ROSEBUD SIOUX SUPREME COURT)
ROSEBUD SIOUX RESERVATION) SS APPEALS COURT
ROSEBUD, SOUTH DAKOTA)

* *

STEVE A. GILLETTE, DOCKET # CA25-01

Plaintiff/Appellant,

NOTICE OF ENTRY OF ORDER

vs

BRUCE ANDERSON, HUMAN RESOURCE DIRECTOR, ROSEBUD CASINO MANAGEMENT
Defendant/Appellee.

* *

TO: THE ABOVE-NAMED PARTIES

Please take notice that on the 4th day of September, 2025, Associate Justice, Thomas Simmons, for Appellate Court entered a**n OPINION and ORDER OF DISMISSAL.** A copy of said **OPINION and ORDER** is enclosed and by this reference is incorporated herein and is herewith served upon you.

Dated this 8th day of September, 2025.

Chief Clerk of Courts

CERTIFICATE OF SERVICE

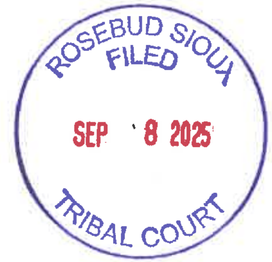
I, Denita Whipple, Chief Clerk of Courts of Rosebud Sioux Tribal Supreme Court, hereby certify that I served a true and correct copy of the Notice of Entry of Order and copy of said Order upon the Appellant(s) and Appellee(s) as follows by placing in the U.S. Mail, postage prepaid, addressed as follows:

STEVE A GILLETTE – SCANNED AND EMAILED

KURT ARGANBRIGHT/for Appellee – SCANNED AND EMAILED

Dated this 8th day of September, 2025.

Chief Clerk of Courts



IN THE SUPREME COURT

FOR THE

ROSEBUD SIOUX TRIBE

STEVE A. GILLETTE, Plaintiff/Appellant vs. BRUCE ANDERSON, HUMAN RESOURCE DIRECTOR, ROSEBUD CASINO MANAGEMENT Defendant/Appellee	)	Docket # CA 2024-01 OPINION AND ORDER OF DISMISSAL

PER CURIAM (Justices Pommersheim, Shelton, and Simmons). This is the second time this case has been before this Court. On September 1, 2020, Appellant Steve A. Gillette (hereinafter, Gillette) was terminated from his employment as a Surveillance Director with the Appellee Rosebud Casino (hereinafter, Casino). On March 22, 2023, he filed a wrongful termination lawsuit.[1] Following dismissal of his complaint on the basis of the statute of limitations, he appealed. In *Gillette I*, we held that the applicable one-year statute of limitations[2] runs from the date the notice of the decision of the Casino's Board of Review is communicated to the grievant, but remanded so as to allow the trial court to determine whether there ever *was* a decision

[1] Gillette's complaint also alleged violations of his due process rights. See U.S. Const. Amend. 14; Indian Civil Rights Act of 1968, § 202(a)(8), 25 U.S.C.A. § 1302(a)(8); Constitution and By-Laws of the Rosebud Sioux Tribe of South Dakota Art. X(f). Had Gillette filed his complaint within the one-year statute of limitations, he could have pursued his deprivation of due process claim relative to the alleged lack of hearing along with his other claims for relief.

[2] Rosebud Sioux Tribe Law and Order Code, Title Four – Civil Procedure, Chapter Two – Limitations of Actions and Sovereign Immunity, chapter 2 – Statute of Limitations (4-2-4), subpart 1.

following a hearing by the Board of Review sufficient to commence the statute of the limitations.[3]

On remand, the trial court, the Honorable Annmarie Michaels presiding, held an evidentiary hearing and thereafter entered an order dated December 16, 2024. The trial court concluded that there had, in fact, been "a decision by the Rosebud Casino Board of Review, which was served upon Plaintiff on July 9, 2021, which was sufficient to put Plaintiff on notice that the final stage of the grievance process was concluded and that he remained terminated, which caused the one-year statute of limitations to begin on that date." Gillette again timely appealed to this Court. On August 18, 2025, we heard oral arguments from Gillette (pro se) and attorney Kurt Dam Arganbright, counsel for the Casino.

Standard of Review

The reason articulated by the Casino for its termination of Gillette was an allegation of sexual harassment. Given the procedural posture of this case, having been initially dismissed on the basis of Rule 12(b), whether Gillette's termination was justified has never been explored. On remand from *Gillette I*, the trial court correctly held an evidentiary hearing on the narrow issue identified by us for determination: whether there was a decision following a hearing sufficient to commence the statute of the limitations.

From the evidence introduced, the trial court found that there had in fact been a decision served on Gillette on July 9, 2021, and that such decision "was sufficient to put Plaintiff on notice that the final stage of the grievance process was concluded..."

This finding of the trial court represents a mixed question of fact and law. The United States Supreme Court recently expounded on the correct standard of appellate review of such decisions:

[3] Opinion and Order of Remand dated July 22, 2024.

> The appropriate standard of review for a mixed question depends "on whether answering it entails primarily legal or factual work." Some mixed questions require a court to "expound on the law" by "amplifying or elaborating on a broad legal standard." When applying the law involves developing legal principles for use in future cases, appellate courts typically review the decision *de novo*. Other mixed questions require courts to resolve "case-specific factual issues." When the tribunal below is "immerse[d]" in facts and compelled to "marshal and weigh evidence" and "make credibility judgments," the appellate court "should usually review a decision with deference."

Bufkin v. Collins, 145 S.Ct. 728, 739 (2025).[3] Because the trial court's determination appears to us to have been primarily factual in nature, we adopt a deferential standard of review to the lower court's findings.

Analysis

We stated in *Gillette I* that "[g]iven the procedural posture of this case, the underlying facts were not fully developed below, but it was not disputed in the oral arguments before this court that there was any indication that the grievance Board of Review had ever held a hearing on Gillette's complaint, despite his multiple requests."[4] Gillette claims he never learned the name of his accuser nor uncovered the details of the alleged sexual harassment. Nor, he claims, was he able to confront his accuser or effectively challenge the decision to terminate him from his job. He recounted to this Court at oral arguments that his attempts to attend the hearing were rebuffed by Casino security personnel and he was not permitted to enter the room where the hearing was conducted. We express serious doubts whether a proceeding in which the grievant is excluded

[3] (quoting and citing U.S. Bank N.A. ex rel. CWCapital Asset Management, LLC v. Village at Lakeridge, LLC, 138 S.Ct. 960 (2018) (internal citations omitted)).

[4] Civil Complaint (Docket CIV 23-129).

from personally participating suffices as a "hearing."[5] A hearing, after all, is – if nothing else – an opportunity to be heard.[6] Gillette asserts that he was denied this opportunity.[7]

However, as we said in *Gillette I*, "if one concludes, as we do, that the action accrued only upon the formal termination of the grievance procedures, Gillette's complaint, filed about 20 months after the notice of the Board's purported decision in 2021, would [be] time barred, assuming that the Board can be said to have actually issued its decision…" The trial court's finding that the Board did make and communicate its decision to Gillette was based upon evidence and testimony introduced on remand. The finding is further supported by Gillette himself admitting that "the final course of action [sic] arose on July 9, 2021."[8] We see no basis for disturbing the trial court's findings. We conclude that Gillette's complaint, filed about 20 months after notice of the Board's decision, is therefore barred by the one-year statute of limitations.

Conclusion

Based on the foregoing, the Court affirms the trial court's order decreeing that the plaintiff's complaint is time barred.

It is therefore dismissed with prejudice.

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[5] In this context, the text utilizing the term "hearing" is the Rosebud Casino Employee Handbook's grievance procedure, section 711.

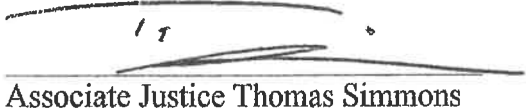
[6] A "hearing" can mean different things in different legal contexts. In other contexts, it may include, for example, the right to counsel, the right to a transcript, and the right to cross examine adverse witnesses. Califano v. Yamasaki, 422 U.S. 682, 691-92 (1979) (citation omitted) (discussing Social Security hearings).

[7] We believe the "hearing" contemplated by the Casino policy at issue in this case requires, at a minimum, (1) advance notice to the grievant of the time and place for the hearing; and (2) an opportunity for the grievant to attend and participate. See Black's Law Dictionary, *Hearing* (12th ed. 2024) (defining a hearing as: "A formal, scheduled setting in which an affected person presents arguments to a decision-maker").

[8] Appellant's Steve A. Gillette Reply to Appellee Brief, ¶ 4.

It is SO ORDERED on this the 4th day of September, 2025.

For the Court:



Associate Justice Thomas Simmons

[Certification]