

No. SC-CV-27-09

NAVAJO NATION SUPREME COURT

Veronica Wauneka,
Appellee,

v.

Navajo Department of Law Enforcement
Appellant.

OPINION GRANTING RECONSIDERATION

Before, YAZZIE, Chief Justice, and GRANT and SHIRLEY, Associate Justices.

An appeal of a decision of the Navajo Nation Labor Commission, Cause No. NNLC 2007-056, Chairperson Casey Watchman presiding.

Regina Holyan, Window Rock, Navajo Nation, for Appellant, and David Jordan, Gallup, New Mexico, for Appellee.

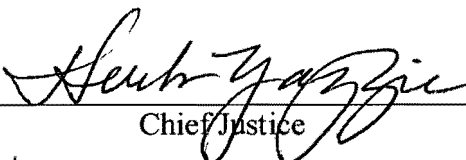
This matter comes before the Court on a Motion for Reconsideration. An Order of Dismissal was issued by this Court on July 14, 2009 for the reason that Appellant failed to file a transcript or seek an extension within the 30-day prescribed period for transmitting the record, pursuant to Rule 9(a)(2) of the Navajo Rules of Civil Appellate Procedure (NRCAP). The Appellant shows through its supporting memorandum that it gave notice of its intent to file a transcript and received a 45-day extension in the lower tribunal, thereby complying with Rule 9(a)(2). Appellant however did not notify this Court of its request in the lower tribunal and now argues that it was not required to notify the Court that it sought an extension with the Navajo

Nation Labor Commission. Pursuant to the extension, Appellant did file the transcript within the 45 days allowed.


This motion serves to illustrate the need to clarify Rule 9 of the NRCAP, once more. This Court hereby holds that from here on, parties have the affirmative duty to notify the Supreme Court and the other parties in a case that it has filed for an extension in the lower tribunal and whether an extension has been granted. To this extent, our holding as to the affirmative duties of the parties in an appeal in *Tso v Navajo Housing Authority*, No. SC-CV-20-06, slip op. at 3 (Nav. Sup. Ct. August 16, 2006) (stating appellant has an affirmative duty to notify the Supreme Court that a transcript is not necessary and will not be filed) is hereby expanded to include notice to the Court as to extensions. As explained in *Tso*, we cannot guess that an extension is being sought in the lower tribunal. *Id.* at 2. Appellants are obligated to live up to their responsibilities concerning the record.

Given that the Appellant in this case has otherwise met all of the timeframes and good cause shown, the Appellant's Motion for Reconsideration is granted and the Court's Order of Dismissal of July 14, 2009 is hereby VACATED. The appeal is hereby REINSTATED.

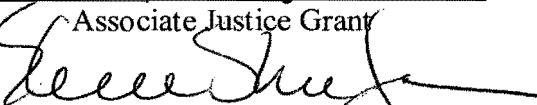
Dated this 20th day of August, 2009.



Chief Justice



Associate Justice Grant



Associate Justice Shibley