

IN THE COURT OF APPEALS
FOR THE
ROSEBUD SIOUX TRIBE

CA87-01

ANITA JOSEPH,

Plaintiff and Appellee,

v.

ALBERT JOSEPH,

Defendant and Appellant.

O R D E R

This case having received complete appellate review, including oral argument, and the Court having issued opinion and being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED, that the judgment of the Tribal Court be, and the same is hereby, affirmed.

Dated this 14 day of September, 1987.

BY THE COURT:


ACTING CHIEF JUDGE

ATTEST:


(SEAL)

CLERK

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ANITA JOSEPH,

Plaintiff and Appellee,

v.

ALBERT JOSEPH

Defendant and Appellant.

APPEAL FROM THE ROSEBUD
SIOUX TRIBAL COURT OF THE
ROSEBUD SIOUX TRIBE

HONORABLE SHERMAN MARSHALL
Presiding Judge

ALBERT JOSEPH
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Mission, South Dakota 57555

Pro-Se

ANITA JOSEPH
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Parmelee, South Dakota 57566

Pro-Se

Opinion filed 9-14-87

Case # CA 87-01

AMIOTTE, Justice

Plaintiff-Appellee, Anita Joseph, filed a Petition for Child Support against Defendant-Appellant, Albert Joseph. The Rosebud Sioux Tribal Court, Sherman Marshall, Chief Judge, entered an Order that Plaintiff-Appellee's petition be granted and that Defendant-Appellant pay child support in the amount of sixty-five dollars (\$65.00) per month, per child. Appeal was taken by the Defendant-Appellant. The Court of Appeals, Rosebud Sioux Tribe, Amiotte, Justice, held that: (1) Albert Joseph is the natural father of Eric Joseph, and (2) The trial court did have jurisdiction over this matter.

Affirmed.

Before Roubideaux, Chief Justice: Amiotte, Justice: and Fast Horse, Justice.

Amiotte; Justice

Anita Joseph, mother of Albert Joseph III, DOB: 6-10-73; and Eric Wayne Joseph, DOB: 9-15-80, has custody of both children. Appellant, Albert Joseph, the admitted father of both children has failed to provide child support assistance to Appellee, Anita Joseph. Appellant claims that the trial court erred in finding that he is the natural father of Eric Joseph and that the trial court did not have jurisdiction over this matter in light of Plaintiff's failure to serve defendant with the order to show cause. The trial court granted Appellee's petition and ordered Appellant to pay Appellee child support in the amount of sixty-five (\$65.00) per month, per child. We affirm, based upon the following: (1) Appellant did admit under oath at the trial court level that he was the natural father of both

children; (2) Appellant was present in person at the April 9, 1987 trial and stated to the Court that he was ready to proceed with the hearing. No objection was raised by Appellant concerning a lack of service of notice of hearing at the trial court level. In addition, Appellant did admit before this Court that he had, in fact received notice of the April 9, 1987 hearing.

Both parties appeared before the trial court and this court pro se. Both courts have granted Appellant considerable latitude in the presentation of his case. However, this court is obligated to accept Appellant's Notice of Appeal. Both designated errors of Appellant are without merit.

The first designated error that the trial court erred in finding that Appellant is the natural father of Eric Joseph is incredulous to this Court. Immediately after swearing to the Court that the testimony he was about to give in this matter would be nothing but the truth so help him God, Appellant did admit on two occasions that he was the father of Albert Joseph III and Eric Wayne Joseph. Appellant has not presented any evidence to the contrary to either the trial court or this panel. Based upon evidence available to the Court, Albert Joseph, Appellant is the father of Eric Joseph and is responsible for the support of such children.

The second designated error challenges the jurisdiction of the trial court based upon failure of Plaintiff-Appellant with the order to show cause. This designated error is also without merit as Appellant was present at the hearing on Appellees petition for child support. Appellant did admit to this Court that he did receive notice of such hearing. It should be noted that service of a notice of hearing is not jurisdictional.

This Court is not required to reach a decision on all of Appellant's arguments. However, we feel compelled to advise Appellant that a high unemployment rate in a particular geographical area is not an excuse for not providing support for his children. We also feel obligated to point out to Appellant that the trial court was correct in granting child support based upon admitted paternity of the children and the fact that Appellant is able bodied and suffers from neither a physical nor mental disability. These findings based upon Appellant's own testimony do not violate the civil and constitutional rights of Appellant.

Accordingly we AFFIRM the trial court grant of Appellee's petition for child support.

The judgment of the trial court is affirmed.

Roubideaux, Chief Justice; Fast Horse, Justice, concur.