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IN THE COURT OF CENTRAL JURISDICTION  
COURT OF APPEALS

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T.B.,

Plaintiff-Appellant.

vs.

D.S.,

Defendant-Appellee.

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**DECISION AND ORDER**

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## **PROCEDURAL HISTORY**

On July 13, 2001, the Trial Court of Central Jurisdiction, the Honorable Scott V. Lundberg, issued an Order awarding joint legal custody to the parties and sole legal custody to the Defendant-Appellee pursuant to cross-motions for custody of the minor children filed by both parties. Plaintiff-Appellant, T.B. filed a motion to appeal the custody decision of the Court on August 4, 2000.

This matter came before the undersigned three Justices of the Court of Central Jurisdiction Court of Appeals for oral argument on December 11, 2000.

## **DECISION**

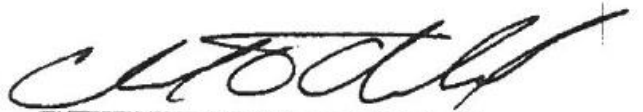
The court is to consider first any applicable Mille Lacs Band Statutes and Tribal custom or tradition. In the event that Band Statutes and/or customs and traditions do not provide clear legal authority, the court is to look next to federal law and, if federal law does not provide proper authority to make a decision, the court is to use State of Minnesota law. The Mille Lacs Band does not have any law governing child custody disputes between parents. Custom and tradition does not provide a clear answer in this case.

Federal law is also silent in this area. Minnesota Statutes Section 518.17 (518.1705 did not become effective until January 1, 2001 and therefore did not apply to this case), is the governing law in dissolution actions. In cases such as this, where the father and mother were never married, Minnesota Statutes Section 257.025 provides the governing law. Minnesota Statutes 257.025(a) states that in any proceeding where two or more parties seek custody of a child, the court shall

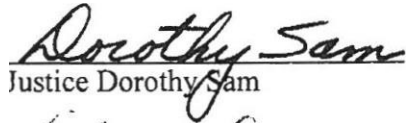
consider and evaluate all relevant factors in determining the best interests of the child, the statute goes on to list twelve factors that must be considered in any custody determination. The court must make detailed findings on each of the factors and explain how the factor led to its conclusions and to the determination of the best interests of the child (Minn. Stats. 257.025, subdivision 12a). The Trial Court may have considered all of the best interests standards as required by statute. However, the Court did not follow the statutory requirement of detailed findings on each of the factors with an explanation of how its conclusion concerning the best interests of the child was reached. It is essential that the Trial Court go through an explicit analysis concerning all of the best interests standards. Otherwise, the parties and/or a reviewing Court have no way of verifying that the Trial Court considered the best interests standards as required by statute and are also unable to determine which standards led to the Court's decision.

### **ORDER**

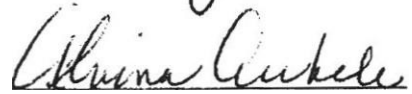
As this Court has no way of knowing how the Trial Court considered the best interests standards an arrived at a decision in favor of Defendant-Appellee, we have no alternative but to remand this matter back to the Trial Court for amended findings. This Court understands that Judge Lundberg is no longer serving as the Trial Judge in the Court of Central Jurisdiction. If Judge Lundberg is unable or unwilling to issue amended findings as required by statutes, this Court has no alternative but to order a rehearing in front of a different judge with explicit instructions to make the required findings.



Justice Charles Amdahl



Justice Dorothy Sam



Justice Alvina Aubele