If you are the Appellee and the Appellant has failed to file their brief timely and failed to ask for an extension before the due date use the **Motion to Dismiss Appeal for Failure to File Brief** form found on the website or from a Clerk of Courts. If you are the Appellant and the Appellee has failed to file their brief timely and failed to ask for an extension before the due date use the **Motion for Summary Reversal and/or Sanctions for Failure to File Brief** form found on the website or from a Clerk of Courts.

If you are waiting for the designation of record (the appellate record) and transcriptions or have some other good excuse and your brief is coming due, file a motion for extension of time to file your brief. It may be a common occurrence to file a motion for several extensions because transcriptions takes time prepare. Use the **Motion for Extension to File Brief** form found on the website or from a Clerk of Courts if you need an extension of time to file your brief.

Failure to ask for an extension prior to the brief due date will result in summary dismissal of your

appeal if you are the Appellant. So file this motion for extension well in advance of the date your brief is due. Failure of the Appellee to ask for an extension prior to the brief due date can result in summary reversal of the judgment and/or sanctions such as fines, costs and attorney's fees being levied against the Appellee.

Appellant's brief will be the first brief due. The Appellant will argue in writing how the Tribal Court made an error and why you should prevail and the Tribal Court judgment should be overturned.

The Appellee's brief will be due after it receives the Appellant's brief. The Appellee will argue in writing why the Tribal Court made the correct rulings or judgment. If the Appellee filed a Statement of Issues and Designation of Record they will argue the Tribal Court made did make an error and why they should prevail and the Tribal Court judgment should not be overturned.

Appellant is entitled to file a reply brief within 15 days of service of Appellee's brief on Appellant. An Appellant is not required to file a reply brief. A reply brief is reply to the Appellee's brief where you can rebut the Appellee's arguments with your own.

Rule 8 also prescribes that the both the Appellant and Appellee's brief (and the Appellee's brief must contain the following:

1. A table of contents with page references and a table of cases (alphabetically arranged), a table of statutes or other authorities cited with reference to the pages of the brief where they are cited
2. A statement of Issues presented for review
3. A statement of the case , indicating the nature of the case, the course of the proceedings in Tribal Court, and its disposition in Tribal Court
4. An itemization of all assignments of error or legal or factual issues desired to be considered for appeal
5. An argument which shall contain the contentions of the Appellant with respect to the issues presented, the reasons with citations to authorities, statutes and parts of the record relied upon
6. A short conclusion stating the precise relief sought
 - a. affirm trial court decision
 - b. reverse trial court decision
 - c. remand
7. A request for oral argument, if argument desired stating the reasons why argument is needed and why the Court should not decide the matter based on briefs and record. The Court may on its own motion grant oral argument. The decision to grant oral argument is discretionary with the Chief Justice.

Some latitude on these brief requirements are somewhat relaxed for pro se litigants. The Supreme Court has accepted and considered briefs handwritten in pen ink. The Court recognizes not everyone has access to technology or have the skills to use it. But come as close you can to

the **sample briefs** found on the Court's website under Appellate Forms or request a sample from a clerk of court. It contains sample **Appellant's Brief, Appellee's Brief, and Appellant's Reply Brief.**

Limit your brief to how the Tribal Court did or did not make an error in its findings of facts or how it erred in applying the law to the facts of the case or how it abused its discretion in any Court rulings. You can also argue essential facts and law and back it up with relevant sections of the Law and Order Code and any case law (RST Supreme Court precedence and any Federal and/or State appellate precedence) on point.

ORAL ARGUMENTS

Oral arguments is a hearing before three justices of the RST Supreme Court where you and the other party present your appeal or defend against it with legal and factual arguments. Appellate oral argument is not a re-trial of the case. It is a review of the trial court's decision. You are not allowed to introduce any new evidence or witnesses. The Supreme Court will only review any evidence and testimony admitted into evidence by the trial court and you can only argue the evidence and testimony admitted by the trial court. So you can only argue the evidence and testimony and how the Tribal Court made a mistake of fact or law or abused its discretion.

The RST Rules of Appellate Procedure requires a party to request oral arguments in their brief and the Supreme Court can order oral arguments even if none the parties request it. Most of the time the Supreme Court will order oral arguments.

Don't get sidetracked when making your oral argument to the Supreme Court as it will only hurt your case. Limit your arguments to how the Tribal Court either made an error (if you are the Appellant) or did not make an error (if you are the Appellee) in its findings of facts or how it erred in applying the law to the facts of the case or how it abused its discretion in any Court rulings. You can also argue essential facts and law and back it up with relevant sections of the Law and Order Code and any case law (RST Supreme Court precedence and any Federal and/or State appellate precedence) on point.

You will be limited to 20 minutes for your argument. If you are the Appellant you can reserve 5 to 10 minutes for rebuttal (meaning you can use that time to rebut or counter any of the Appellee's closing argument with further argument).

The Appellant presents their oral argument first. Then the Appellee goes second. The Appellant can then rebut the Appellee's argument if the Appellant reserved time before hand.

The Supreme Court will not rule on the appeal at Oral Arguments. The parties will receive a written opinion from the Supreme Court where the court makes its ruling on the appeal.

WHAT STANDARD OF REVIEW WILL THE SUPREME COURT USE TO DECIDE THE APPEAL

The standard of review the Supreme Court will use in deciding if the Tribal Court erred depends on the issue being appealed.

The Appellate Court will review Findings of Facts made by the Tribal Court for clear error. A finding is clearly erroneous when the Supreme Court is left with the definite and firm conviction that a mistake has been committed. The Supreme Court will not reverse the Tribal Court's finding of facts simply because it is convinced that it would have decided the case differently. Where there are 2 permissible views of the evidence, the Tribal Court's choice cannot be clearly erroneous.

The Supreme Court will review the Tribal Court's Conclusions of Law de novo. De novo (A Latin word for anew), the appellate court acts as if it were considering the question for the first time, affording no deference to the trial courts conclusions/decision. The Supreme Court will review the Conclusions of Law without regard to the Tribal Court's Conclusions of Law to ensure the Tribal Court applied the correct law to the issues being appealed.

The Supreme Court will review the Tribal Court's rulings on custody determinations and admissibility of evidence for abuse of discretion. The Tribal Court abuses its discretion only if it has failed to exercise sound, reasonable and legal decision making.

WHAT DECISIONS CAN THE TRIBAL SUPREME COURT CAN MAKE ON AN APPEAL

There are several different rulings the Supreme Court can make on an appeal.

The Supreme Court can affirm the judgment of the Tribal Court. This means the judgment will not be overturned. If the judgment is affirmed it ends the case. In such a case the Appellee prevails and the Appellant loses its case.

If the Supreme Court finds reversible error it can reverse the judgment of the Tribal Court. If the Supreme Court finds reversible error it will likely remand the case back to Tribal Court for a new trial, for modification of the judgment or to reconsider its judgment, or for further proceedings with instructions. In such a case the Appellant prevails.