

FILED AUG 07 1998

CARRIE L. SVENDAHL
CLERK OF COURT

IN THE TRIBAL COURT OF THE
SHAKOPEE MDEWAKANTON SIOUX (DAKOTA) COMMUNITY

Kimberly L. Gatzke,

Court File 300-98

Petitioner,

v.

ORDER

Scott Campbell,

Respondent.

This matter comes before the Court on a Petition for Enforcement of Foreign Judgment filed by the petitioner on June 7, 1998. A summons was issued on July 6, 1998 to the Respondent which has not been answered within the requisite time period of twenty (20) days allowed. A review of the complete file of this action in the Shakopee Mdewakanton Sioux Dakota Community Tribal Court included an "Affidavit of Service" dated July 10, 1998 sworn to by Jeffrey P. Comer of Metro Legal Services which states "that on the 7th day of July, 1998 at 7:55 p.m. (s)he served the attached Summons and Petition for Enforcement of Foreign Judgment upon Scott C. Campbell therein named, personally at 2997 West Woodland Trail, Shakopee, County of Scott, State of Minnesota, by handing to and leaving with John Doe, whose true and correct name is unknown, a true and correct name unknown, a true and correct copy thereof." The Rules of Civil Procedure Court of the Shakopee Mdewakanton Sioux Community 6. (b) Same: How Made. specifically provides in service of process in ".....leaving it at his dwelling house or usual place of

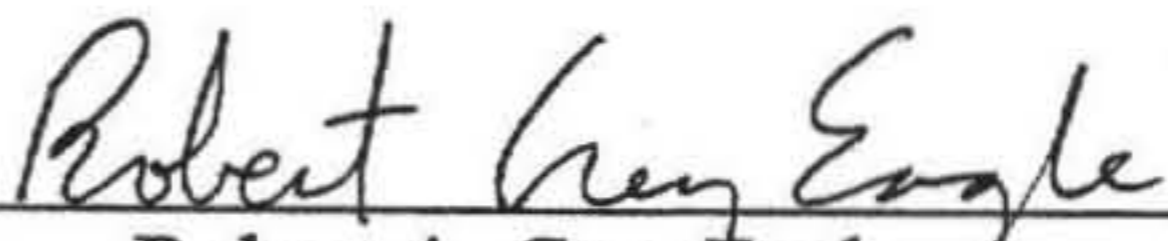
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abode with some person of suitable age and discretion then residing therein. ...". The Petitioner in this instance describes the person the Summons and Petition was delivered upon to be a "John Doe, whose true and correct name is unknown.". There is no assertion in the "Affidavit of Service" that such person was of suitable age or discretion and a resident therein as the rules require. The Court therefore in accordance with Rule 34 Enforcement of Foreign Judgments will require the Petitioner in this matter to meet the requirements of effective service of process. The question is of a fundamental nature wherein the Respondent should have the opportunity to be heard and that cannot occur if the service of process was defective or did not meet the basic requirements as provided in the rules of the Court. Effective service of process can be made through various methods including "Service by mail is complete upon mailing.", which the Petitioner may want to attempt otherwise the Court will schedule additional proceedings on the request to issue an "Order Enforcing a Foreign Judgment". At this point the Court is not satisfied with a "John Doe" service of process especially where there is no assertion that said "John Doe" is of suitable age, discretion or a resident therein. The Petitioner may attempt "service by mail" which should include some means of verifying this is the correct mailing address of the respondent or other effective service of process. The Court has discretion to require additional proceedings on cases of this nature which is based in part on whether the Respondent has responded to the Petition. Should there be effective service of process and the Respondent does not respond to the Petition in this Court then the matter is less problematic and similar to a default or acquiescence. In the same instance should there be a response as provided for in Rule 34 giving rise to a substantial question of jurisdiction or regularity of the proceedings in the foreign court

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then the Court may require additional proceedings. The Court hereby instructs the Petitioner to satisfy the requirements of effective service of process within (7) seven days of the issuance of this order and file with the Court the requisite pleadings and forms applicable to the service of process issue. Should the Petitioner want to proceed without meeting such requirement then the Court will schedule a hearing on this matter consistent with rule 34 of Court Rules of Civil Procedure. The Clerk of Court will ascertain which option the Petitioner chooses and docket the Court schedule accordingly. So Ordered.

Date: August 7, 1998



Robert A. Grey Eagle
Tribal Court Judge

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