

TRIBAL COURT
LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

12-19-03P01:20 FILE

PEOPLE OF THE LITTLE TRAVERSE
BAY BANDS OF ODAWA INDIANS,

Plaintiff,

Case No. CR-009-0703

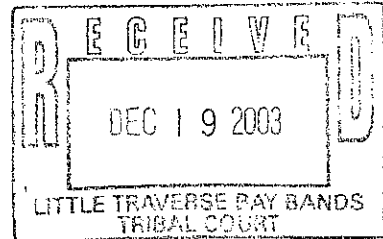
v.

Decision After Trial

YVONNE SANDELL,

Defendant.

_____ /



DECISION AFTER TRIAL

This Court conducted a trial in this matter on November 22, 2003. Defendant was charged with obstructing a law enforcement officer of the Little Traverse Bay Bands in the lawful exercise of his duties. Being fully advised of the evidence and arguments of the parties, this Court finds, concludes and orders as follows.

FINDINGS OF FACT:

1. Tribal Council adopted an express written policy on January 19, 2003 to govern the relationship and protocol between the Surveillance Department and the Little Traverse Bay Bands of Odawa Indians Police Department to promote public safety and welfare, positive public relations, and the economic well-being of the Tribe. See Plaintiff's Exhibit # 1.

2. The federal gaming regulations provide that the minimum internal control standards that grant access to the surveillance room of gaming operations shall be

limited to surveillance personnel, designated employees, and other persons authorized **in accordance with surveillance department policy** (bold for emphasis). See Defendant's Exhibit # 1.

3. The *Surveillance Room Entry Authorization List* in effect at the time of the instant matter does not include Tribal Law Enforcement Officers. See Defendant's Exhibit # 2.

4. Defendant denied tribal law enforcement access based upon the *Entry Authorization List*.

5. Plaintiff argues that the denial was based upon federal law, but in fact the denial was based upon the tribally-created *Entry Authorization List*.

6. The testimony and other proofs demonstrate that Defendant did what otherwise could be expected of her to assist in the investigation.

7. The Tribal law that was in effect at the time of the instant matter is the tribal *Gaming Regulatory Ordinance*. The *Ordinance* is silent as to law enforcement concerns, although the purpose of the *Ordinance* "to manage" and "to establish and delegate" powers, subject to the clearly expressed right of review. See WOS 2001-02, Defendant's Exhibit # 5.

CONCLUSIONS OF LAW:

1. A fundamental maxim of criminal law is that people are entitled to know what behavior is against the law.

2. Due process requires that criminal statutes be precise so as to give **notice** as to what is prohibited and so as to **discourage arbitrary enforcement**.

3. Defendant was merely following the policy of the surveillance department by denying law enforcement access to the surveillance room.

4. The Tribal Policy referred to above in the *Findings* above only applies to suspected criminal activity **within** the casino itself.

5. Tribal policies do not have the same status as tribal legislation.

6. Behavior by individuals that may give rise to criminal charges and a subsequent prosecution most certainly should be prohibited by tribal legislation.

7. Tribal Council has the power to amend the *Gaming Regulatory Ordinance* to clearly define the relationship between casino surveillance, casino security, and tribal law enforcement as it relates to crimes committed both inside and outside the casino itself.

8. Tribal Council also has the power to amend the *Criminal Code* to clearly proscribe behaviors inconsistent with community standards.

9. Tribal law enforcement does have a role to play in matters like the instant one.

10. Tribal law enforcement is responsible for the enforcement of tribal laws and the protection of the public.

11. Tribal law enforcement has the sole responsibility to conduct criminal investigations.

12. Tribal law enforcement is expected to maintain positive working relationships with surrounding jurisdictions to ensure the common good.

13. Only tribal law enforcement can fulfill the expectations and duties listed above.

14. Tribal law enforcement officers ought to have access to the surveillance room if circumstances require.

15. Tribal Council should ensure that tribal law enforcement has access to the casino surveillance room if necessary through its power to manage, delegate, and review.

FOR ALL OF THE FOREGOING, THIS COURT FINDS DEFENDANT **NOT GUILTY** AND ENCOURAGES THE TRIBAL COUNCIL TO AMEND TRIBAL LEGISLATION TO CLEARLY IDENTIFY THE POWER OF LAW ENFORCEMENT TO HAVE ACCESS TO THE CASINO SURVEILLANCE ROOM IF CIRCUMSTANCES REQUIRE.

12/19/03

DATED

MICHAEL PETOSKEY
TRIBAL JUDGE