

No. SC-CV-19-10

SUPREME COURT OF THE NAVAJO NATION

Sandra Oliver,
Plaintiff-Appellant,

v.

Judy Apache,
Respondent-Appellee.

OPINION

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

An appeal of a decision of the Window Rock District Court, Cause No. WR-SC-516-09, the Honorable Carol Perry, presiding.

Sandra Oliver, Window Rock, Navajo Nation, Appellant pro se; and Judy Apache, Flagstaff, Arizona, Appellee pro se.

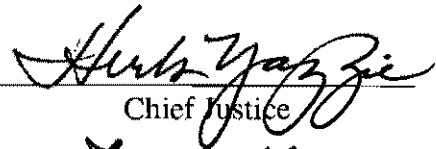
This case concerns a client's claim that she should have been awarded all, or more, of the retainer she paid to her former counsel, whom she had removed for failure to communicate ^{7.} as to the scope and detail of her representation.

A review of the record shows that a notice of appeal of a small claims judgment was filed on April 14, 2010. The record, including transcript, were due 30 days after the filing of the notice of appeal, or by May 14, 2010. The lower court record was filed on May 20, 2010, but the transcript or notice of non-filing of the transcript was not filed. Rule 9(b) of the Navajo Rules of Civil Appellate Procedure (NRCAP) requires the appellant to file a transcript of the lower court hearing, unless the appellant gives prior notice to the Court that a transcript is not necessary to the appeal. Absent a notice of non-filing of a transcript and absent an extension to file the transcript, the Court will dismiss the appeal. *Tso v. Navajo Housing Authority*, No. SC-CV-20-06, slip op. at 3 (Nav. Sup. Ct. August 16, 2006).

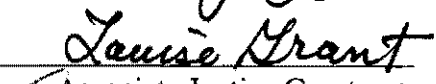
The Appellant did not seek an extension and failed to file the transcript or indicate her intention not to file one, and time has expired. Rule 10(c) of the NRCAP mandates that the Court summarily dismiss the appeal if appellant fails to timely file the transcript. The Court dismisses the appeal pursuant to Rule 10(c).

Furthermore, the Court has held that because the right of an appeal from a small claims judgment is limited under Rule 20 of the Navajo Rules for Small Claims Proceedings, the rule is clear that “there is no right to an appeal except only where ‘substantial justice has not been done.’ This Court thus has discretionary authority to accept or deny an appeal in a small claim action.” *Leonard v. Begay*, No. SC-CV-06-07 slip op. at 3-4 (Nav. Sup. Ct. January 26, 2010). The appellant herein completely failed to mention that she was appealing pursuant to Rule 20 and also, thereby failed to state that substantial justice has not been done by the small claims court. The Court, in its discretionary authority, therefore denies the small claims appeal.

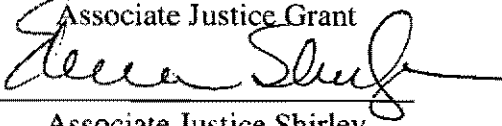
Dated this 17th day of June, 2010.



Chief Justice



Associate Justice Grant



Associate Justice Shirley