Panel rules against tribe on cigarette tax

By Clifton Adcock
Tulsa World

TULSA, Okla. — An arbitration panel has ruled that the Cherokee Nation cannot invoke a clause in its tobacco compact with the state that would allow the tribe to sell cigarettes with 26-cent tax stamps.

In April, after a previous arbitration panel ruled that the tribally licensed stores could not engage in retail-to-retail sales for the purpose of moving low-tax, border-area cigarettes outside the low-tax zone, Cherokee Nation Principal Chief Chad Smith wrote to Gov. Brad Henry and stated that the tribe was invoking the "Most Favored Nations" clause of its compact.

The "Most Favored Nations" clause states that if, after Feb. 9, 2004, another tribe gets a tobacco compact with terms that are more favorable than those in the Cherokee Nation's compact, the tribe can invoke the clause to receive those same terms.

Smith wrote that because the state had failed to act in a timely matter to terminate the Kaw and Otoe-Missouria tribes' tobacco compacts, the compacts were automatically renewed, which gave the tribes the ability to sell cigarettes with a 26-cent tax stamp, thus triggering the "Most Favored Nations" clause.

Under the Cherokees' compact, the tribe and its retailers outside of border areas must sell cigarettes bearing an 86-cent tax stamp.

The Otoe-Missouria and Kaw compacts are considered "original" compacts that allowed those tribes to sell cigarettes with 26-cent stamps and that had not expired after a tobacco tax increase was passed by voters in 2004.

State Treasurer Scott Meacham and the Governor's Office disagreed that the situation with the Kaw and Otoe-Missouria tribes triggered the Cherokees' "Most Favored Nations" clause, and the issue went to arbitration.

Last week, the arbitration panel found that the compacts with the Kaw and Otoe-Missouria tribes with the more favorable terms existed before Feb. 9, 2004, when the Cherokees entered into their compact, and thus the alleged renewal of the compacts did not trigger the "Most Favored Nations" clause.

"The Kaw and Otoe-Missouria compacts, even if renewed, continued or extended in 2008, were not entered into after February 9, 2004," the panel's order stated.

Cherokee Nation spokesman Mike Miller said that because the issue of the Kaw and Otoe-Missouria compacts is under litigation, whether the compacts are new has yet to be decided by the courts.

"The whole idea of whether those are new compacts is still up in the air in the courts," he said.

Miller said the tribe is hoping that it and the state can come up with a new deal that benefits both sides.

Feds turn over underwear from slaying

SIOUX FALLS, S.D. (AP) — Attorneys for a former American Indian Movement activist accused of murdering another member of the group in 1975 must be allowed to conduct DNA tests on the victim's underwear, a federal magistrate judge has ruled.

U.S. Magistrate Veronica Duffy, in an order filed Friday, gave prosecutors 20 days to give Anna Mae Pictou Aquash's underwear to attorneys for John Graham, a Canadian who is to stand trial Oct. 6 in Rapid City.

The defense also is seeking a sanitary napkin it says was taken from Aquash's body during an autopsy, though federal prosecutors said the government never had possession of that item and investigators were not obligated to keep it. Duffy told the government to look for the sanitary napkin and give it to the defense if it is found.

Though Graham would not be cleared if another man's DNA was found on the underwear, it could help the defense challenge prosecutors' version of events leading to the December 1975 slaying of Aquash on the Pine Ridge Indian Reservation. Conversely, the prosecution's case could be bolstered if Graham's DNA is found.

The autopsy found evidence that Aquash had sex or was raped shortly before she was killed. The panties were kept and tested after Aquash's body was found but showed no signs of blood or semen, federal prosecutors Marty Jackley and Bob Mandel wrote in their response to the defense's request for the evidence.

Duffy gave each side 10 days to appeal her decision.

Graham's lawyer, John Murphy, said Monday he did not want to comment beyond the court order. Federal prosecutors are prohibited from discussing pending cases and had not yet filed their response.

Duffy rejected prosecutors' request to order Graham to submit a DNA sample, saying a search warrant is needed. She also rejected the government's request for more time to conduct its own DNA tests on the evidence before giving it to the defense.

"The government has had ample time to do any testing it wished to do," she wrote.

Graham was placed under house arrest in Canada in 2003, and was extradited to the U.S. late last year.

The American Indian Movement is an activist group that has protested the federal government's treatment of Indians and has demanded that the government honor its treaties with tribes.

The group occupied Wounded Knee on the Pine Ridge Indian Reservation during a 71-day standoff in 1973 that included an exchange of gunfire with federal agents who surrounded the village. Aquash, a member of Mi'kmaq Tribe of Nova Scotia, was there.

Prosecutors said some AIM's leaders ordered Aquash's killing because they suspected she was a government informant. Those leaders have denied the accusation and blamed the government for her death.

Federal authorities also denied any involvement.

The allegation that someone raped Aquash before she was killed came up at the 2004 trial of the other man charged with killing Aquash, Fritz Arlo Looking Cloud, who was convicted and sentenced to a mandatory life prison term.

Looking Cloud's lawyer ultimately was denied a request to have Aquash's body tested for DNA evidence before the family exhumed and took her body to Nova Scotia for reburial.

At Looking Cloud's trial, witnesses said he, Graham and another AIM member, Theda Clark, drove Aquash from Denver and that Graham shot Aquash in the Badlands as she begged for her life.

Clark has not been charged. She lives in a nursing home in western Nebraska and has refused to talk about the case.

Graham, a Yukon native also known as John Boy Patton, denies killing Aquash, though he acknowledged being in the car with her from Denver.

Associated Press

American Indian Movement activist Anna Mae Pictou-Aquash appears in this undated file photo provided by her family. John Graham, charged with killing Pictou-Aquash in 1975, asked federal prosecutors in February 2008 to turn over evidence from the body for DNA testing.

Sheriff contests assault charges

By Zach Benoit and Laura Tode
The Billings Gazette

BILLINGS, Mont. — Big Horn County Sheriff Lawrence "Pete" Big Hair pleaded not guilty Monday in Crow Tribal Court to charges of partner or family member assault, endangering the welfare of children and bribery in official and political matters.

Big Hair was arrested over the weekend on suspicion of domestic abuse in Crow Agency, said Rondell Davis, Big Horn County undersheriff.

Details of his arrest were not immediately available.

Threats made

According to court documents, shortly before 11 a.m. on Sunday, Big Hair made threats of physical violence against his estranged wife, Caroline Big Hair, during an argument at their home in the Masons housing area in Crow Agency. He allegedly pushed her, struck her in the abdomen and pulled her hair before he struck "Caroline Big Hair's right heel using a pole," causing "pain and bruising to that area," according to the affidavit. Lawrence Big Hair faces three charges of partner assault.

Children present

He also faces three counts of endangering the welfare of children for the alleged assault of Caroline Big Hair while his three children - a 1-year-old boy and 8- and 12-year-old girls - were in the home. The affidavit states that the confrontation caused the girls "to fear for her own safety and welfare."

According to the court documents, Big Hair was charged with attempt and bribery in official and political matters after a Tribal Law Enforcement officer overheard him call an unknown person and say "find Chief Judge Angela Russell and have her get me out on 'O.R.' because she owes me a favor."

Facing Problems

Depending on the outcome of the case, Big Hair, who is an elected official, could face discipline or suspension by the Big Horn County Commission. A trial is scheduled for 10 a.m. Oct. 29.

Big Hair was elected sheriff in 2006 and served as a Big Horn County sheriff's deputy and a former Bureau of Indian Affairs officer on the Crow Indian Reservation.

As a BIA officer in 1997, Big Hair was accused of wrongful death after his service weapon was stolen from his house and used in a homicide in 1994. In 1998, he was accused of raping a woman while he was taking her to jail for reckless driving and alcohol violations on Christmas night 1995.

Both were civil lawsuits. Big Hair settled them with the complainants, without admitting guilt, for undisclosed amounts.

Tulalips bet on luxury

By Lynn Thompson
Settle Times

TULALIP — Earlier this week, as workers in hard hats touched up hallway paint and new front-desk staff practiced checking in guests, about the only thing completely ready in the new $130 million Tulalip Resort hotel set to open today were three magnificent cedar poles rising two stories in the lobby.

Carved by a team of Tulalip artists, the poles both welcome guests and suggest the extent to which the Tulalips' vision of a luxury resort with a distinctive tribal identity is poised to take its place in the Tulalip Tribes' growing portfolio of successful business ventures.

Even high gas prices and the weak economy aren't dampening tribal leaders' predictions that the new 12-story hotel near Marysville will become a destination resort competing not with Best Westerns and Holiday Inns along the Interstate 5 corridor, but with the glamorous casino-hotels of Las Vegas itself.

"We think our resort will rank right up there with the best," said Tribal Chairman Mel Sheldon.

Tribal leaders envision high-end gamblers staying for several days in one of the deluxe "themed" suites that will rent for as much as $5,000 a night. Boxing matches and top-name entertainers are also in the works.

Tribal officials concede opening a luxury hotel 40 miles north of Seattle has its challenges. Convention and meeting planners typically choose cities with high vacation appeal, and Everett and Marysville aren't on the map.

The high price of airline travel may also hurt out-of-state tourism, but the favorable exchange rate with Canada continues to be a big draw for the Tulalip Casino and the nearby 110-store outlet mall, they say.

"Our biggest challenge is to convince people that there's this caliber of resort north of Seattle," said Brett Magnan, executive vice president for the Tulalip Resort Casino.

But tribal consultant David Palermo said the experience of other tribes around the country that have added hotels to their casinos suggests that the resort will be a moneymaker.

"As far as long-term profitability and success, the Tulalips don't have anything to worry about," he said.

Guests staying in one of the hotel's standard rooms will be treated to luxe style: granite counters, dark African wenge-wood trim, 47-inch flat-screen TVs, Tulalip-designed art on the walls, and floor-to-ceiling windows, although the view is mostly of the vast parking lot that surrounds the casino and hotel. A king or queen room, both about a third larger than standard hotel rooms at 500 square feet, will cost $175 per night on a weekend once the hotel is complete.

Today's opening is being called a "soft opening," with the planned spa, swimming pool and 15,000-square-foot indoor atrium still unfinished. But interest is already high. The hotel is fully booked for the opening night and for several other dates this summer, Magnan said.

The grand opening is planned for Aug. 15, with plans to use the intervening weeks to fine-tune service and to test-drive banquet and meeting facilities, and also help break in 425 new employees, about 30 percent of them tribal members.

Sioux tribe rejects changing name in vote

By Lauren Donovan
Bismarck Tribune

BISMARCK, N.D. — The Standing Rock Sioux Tribe will continue to be known as Sioux, following a special election on the reservation.

Voters rejected a proposal to change the tribe's name from Sioux to "Oyate," a word that means "people or nation."

The name change was adopted in 2002 by the Sisseton-Wahpeton Sioux tribes in South Dakota.

In the same election, voters approved a new definition of tribal membership.

Until now, members had to have a one-quarter blood relationship to parent or grandparent who was an enrolled member of the Standing Rock Sioux Tribe.

Now, enrolled members born after 1957 can have a one-quarter blood relationship to the Oceti Sakowin from any federally recognized tribe. The words "Oceti Sakowin," describe people of the "Seven Council Fires of the Dakota, Lakota and Nakota." In addition, their parents and grandparents must be enrolled members of the Standing Rock Sioux Tribe.

This allows offspring of tribal members who intermarry with other related tribes to maintain their Standing Rock membership.

Voter turnout was low for the special election June 11, which election officer Dellis Agard said may have been because it was held the day after the statewide primary election, when people had just voted.

The blood quantum change was approved 381 votes to 180.

The name change to Oyate was turned down by a vote of 337 against, to 225 in favor.

The Sioux name continues to be in the news because of some question whether the University of North Dakota should continue to use the "Fighting Sioux" nickname for its athletic teams.

The issue is hotly debated on the reservation and around the state and the university is working to come to agreement with the tribe on whether UND can stick with the name, or change to one that doesn't reflect an ethnic group.

In May, the Standing Rock Sioux tribal council approved a moratorium on putting the Sioux UND logo up for a reservation-wide referendum.