

**Obituary**

**Randy Moore**

I received news that my old high school buddy, and life long friend, Randy Moore, passed away last night ten minutes before midnight.. Randy had liver cancer but he never shared his pain with his friends..

A few weeks ago several of us went to his house and visited with him...it was good to see him again..I didn't realize how sick he was until I saw him..Randy was one of the toughest guys I knew.. good football player and was the first one of our classmates to join the military (US Navy)..he served on the USS Saratoga—1972—1976—I was next. (US Army).

Randy and I graduated from Jay High School in 1971..we played football together throughout high school..and we were lifelong friends..as a matter of fact, we met in the fourth grade and quickly became best friends.. We talked a few nights ago and shared stories that made us laugh until our sides hurt..he was a special friend..and I will miss him for the rest of my life..his passing reminded me that all things must pass..even tough old men like us..

It also reminded me to finish my own obituary...I used to think I was superman but I don't think that anymore..

Disney — Randy Moore, 54, electrical technician, died Saturday. Service 10 a.m. Wednesday, Disney Assembly of God. Luginbuel South Grand Lake, Langley. USS Saratoga: Deployment April 1972, Saratoga sailed from Mayport en route to Subic Bay, P.I., and her first deployment to the western Pacific. She arrived in Subic Bay on 8 May and departed for Vietnam the following week, arriving at "Yankee Station" on 18 May for her first period on the line. Before year's end, she was on station in the Tonkin Gulf a total of seven times: 18 May to 21 June; 1 to 16 July; 28 July to 22 August; 2 to 19 September, 29 September to 21 October; 5 November to 8 December; and 18 to 31 December. During the first period, Saratoga lost four aircraft and three pilots. On the plus side, on 21 June 1972, two of her F-4 Phantoms from VF-31 attacked three MIG 21s over North Vietnam. Dodging four surface to air missiles, one of the F-4s, piloted by Cmdr. Samuel C. Flynn Jr., with radar intercept officer Lt. William H. John, shot down one of the MIG aircraft. This Phantom, Bureau number 157307, was later transferred to the Smithsonian's National Air and Space Museum. The aircraft was transferred upon its arrival at Dulles International Airport on 29

November 1988. Saratoga's planes attacked targets ranging from enemy troop concentrations in the lower panhandle to petroleum storage areas northeast of Hanoi. On her second line period, she lost an F-4 to enemy fire northeast of Hanoi with the pilot and radar intercept officer missing in action. During this period, her aircraft flew 708 missions against the enemy. On 6 August 1972, Lt. Jim Lloyd, flying an A-7 on a bombing mission near Vinh, had his plane shot out from under him by a SAM. He ejected into enemy territory at night. In a daring rescue by helicopters supported by CVW-3 aircraft the following day, he was lifted from the midst of enemy soldiers and returned to Saratoga. It was the deepest penetration by U.S. helicopters into enemy territory since 1968. On 10 August 1972, one of the ship's CAP jet fighters splashed a MIG at night using Sparrow missiles. During the period 2 to 19 September, Saratoga aircraft flew over 800 combat strike missions against targets in North Vietnam. On 20 October, her aircraft flew 83 close air support sorties in six hours in support of a force of 250 Territorials beleaguered by the North Vietnamese 48th Regiment. Air support saved the small force, enabled ARVN troops to advance, and killed 102 North Vietnamese soldiers. During her last period on station, Saratoga's aircraft battered targets in the heart of North Vietnam for over a week. Saratoga departed "Yankee Station" for Subic Bay on 7 January 1973. From there she sailed for the United States, via Singapore and arrived at Mayport on 13 February 1973. On 21 January 1975, Saratoga, on a Mediterranean deployment, was released from a response alert for possible evacuation of U.S. citizens from Cyprus during a period of strife on that island.

**IS THE 1839 CHEROKEE CONSTITUTION STILL VALID?**

by Dario F. Robertson-Reprinted from December 1994 issue

As regular readers of the Cherokee Observer know from recent issues, the 1839 Constitution of the Cherokee Nation is not to be read as a lifeless historical text disconnected from the contemporary life of the Cherokee people. Rather, the conclusions reached by a growing number of Indian Law experts clearly point to an opposite conclusion. Careful analysis of the legal history of the Cherokee Nation persuasively establishes that the 1839 Constitution is currently the only valid constitution of the Cherokee Nation and that the 1976 Constitution seriously threatens the effective functioning of Cherokee Democracy and the integrity of Cherokee political institutions. Consider just a few of the possible consequences of continued reliance on the spurious 1976 Constitution. First, any defendant in a Cherokee Court or any terminated employee of the Cherokee Tribal Government could plausibly claim that any Tribal action taken against that individual would constitute a denial of DUE PROCESS OF LAW because the authority underlying such Tribal action was legally invalid and therefore, inherently arbitrary. If such claim were aggressively pursued by a sufficiently large number of claimants, the Administration of Tribal Government could come grinding to a halt amid a hailstorm of due process challenges.

Second, once it is established the 1976 Constitution is invalid, then virtually every action taken by Tribal government officials could be regarded as being either in excess of lawful authority or based on invalid authority.

Tribal leaders would lose all protection from the Tribe's SOVEREIGN IMMUNITY and could be sued in their individual capacity by other Tribal members and non-Indian plaintiffs. See, e.g., Santa Clara Pueblo v. Martinez, 436 U. S. 49, 59 (1978): Hardin v. White Mountain Apache, 779 F. 2d 476 (9th Cir. 1985) Tribal officials would lose the defense that the Tribe's sovereign immunity protects them as long as long as they act within the scope of their authority since under an invalid constitution they would have no valid authority. Consequently, the administration of Tribal Government would be exposed to the possibility of an avalanche of lawsuits aimed at individual officials in their capacity as private citizens.

In the coming months, the Cherokee Observer will run a series of articles by Indian Law experts describing the Constitutional crisis that has already silently engulfed the Mankiller government. Following Judge Bryant's compelling historical analysis in his seminal 1976 Federal District Court decision in Harjo v. Kleppe. Our contributors will explore in great depth the legal and historical basis for the conclusion that the 1976 Constitution is not now and has never been valid. As we publish the results of ongoing legal research in this area, we hope to elicit informed responses from all interested parties, regardless of their perspective or ultimate conclusions. Only through honest, open debate, in the highest traditions of Cherokee political life, can we hope to adequately address the crucial constitution questions now confronting Cherokee Democracy.

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**Tahlequah Man Sentenced to Prison for Domestic Assault in Indian Country**  
United States Attorney David E. O'Meilia announced that Brandon Lee Frailey, age 34, of Tahlequah, Oklahoma, was sentenced to prison today in federal court in Tulsa for a violent assault on his estranged wife. U.S. District Judge H. Dale Cook sentenced Frailey to eight years imprisonment for the crimes of Assault Resulting in Serious Bodily Injury and Domestic Assault and Battery in the

Presence of a Minor. On August 4, 2007, Frailey repeatedly hit, kicked and choked his wife at her residence in Pryor, Oklahoma. The victim's five year old daughter witnessed the violent attack. As a result of the beating, the victim sustained serious bodily injuries. Frailey was prosecuted in federal court because the crime occurred in Indian Country (on property inside Cherokee Nation Tribal jurisdiction), where major criminal offenses fall under the jurisdiction of the United States Courts. The defendant is also of Indian descent. U.S. Attorney O'Meilia stated "This prosecution demonstrates the continuing commitment of my office and the Department of Justice to prosecute violent crimes occurring on Indian land, including domestic violence offenses." The charges against Frailey were the result of

a joint investigation by the Cherokee Nation Marshals Service and Federal Bureau of Investigation. Assistant U. S. Attorney Trent Shores represented the government in this matter.

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Brandon is the son of CNO councilor Meredith Frailey of Locust Grove. I have known him since he was a young boy. I truly feel bad for him and his family. David Cornsilk



CNO councilor Meredith Frailey

**Senator's Plea for Indian Health Care Reform Sparks Hope**

By Kevin Abourezk

It's a story we know well.

We've heard it a thousand painful times.

And it never gets any easier to hear.

But this week, as a North Dakota senator told that familiar story on the U.S. Senate floor, I began to experience an unfamiliar sense of hope.

That hope came as Byron Dorgan focused a national spotlight on the ugly truth about Native health care during debate on the Indian Health Care Improvement Act.

That hope came as Dorgan - his voice fueled by righteous indignation - related the story of Ta'Shon Rain Littlelight, a 5-year-old Crow girl from Montana who died in her mother's arms the night before she was to see Cinderella's Castle at Disney World because her cancer was not diagnosed early.

That hope came as he berated this country's leaders for allowing the death of Avis Littlewind, a 14-year-old girl who lay for 90 days curled up in a fetal position on her bed before killing herself because no treatment center existed on her reservation to help her.

That hope came as Dorgan and his fellow co-sponsors of the Indian Health Care Improvement Act put a human face on a problem ubiquitous to Native people - the problem of Indian health care.

Like the hope that comes the first time a long-buried secret is told - the hope that the only course left is out of the darkness - I can't help but feel that maybe true change is on the way for Indian health care.

The last time I felt this way was more than a decade ago when a banker from Montana blew the whistle on the government's mismanagement of billions of dollars worth of Indian trust accounts.

As a young Lakota boy in South Dakota, I had often heard stories of lost land records and royalties. I never thought some day someone might actually challenge the federal government to account for its incompetence in handling Native people's lands.

to horror stories of Indian health care, I never thought the day would come when a U.S. senator would challenge his own government to live up to another broken promise.

But that's just what Sen. Dorgan did this week.

He told his fellow senators to live up to their government's trust responsibility to this country's first people. He reminded them that the treaties their forefathers signed in order to gain vast tracts of land were more than just pieces of paper.

"This legislation on the floor of the Senate is not just some other bill," he said Tuesday. "This is a step toward completion of promises that have been made."

He appealed to their sense of decency:

How could this country fail to honor the contributions of a people who have sent their young men to battle in greater numbers per capita than any other ethnic group?

How could it ignore statistics like the 128 percent increase in the diabetes rate of Native youth ages 15 to 19 between 1990 and 2004?

How could it continue to spend twice as much on health care for a prisoner as it does for a Native person?

In the end, he reminded them of their responsibility to the memory of a 5-year-old girl who died after reservation doctors failed to detect the cancer that eventually stole her life.

"Let's meet our responsibility, keep our promises and provide decent health care to the people who were here first, and that's what this bill does. This bill is a step, just a step in the right direction."

It might be naïve of me, but I can't help but hope this one senator's plea for reform will light a fire.

I can't help but hope this story, so familiar to me, will someday be foreign to my children.

Kevin Abourezk, Oglala Lakota, is a reporter and editor at the Lincoln (Neb.) Journal Star. He is a rezneth assignment editor and teaches reporting at the Freedom Forum's American Indian Journalism Institute.

And after a lifetime of listening

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