

TITLE 4. CIVIL PROCEDURE

Chapter 4.6

APPEALS

Sections:

- 4.6.1 Notice of Appeal.
- 4.6.2 Limitations.
- 4.6.3 Stay of Execution.
- 4.6.4 Notice for Posting of Bond.
- 4.6.5 Tax Appeals.
- 4.6.6 (Reserved)
- 4.6.7 Decision.

4.6.1. Notice of Appeal. Any person aggrieved by the verdict of the jury or the judgment of the Court shall have the right to appeal such decision by filing a written notice of appeal with the Court within ten (10) days from the day of judgment, provided that the case to be appealed meets the requirements established here or by rules of the Court. (Prior code Ch. IV, Art. VIII, §1: Res. 122 §8.1, passed Dec. 18, 1972)

4.6.2. Limitations. There may be established by rules of court the limitations, if any, to be placed upon the right of appeal as to the type of cases which may be appealed, as to the grounds of appeal, and as to the manner in which appeals may be granted, according to the needs of the jurisdiction. (Prior code Ch. IV, Art. VIII, §2: Res. 122 §8.2, passed Dec. 18, 1972)

4.6.3. Stay of Execution. Upon giving proper assurance to the Court through the posting of a bond or any other way that will satisfy the judgment if affirmed, the appealing party may be granted a stay of execution of any final judgment, order, or writ of the Court pending an appeal, and the judgment shall not be carried out unless and until affirmed by the Court of Appeals. The amount of the bond shall be set by the Court but in no case shall it exceed in a civil case the equivalent of the amount of the judgment, including costs, or the value of the property, including costs, if the judgment is for the return of the property. (Prior code Ch. IV, Art. VIII, §3: Res. 122 §8.3, passed Dec. 18, 1972; amended by Res. 94-154 (part), passed Oct. 10, 1994)

4.6.4 Notice for Posting of Bond. The clerk of the court must serve notice of stay of execution pending appeal upon the appellee within ten (10) days of the posting of the bond. If a notice of appeal is not filed with the court clerk within the time required by law, the bond shall be forfeited and may be executed upon according to judgment. The clerk of the court shall enter the forfeiture on the docket and notify the Court of the default. (Res. 94-154 (part), passed Oct. 10, 1994)

4.6.5. Tax Appeals. (a) Any party contesting the assessment of any taxes owed to the Tribe or any party appealing judgment for taxes owed or a judgment for any other

remedy provided under any tax ordinance of the Tribe must pay the assessed tax or judgment before he or she may appeal under this chapter. Upon the payment of such taxes and upon the posting of a one hundred dollar (\$100) bond for costs, the appealing party may be granted a stay of execution as to the part of the judgment other than the taxes found to be owing, and that part of the judgment shall not be carried out unless and until affirmed by the Court of Appeals.

(b) Any forfeiture of seized goods shall be stayed pending the appeal, and the Tribe shall hold the goods seized in a safe place until the final resolution of the case. If the goods are perishable or threaten to decline speedily in value, the Tribe may sell such goods in a commercially reasonable manner and hold the amount realized until the final resolution of the case. (Prior code Ch. IV, Art. VIII, §4: Res. 122 §8.4, passed Dec. 18, 1972; renumbered by Res. 94-154 (part), passed Oct. 10, 1994)

4.6.6. (Reserved). [Prior §4.6.5 "Appellate Trial," regarding appeals de novo, was repealed by Res. 91-017 §2, passed Mar. 11, 1991; renumbered by Res. 94-154 (part), passed Oct. 10, 1994]

4.6.7. Decision. The Court of Appeals may either affirm the judgment as entered, modify it, or reverse the judgment by a majority vote, and its decision shall be final. (Prior code Ch. IV, Art. VIII, §8: Res. 122 §8.8, passed Dec. 18, 1972; renumbered by Res. 94-154 (part), passed Oct. 10, 1994)

Suquamish Tribal Court of Appeals Notes of Decisions

1. Appeals tried on record

In the absence of a full and adequate original court transcript, a case cannot be reviewed on appeal, and the Court of Appeals must reverse and ordinarily remand.

Suquamish Tribe v. Randi Purser, SUQ-FCR-2/90-3 (Court of Appeals, Sept. 18, 1992).

2. Speedy appeal [refers to code section repealed by Res. 91-017 §2; see above]

Delay of fifteen (15) months between trial and appeal hearing violated the right to speedy appeal. Federal and state procedural precedent not reliably relevant because developmental stages and circumstances are different from tribal courts.

Absent tribal precedent, court will balance interests of tribe and defendant in evaluating whether to remand for new trial in light of the claim of lack of timely appeal hearing. Factors considered in balancing include the staleness of the evidence, tribal interest in law enforcement, and the need to hold the tribe to strict standards to protect individuals.

Recognition in STC §4.6.5 of the need for a speedy civil appeal is an implicit recognition of the even greater need in criminal cases.

Suquamish Tribe v. Randi Purser, SUQ-FCR-2/90-3 (Court of Appeals, Sept. 18, 1992).