Judge's ruling on gaming case keeps casino open

By Anthony Thornton
The Oklahoman Tue January 31, 2006

MUSKOGEE - A Tahlequah casino will remain open indefinitely after a federal judge sent a court case back to Indian gaming regulators.

The judge also chastised the National Indian Gaming Commission for its method of making Indian land determinations.

State and federal prosecutors had asked U.S. District Judge Ronald A. White to close the casino, which the United Keetoowah Band of Cherokees owns.

Their reasoning: The casino isn't on federal trust land, as required by law.

Tribe officials said the casino is part of a dependent Indian community, which they claim is the equivalent of trust land.

At stake is the tribe's primary economic venture, which funds most of its government programs.

The casino, housing 670 electronic machines on Tahlequah's main north-south street, has operated since 1991. As early as 1993, the Indian gaming commission collected fees and conducted on-site inspections.

In 2000, the regulatory body's top attorney said the casino property wasn't designated as Indian land. He referred the case to state prosecutors for possible criminal charges under Oklahoma's gambling statutes.

However, White said the attorney's ruling wasn't a final determination, even though the agency treated it as if it were.

"It appears as though the NIGC did not intend to send the determination to its chairman or the full commission for a 'final' determination," White wrote.

White said the agency doesn't appear to have a defined procedure for making such determinations.

"This is a very complex issue. It's just gotten enormously more complex" with Friday's ruling, said Jim McMillin, an Oklahoma City attorney representing the tribe.

The casino has remained open during the controversy. White continued an injunction that prohibits state or federal officials from closing it pending a final ruling.

Assistant U.S. Attorney Linda Epperley said federal officials will decide later whether to appeal White's ruling.

The Cherokee Nation, also based in Tahlequah, has sought to close the casino and filed legal briefs as a friend of the court.

White wasn't impressed, however, saying one of the Cherokee Nation's briefs "came dangerously close to affirmatively misrepresenting the law."

Keetoowah Cherokees Receive Favorable Ruling on Casino

Tahlequah, Okla. -- United States District Judge for the Eastern District of Oklahoma, Ronald A. White, has issued a ruling in the case involving the Keetoowah Casino which is favorable to the United Keetoowah Band of Cherokee Indians in Oklahoma. The ruling specifically remands the case to the National Indian Gaming Commission, criticizing the NIGC for the way it makes its Indian land determinations. For several years the NIGC accepted fees from the Keetoowah Casino, approved its gaming ordinances and conducted site visits, all as regulatory actions before making an about-face in late 2000. mously more complex with Friday's ruling, McMillin of McAfee & Taft, the Oklahoma City firm which represents the tribe. The action originated in state court and was transferred to federal court by the state represented by the Oklahoma Attorney General's Office. The United States Attorney's Office for the Eastern District then became involved once the Department of Interior and the National Indian Gaming Commission were made parties to the suit. An injunction was originally granted in state court which remained as the case was transferred. Both state and federal officials attempted to lift the injunction and that effort was overruled in June of 2005. ling and commend Judge White on his ruling. The judge has been fair and has really looked at the issues from all sides. ur members, assistance and education allowances, and provide support for the tribal programs. Making no effort in the past to hide their opposition to the Keetoowahs, Cherokee Nation of Oklahoma attempted to weigh in on the case without becoming a party by filing friend of the court briefs. However, while acknowledging that CNO did address important issues, the Court chastised them stating, t generally welcomes helpful analyses from friends of the court; any analysis that completely disregards pertinent facts is not helpful. Indeed, the Cherokee Nation's first brief came dangerously close to affirmatively misrepresenting the law ic impact of both our gaming operation and the tribe is significant. The casino stays open and we all are winners,irman, Charles Locust.

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New legislation helps Oklahoma's veterans

OKLAHOMA CITY - Oklahoma's disabled veterans saw four pieces of legislation become law this past session which will bring more comfort to their lives after serving in the military services.

Bills that became law July 1 included House Bill 1547 and Senate Bill 435. HB 1547 provides sales tax exemption for sales of tangible personal property or services not exceeding $25,000 per veteran per year. SB 435 exempts excise tax on the purchase of a new or used motor vehicle once within a consecutive three-year period.

Two pieces of legislation benefiting veterans that will become effective Jan. 1, 2006, are HB 1476 and State Question 715. HB 1476 exempts the greater of $10,000 or one-half of military retirement income from state income tax while SQ 715 exempts veterans from property tax.

"Recognizing the sacrifices of Oklahoma's service men and women was the motivation for these laws. This is long overdue for Oklahoma's heroes," Norman Lamb, state secretary of Veterans Affairs, said. Veterans wishing to obtain certification from the U.S. Department of Veterans Affairs should call 1-800-827-1000 and request a letter verifying they are in receipt of 100 percent disability of sales, excise and ad valorem tax purposes.

Also, veterans must contact the appropriate tax division for processing. A local tag agent can help with the excise exemption, and a county assessor can help with the property tax exemption. For the sales tax exemption, veterans must go to a satellite location or mail the certification letter to the Oklahoma Tax Commission, DAV Sales Tax Exemption, P.O. Box 53374, Oklahoma City, OK, 73152-3374.

The satellite locations are located at 301 W. Main St., Suite 316 in Ardmore; 1602 NW Lawton Ave., Suite B in Lawton; 1533 S. Main St. in McAlester; 440 S. Houston Ave., Suite 501A in Tulsa; and 2501 N. Lincoln Blvd. in Oklahoma City. - Oklahoma Division of Veterans Affairs

Car tag dispute awaits sovereign immunity decision

A Cherokee man named Jon Carrico filed suit against the Tax Commission in the Judicial Appeals Tribunal, but must now wait for a hearing on a motion to dismiss filed by CNO attorney Sarah Hill.

Hill's motion claims that the Tax Commission is an extention of the chief's office and thereby enjoys the same immunity from suit as the Cherokee Nation.

Carrico sought to purchase a car tag from the Cherokee Nation Tax Commission, but was turned down because he lives a few miles outside a boundary imposed by a legislative act of the Council. Carrico's suit contends that the boundary is a legal fiction not supported by the CNO constitution and is therefore invalid. The Tax Commission has not answered the allegation, but has instead filed a motion to dismiss claiming the Commission is immune from sut.

Carrico responded to the motion by claiminig that the constitution waives sovereign immunity, if in fact, any exists. Carrico also alleged that the Cherokee Nation laws did not originate in the tradition of English Common Law and since sovereign immunity is a doctrine of English Common Law, it does not exist in Cherokee law.

At press time, the court had not set a hearing date on the motion to dismiss. However a status conference has been set in the case for February 17th.

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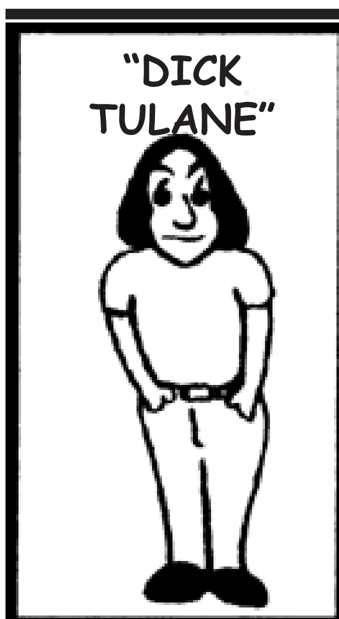

Cherokees in Dick's home town have been telling him that Chad Smith has everything under his thumb. All three parts of the CNO government are locked together in an iron triangle and the Cherokee people are left outside and walked on like a door mat. Many are amazed that Chad can keep it all together but Dick knows what it is that lets Chad keep the iron triangle together.

Hey Dick Tulane! What does Chad keep it all together with?

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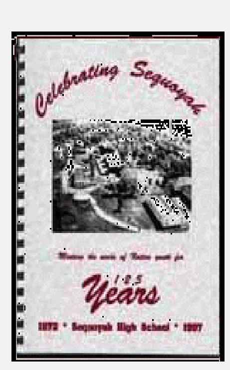

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