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Three Cherokee Councilors File Interference Against Chief

By Ed Crittenden

Tahlequah – Three Cherokee Council members filed a Petition for Declaratory Relief stating that Chief Chad Smith has violated both Cherokee law and the Constitution and has interfered with the Election Commission, a crime that could have him removed from office.

Two weeks after Smith signed a Council Resolution approving Dr. Charles D. Hathaway as a fifth member of the Election Commission, he sent a memo to the Commission stating he would not affirm the nomination. Smith, on September 15th, filed suit in the Judicial Appeals Tribunal, (JAT), disputing that Hathaway is a seated Commissioner.

On November 14th Council members Johnny Keener, from the Mayes District, Linda O'Leary and Melvina Shotpouch, both from the Delaware District, filed a declaratory judgment asking the Cherokee court to rule that Hathaway be found duly seated as the fifth commissioner.

Cherokee law establishes the Election Commission and appointments stating that two Commissioners shall be appointed by the Council, two appointed by the Principal Chief and one selected by those four appointees, who will be confirmed by the Principal Chief and Council. On May 19th the Commission met and selected Hathaway, a respected Cherokee Chiropractor from Tahlequah practicing within the community for over 25 years.

June 20th Council unanimously approved Hathaway, 14-0, one councilor was absent, and on June 28th Smith both signed and returned Resolution 60-05 to Council within five days after receiving the document with a letter stating, "After careful consideration I am approving all but two enactments." Neither of the two vetoed enactments were the Hathaway appointment.

Following Council approval, every enactment is required by the Cherokee Constitution to be passed to the Chief's office for approval or veto and to be returned to Council within five days or the enactment automatically becomes approved by the Executive.

Smith contends that by signing the resolution he only meant to approve Councils right to approve the nomination. However numerous exhibits filed in the case affirms that Smith has historically vetoed resolutions on which he has disagreed. Smith's actions began a controversy that ultimately put the Election Commission into a tail spin that has distracted and prevented them from going forward with their legislative duties to prepare for the upcoming 2007 general election. Until the four Commissioners have selected a fifth and a full Commission has been seated, no other business can be undertaken by the Commission.

In November of 2004 Cherokee citizens circulated four petitions garnering some 6,000 signatures in support of the measures. Petitioners are still waiting for a Commission to receive the petitions

continued on page 3

JAT judge makes the news

November 22 2005

DEPUTY FIGHTS OVER ASSAILANT'S ESTATE

*He's trying to gain control of the property left by the man who shot him so he can collect a judgment.

fees and interest.

District Judge Jefferson Sellers ruled in 2003 that the jury's judgment was final and that "there is no just reason for delay." But when Pierce tried to



by Ziva Branstetter
World Projects Editor

More than three years after a jury awarded Sheriff's Sgt. Randy Pierce \$650,000 from a mentally incompetent man who shot him, Pierce is still fighting the man's attorney to collect the money, even though the man died last month.

A hearing Tuesday in Tulsa County District Court will determine who gets control of Darrow Manning Ford's estate. Pierce said he thinks Ford's attorney, Darrell Matlock Jr., is trying to drain the estate of its assets.

"I still have outstanding bills from my shooting. I will have pain the rest of my life, and I just have to cope with it," Pierce said. "This court case is just making it 10 times worse."

Bob Willis, a certified public accountant with connections to Matlock, was appointed to be special administrator of Ford's estate in a hearing Oct. 18. Neither Willis nor Matlock could be reached for comment.

Pierce was serving a court order to pick up Ford at Ford's home in Tulsa on May 1, 1998, for a mental evaluation. The Department of Human Services requested the order after neighbors said Ford, then 67, was living in filthy conditions, had no working utilities and rarely left his house, court records state.

When Pierce tried to enter the house, Ford fired several shots, striking Pierce twice in the left arm and twice in the right arm.

Pierce was out of work for 13 months and underwent 11 surgeries to repair extensive nerve damage. He lost much of the function of his right arm and had to learn to do many things, including shoot, with his left.

Ford was found incompetent to stand trial and was sent to the Oklahoma Forensic Center in Vinita. He later was moved to a Broken Arrow nursing home.

His attorney in the criminal case, Matlock, got Willis appointed as Ford's guardian, records show. Willis is not related to Ford.

Pierce sued Ford over the injuries he suffered, and a jury decided Sept. 17, 2002, to award Pierce \$650,000. Pierce said the judgment has grown to nearly \$1.5 million with attorney's

Note: Two of the controversial players in this article are/were appointees in the Cherokee Nation government. Darrell Matlock Jr. is serving as the Chief Justice of the Judicial Appeals Tribunal and Kyle Haskins was appointed to the Cherokee Election Commission. He resigned last month. Both men were appointed to their positions by Chad Smith.

Council votes to change district name

The Cherokee Nation of Oklahoma Council has voted to amend the election laws of the tribe and have included a change in the name of one of the nine CNO districts without a vote of the Cherokee people of that district.

the U.S. Civil War and distinguished himself in his defense of the Cherokee Nation from marauding Confederate soldiers, including the ancestors of W.W. Keeler. The town of Oolagah is also named for him.

Previously known as the Oolagah District, the Council has voted to change the name to the Keeler District, after former principal chief, W.W. Keeler, who served as Principal Chief from 1949 to 1974. Keeler has the distinction of being the second longest serving principal chief of the Cherokee Nation.

However, only four of those years were actually elected by the Cherokee people. The remaining 22 years, Keeler had been appointed to the office by the President of the United States or by the head of the Bureau of Indian Affairs.

The longest serving democratically elected principal chief of the Cherokee Nation was the renowned and beloved John Ross, who served in that office with distinction for over 34 years.

The District was previously named for a Cherokee warrior named Oolagah, known to the whites as "Dark Cloud." He was a member of the Cherokee Home Guard during

"In a unanimous vote of the Council, CNO legislators have stripped the citizens of the Oolagah District of democracy by changing the district name without notice or a vote of the district residents," said a District #8 resident, who asked to remain unnamed.

At a gathering of District #8 residents, several CNO members voiced their disappointment in the Council's unilateral action. One woman, who also asked to remain anonymous said, "We have reason to fear our tribal government, I don't want to lose my job at the Casino, but what the council is doing is wrong."

Tribal members said that the change was not as significant as how it took place. Their concerns centered around the fact that residents of District # 8 had voted on the name of their district and now it seems as though that vote has no meaning to their representatives.

District # 8 residents are considering their options and may file a lawsuit to stop the name change.

Judges rule for citizen standing in 1999 Constitution case

The Judicial Appeals Tribunal, highest court in the Cherokee Nation, has ruled against a Cherokee citizen in his attempt to have the 1999 Constitution case dismissed.

Earlier this year, Ralph Keen Jr. and Jay Hannah filed a petition with the JAT in an attempt to get the 1999 Constitution finally approved and implemented. Both men are officers of the 1999 Constitution Commission created by the Council, as well as officers of the 1999 Constitution Convention.

Hannah and Keen asked the JAT to determine the status of the 1999 Constitution, which was voted on and approved by the Cherokee people. However, the new constitution has been in political limbo following a suit filed in Federal District Court in Washington, DC by Cherokee citizens claiming they were not permitted to vote for or against the document.

Marilyn Vann, a Cherokee Freedmen descendant and president of the Descendants of Freedmen of the Five Civilized Tribes organization, is the main plaintiff in the federal suit. Following negotiations with the BIA, the U.S. government has refused to acknowledge the new constitution and the Cherokee Nation of Oklahoma continues to operate under its older governing document, the 1976 Constitution.

The Principal Chief filed a motion with the Federal Court asking that the Cherokee Nation be permitted to intervene in the suit and have it dismissed based on sovereign immunity. That motion remains undecided, but precipitated another suit by CNO member John Cornsilk, which was later overruled by the JAT.

John Cornsilk had asked the JAT to review the constitutionality of the Chief's actions, claiming that the action was unconstitutional and a

continued on page 3

Council Approves Election Law Without Election Commission Input

By Ed Crittenden

Cherokee Nation – Council – November – The Cherokee Council unanimously approved a new election law at their November meeting despite an ongoing controversy brought about by Cherokee Chief Chad Smith keeping the Election Commission in a state of limbo.

At the September meeting Council tabled the Election Law until the November regular meeting so that Election Commissioners could attend at least two sub committee meetings and be involved in perfecting good election law. It was agreed they should facilitate the Commissioners with enough time to make suggestions and have input in the final version.

However the Election Commission has been in a state

of disruption since June when Smith balked after signing Council Resolution # 60-05 unanimously confirming 14-0, the nomination of Dr. Charles D. Hathaway, a Tahlequah Chiropractor, as the fifth Commissioner. Smith returned the document to Council within the five day period

continued on page 5

DELAWARE TRIBE OF INDIANS HOLDS ANNUAL MEETING AND ELECTION THAT RECALLS CHIEF

By Ernest Tiger

Delaware Tribe – Bartlesville –

The annual General Council meeting of the Delaware Tribe of Indians was held Saturday, November 5, 2005 at the Tribe's Community Facility Building located at 5100 Tuxedo Avenue in Bartlesville, Oklahoma. The General Council, (the Tribal Membership), is the supreme governing body of the Delaware Tribe of Indians. In addition to the General Council meeting, the site was also the polling place for an election of three Tribal Trust Board positions and a proposition to recall the Chief.

Delaware Tribal Members from the local area and from surrounding and distant states attended the meeting and cast their votes. This year's annual meeting had a record attendance and Tribal members came prepared to voice their opinions and to become informed about the Tribes governmental affairs and future plans. The polls opened at 9:00 a.m. and the meeting began at 1:00 p.m. Many Tribal members from Tulsa and the nearby local area came, cast their votes and left.

continued on page 2

Judge to Review CNO Motion in Federal Freedmen suit

A federal judge has issued an order stating that the motion to intervene, filed by Cherokee Nation of Oklahoma Principal Chief Chadwick Smith, in the federal Freedmen lawsuit against the Bureau of Indian Affairs, will be reviewed.

A suit was filed in the Judicial Appeals Tribunal by John Cornsilk to stop the intervention in a case styled Cornsilk v. Frailey. However, the Justices of the JAT ruled that Cornsilk had suffered no individuated harm by the intervention and therefore had no standing. The case was dismissed.

In a short, one page Order, Henry H. Kennedy Jr., United States District Judge for the United States District Court for the District of Columbia, ruled that the Cherokee Nation's limited motion to intervene should be approved and further ordered that the tribe's motion to dismiss be filed on the date of the order.

Lawyers for the Freedmen plaintiffs in the case have asked

continued on page 2

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