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JAT-02-18-L

their applicability to the present case or their value as Cherokee precedent, ordered additional briefing.

To promote predictability in future cases, the Court will attempt to clarify and reconcile the three cases, chronologically: *Mayes v. Thompson*, JAT-95-15 (June 1996) (adopting the federal standing doctrine to deny standing to an individual tribal member); *Corn silk v. Cherokee Nation*, JAT-96-15 (Nov. 1996) (permitting an individual tribal member standing to sue the Tribal Council); and *Phillips v. Eagle*, JAT-98-09 (July 1998) (permitting a member of the Tribal Council standing to sue the Deputy Chief). In *Mayes v. Thompson*, standing was an issue of first impression for the modern Cherokee judiciary. The *Mayes* Court addressed whether an individual tribal member has standing to challenge the manner in which appropriations bills are handled by the Tribal Council and the Executive Branch. The suit was brought against one Tribal Councilor and various employees of the Cherokee Nation seeking the following remedies: the removal of the Tribal Councilor from office and the firing of various employees; a directive requiring the executive branch begin an investigation and file federal lawsuits; a directive requiring a ten year accounting of tribal funds; restitution to the tribe; and \$10,000 money damages, attorneys fees and court costs to the Petitioner.

The *Mayes* Court, adopting the doctrine of standing as developed in the federal courts, held that Petitioner lacked standing. Applying the federal standing doctrine, which does not extend standing to individuals based solely on their citizenship status, the Court found the Petitioner did not meet the requisite "injury-in-fact." That is, the Petitioner failed to adequately demonstrate how he was damaged or harmed by the actions of the Respondents. It is important to note that in *Mayes*, the Petitioner was seeking, among other remedies, money damages from the Nation arguing he was damaged by the manner in which the Nation handled certain financial matters.

In *Mayes*, the Court highlighted the similarities between the United States

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Former UKB Chief aligns with CNO

A former elected official of the United Keetoowah Band (UKB) spoke at a meeting of Cherokee Nation of Oklahoma (CNO) employees, along with CNO Deputy Principal Chief Joe Grayson Jr., at the Claremore Indian Hospital, UKB officials and CNO employees say was designed to belittle and embarrass CNO employees who are UKB members.

John Ross, Claremore, former chief of the UKB, met with CNO employees and Grayson at the IHS facility, a federal installation, last week, to provide information about the status of the UKB and its relationship to the CNO.

"They held a political meeting on federal property, a UKB official said. "We have notified the Department of Justice and the head of IHS to stop this harassment of UKB tribal members."

Officials at the IHS installation said they did not know the purpose of the meeting, only that a room was requested for a meeting of CNO employees. An official with the Claremore Indian Hospital said the matter would be "looked into" but declined to comment further.

Ross, who is no longer a member of the UKB, relinquished his membership after being admonished by the UKB Council for allegedly mishandling tribal funds. At a meeting where he was accused of making unusual funds transfers, Ross resigned from the office of Chief and walked out of the meeting, said a UKB official speaking anonymously.

Ross was punished by the Council with a 15-year silence, similar to banishment, but only temporary. Speaking anonymously, another UKB official stated that his punishment would have ended shortly, but he could never again become a member of the UKB because he relinquished his membership.

The UKB membership ordinance states that relinquishment is permanent. On the other hand, CNO membership can be relinquished and reobtained as many times as the member chooses.

The Chief of the UKB, George Wickliffe, has stated that the meeting constituted harassment. "We have been contacted by members of the Cherokee communities, he said. "Our elders are in disbelief that one of our former chiefs would attack tribal members this way."

At issue was not the meeting itself, but what was asked of the employees at the meeting. According to one employee present at the meeting, who is not a UKB member, Joe Grayson demanded that the employees who were UKB members 'raise their hands.' One UKB member who asked to remain anonymous said, "I felt like everyone in the room was staring at me when I raised my hand, but there was no way I wasn't going to raise my hand, I'm proud to be a member of the UKB."

"I felt like I was in Nazi Germany and they were asking who was a Jew, another

employee and CNO member stated. "I am fearful that this is just the first step in an effort by our leaders to ostracize or harm our UKB friends." The employee added that she felt the meeting was nothing more than political propaganda and an attempt to re-educate CNO employees that being UKB makes you inferior and untrustworthy.

Ross gave a presentation to the employee gathering regarding his work with the UKB and the revelation he came to about how the UKB was originally formed to work with the CNO. One employee asked how the UKB could be subservient to the CNO when the the UKB organized in 1950 and the CNO in 1976. Ross declined to answer. Grayson said he is a UKB member and took out his card. He said, "We are suppose to work together, like I'm doing, not work against the Cherokee Nation."

Members of Ross' family have sent notice to the leadership of the UKB that John Ross does not speak for them, they do not share his views, and their loyalty remains with the UKB.

When the government fears the people there is liberty; when the people fear the government there is tyranny. Thomas Jefferson (1743-1826), US Founding Father, drafted the Declaration of Independence, 3rd US President

Editors Note: After Chief Smith & our Cherokee Nation Enterprises donated over 2 million dollars of the Cherokee peoples money to Brad Carson campaign. So now we hire him to work for us at what cost, what are we paying him now? They are not playing with their money, they are working for the Cherokee people. So, they should do their very best to do a good job for the Cherokee people. But, it appears they are spending & wasting our money. With CNE they spent over \$200 million on what. It sure was not on the Cherokee people, we are getting less services than ever before. Plus our Chief, deputy Chief and his rubber stamp councilmembers don't think the Cherokee people should get any services. Then why do we need them? Think about it, We Don't need them. Start thinking about who you want to truly represent you and work to provide the best for you.

August 2005

CNB hires former Congressman Carson



Brad Carson

By Travis Snell - Staff Writer

CATOOSA, Okla. - Cherokee citizen and former U.S. Congressman Brad Carson was hired as director of business opportunities with Cherokee Nation Businesses in June after teaching a semester at Harvard University in Cambridge, Mass.

He said his job entails finalizing some of CNB's acquisitions and helping with the start-ups and promotions of the tribe's non-gaming businesses.

"I've been here just a couple of weeks, and I'm getting my feet on the ground, but I've already been involved with some projects that they were working on, and I'm still getting more involved," Carson said.

Some of the projects he is working on include environmental consulting and health care businesses.

Carson said the job offer came because Principal Chief Chad Smith talked to him during his time in Congress and while he was teaching at Harvard. Smith told him about the importance of Cherokees to give back to their community and how he was trying to recruit people to help the CN move forward.

"I'm a proud Cherokee, and my family has been involved in northeastern Oklahoma for many years. I really see the Cherokee Nation as the greatest hope for the future of eastern Oklahoma, and I want to be a small part of it."

Carson resides in Claremore, just east of Catoosa.

The new CNB employee said he intends to stay with the company as long as they will have him and as long as he can contribute. Although he said he was retired from politics, Carson said he didn't want to rule out another run in politics, but that "it's going to be a while" before venturing back into public office.

He served as a U.S. Congressman for Oklahoma from 2001-2005. Travis Snell, (918) 456-0671, ext. 2358, tsnell@cherokee.org

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Cherokee Nation Makes \$2 Million in Compact Payments

CATOOSA, Okla. - Cherokee Nation Principal Chief Chad Smith distributed \$2 million worth of gaming compact prepayments to the Oklahoma State Treasury, Tulsa County Public Facilities Authority, and the Oklahoma Horse Racing Commission at a news conference today. "Under the state-tribal gaming compact, Tulsa area tribes have the opportunity to be community partners with the state and with Tulsa County by installing the new compacted electronic games," said Chad Smith, Principal Chief of the Cherokee Nation. "Just as we were first in the state to play cards under the compact, we are proud to be the first tribe in Tulsa to offer these new electronic games. We assume other tribes in the area will follow our lead, but we are proud to be the first." As part of the compact, money from the first 450 games installed in the Tulsa area is set aside to be used as purses for the horse racing industry, as payment to Fair Meadows, a horse track owned by Tulsa County that does not have electronic games, and to share revenue with the state of Oklahoma for education. "The gaming compact is about cooperation between tribes and the state, to benefit education and to create jobs," Smith said. "I think that is what we see here today." Cherokee Nation gave \$1,373,718 to the Oklahoma Horse Racing Commission, to



be used for horsemen's purses, \$292,950 to the State Treasury to be used for education, and \$333,332 to the Tulsa County Public Facilities Authority which operates Fair Meadows. "Purse funds, the breeder's fund, Tulsa County and the State should be thrilled with this payment," said Tino Rieger, executive director for the OHRC. "Horse racing in this state will certainly benefit from this." "This is a long awaited day for horsemen in Oklahoma," said Debbie Schauf, executive director for the Oklahoma Quarter Horse Racing Association. "It [the payment] is a life-line to save our horse industry." Under the terms of the compact, the state receives up to six percent of adjusted gross revenue from the new electronic games. Additionally, Fair Meadows is awarded five percent and the horsemen receive 25 percent of the adjusted gross revenue derived from the first 450 compacted electronic games in the Tulsa area. Future payments from Cherokee Nation to these entities will be disbursed on a monthly basis.

Accepting a \$2 million dollar check for Oklahoma education, the state's horsemen and Fair Meadows are Executive Director of the Oklahoma Horse Racing Commission Constantin Rieger, second from left, General Manager of Fair Meadows Ron Shotts, and Oklahoma Gaming Compliance Lead Derek Campbell. Presenting the check are Cherokee Enterprises CEO David Stewart, far left, Cherokee Nation Principal Chief Chad Smith, and Cherokee Nation District 6 Tribal Councilor Meredith Frailey, far right.



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Whatever disagreement there may be as to the scope of the phrase "due process of law" there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard. Oliver Wendell Holmes (1841-1935) US Supreme Court Justice, also known as "The Great Dissenter" Source: Frank v. Magnum, 1915

The Press was protected so that it could bare the secrets of the government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people. Justice Hugo L. Black (1886-1971) US Supreme Court Justice

Source: New York Times v. Unites States (Pentagon Papers) 197