

Appeals court rebuffs lawsuit filed against state police

By Katie Mulvaney  
Providence Journal

PROVIDENCE, R.I. — A federal appeals panel yesterday upheld a lower court’s dismissal of a lawsuit that accused the state police of violating the civil rights of seven Narragansett Indians arrested during the 2003 smoke-shop raid.

Three First U.S. Circuit Court of Appeals judges ruled the suit lacked essential details about the claims brought against the state troopers. In their appeal, the Narragansetts accused officers of arresting them without probable cause — a complaint they never raised before the lower court, the judges said.

“Our precedent is clear,” the court wrote, “that courts ‘must always exhibit awareness of the defendant’s inalienable right to know in advance the nature of the cause of action being asserted against him.’”

The appeals panel also rejected the Narragansetts’ argument that the lower court should have given them the opportunity to amend their suit to add claims that troopers used excessive force. The Narragansetts had asserted that they needed more time to unearth additional information to support those allegations.

The seven Narragansetts sued the state police on July 13, 2006, alleging state troopers had violated their constitutional rights when they executed a search warrant to stop the tribe from selling tax-free cigarettes on tribal land in Charlestown three years earlier. The raid erupted into a physical confrontation that ended with the arrest of seven adult Narragansetts, including Chief Sachem Matthew Thomas.

Yesterday’s ruling upholds U.S. District Judge William E. Smith’s dismissal of the Narragansetts’ suit. In his decision, Smith had characterized that suit as a “placeholder of sorts” in case the U.S. Supreme Court reversed an appeals court finding that the state police had authority to enforce Rhode Island laws on the tribe’s land.

Smith concluded, in light of the Supreme Court’s refusal to consider the appeals court ruling, that there was “no doubt that the raid was carried out with lawful authority and jurisdiction.” In addition, he said the Narragansetts’ complaint was “legally insufficient and on its face plainly fails to state a claim.”

Attorney General Patrick C. Lynch praised yesterday’s ruling as further evidence that the controversial raid was carried out according to the law. He referred to the 1978 settlement agreement the tribe reached with the state that gave the Narragansetts 1,800 acres in Charlestown.

“We hope with the clarity and finality of this decision and all the decisions that preceded it, the tribe’s relationship with the state of Rhode Island and local municipalities will conform to the settlement agreement we jointly reached in the 1970s,” Lynch said in a statement. “If all parties honor those terms, including the applicability of state law on the settlement lands, we can avoid confrontations in the future and move toward a relationship that benefits all parties.”

John F. Killoy, who filed the suit on the Narragansetts’ behalf, was disappointed after skimming the decision late yesterday.

“It’s really disconcerting that the tribe’s rights are not being recognized as a sovereign government,” he said.

He noted that four of the seven Narragansetts had been acquitted of all criminal charges related to the raid, and that the state had gotten convictions on only 4 of 17 counts after a trial in Superior Court.

“The sad reality is,” he said, “this type of dispute should not be resolved between two governments in a dirt parking lot.”

It was unclear, he said, if the tribal members would seek a review by the full appeals court.

Developer wants casinos in Miami Beach, Miami

By Mary Ellen Klas and  
Matthew Haggman  
Miami Herald

MIAMI — The developer of a massive project in downtown Miami is quietly considering a campaign to amend Florida’s Constitution to allow Las Vegas-style casinos in the city and open the door for a similar casino at Miami Beach’s famed Fontainebleau Hotel.

A political committee financed by Marc Roberts, who along with Art Falcone is developing the 25-acre Miami Worldcenter, has spent more than \$850,000, hired 13 petition gathering companies and has lawyers working to write an initiative for possible placement on the 2010 ballot.

A key selling point: taxes on the new casinos would go to benefit all Florida schools, just like the successful slots initiative before it.

According to drafts of the petition language obtained by The Miami Herald, the committee is considering three amendments, two of which are designed to appeal to the existing parimutuel companies in Miami-Dade and Broward by asking voters to give them the same games as the Seminole Tribe and lower their tax rate.

A draft of the proposed casino amendment allows for Class III gambling, including craps, keno, roulette, blackjack and slot machines, to be played at any of these sites: existing parimutuels in Miami Dade or Broward, a Miami location that is “bounded by Northeast 11th Street, Biscayne Boulevard, Northeast Sixth Street and North Miami Avenue,” and at a hotel in Miami

Beach that has “over 800 lodging rooms” when the amendment is passed.

The Fontainebleau, with roughly 1,200 rooms, is the only Miami Beach hotel that would qualify, according to the Miami-Dade tourism bureau.

To become law, the amendments would have to be approved by 60 percent of Florida voters statewide, and the tax-related amendment would need 66 percent approval. In the past, gambling amendments have had a tough time, even before the law was changed to require they reach the 60 percent threshold.

Michael Caputo, spokesman for Roberts’ group, the Committee for Critical Challenges, acknowledged that they are looking into the feasibility of offering casino games as well as other ambitious projects, such as an aquarium or an international trading center for energy credits at Miami Worldcenter.

“We’ve got plenty of money to do what needs to be done and we are clearly armed for the battle,” he said. “If we did not look at gaming in downtown Miami we would be remiss.”

If successful, the campaign would put a casino in the middle of Miami Worldcenter, a mixed-use development proposed for nine blocks in downtown’s Park West neighborhood. The multi-phase project is slated to first include hotels, shops, restaurants and entertainment components — and later, offices and residences.

City commissioners are currently considering a zoning change for the development and an agreement that would cement the changes for the next 20 years.

But the prospect of a political campaign to push for a casino has been kept so secret that even the project’s managing director, Nitin Motwani, said he didn’t know about it until The Miami Herald told him Thursday. Motwani said he believes the project will go forward as planned.

“The project has a direction, which does not include gaming,” he said. “We welcome the exploratory committee’s suggestions and anyone’s suggestions to make a better project. But this committee certainly doesn’t dictate what we are going to do.”

Caputo emphasized that the committee has not yet decided what to do and that gaming is “the heaviest lift” because he estimates it could take a \$100 million campaign to get 60 percent of the vote.

Caputo, who has been paid \$66,000 by the committee, said the development group and the political committee have been working on separate tracks, even though they are both financed by the same source.

He said the committee hired former Miami Mayor Maurice Ferre in July to look at how to develop more jobs for Miami. Ferre has been paid \$50,000 and would not comment.

“The reason nobody has heard anything about this is, it’s not cooked,” Caputo said.

He added that while their initial goal was to blanket the state with signature gatherers on Election Day, Nov. 4, they now “are by no means going into the field with any signature gathering personnel.”

Caputo also said he has no knowledge of a partnership between the

Worldcenter project and the Fontainebleau Hotel to pursue a casino venture. The hotel is jointly owned byventura-based Fontainebleau Resorts and Nakheel Hotels, a company owned by the Dubai government. But when Fontainebleau Resorts executive chairman Jeffrey Soffer acquired the resort in 2005, he made it clear he sees it as a Vegas outpost in Miami Beach.

Soffer has teamed with prominent Vegas casino operator Glenn Schaeffer to recast the Fontainebleau in a Sin City role. The new resort, slated to reopen this fall after a \$500 million expansion and renovation, was designed to be an all-inclusive destination, where guests could sleep, eat and play on the grounds throughout their vacation — similar to the Vegas model.

Fontainebleau Resorts are currently developing a \$2.9 billion casino resort on the Las Vegas strip. Schaeffer and Soffer announced the venture after acquiring the original in Miami Beach, with plans to expand Fontainebleau into a global casino and resort brand.

Soffer was reached Thursday but declined comment.

Miami Mayor Manny Diaz, who has worked closely with Falcone’s team of advisors to advance the downtown project, said he is not opposed to a casino in Miami.

“I am not averse to a system with a limited number of licenses for casinos that cater to a higher-end clientele,” Diaz said. “But what I don’t want is run-down gambling places on every street corner and I don’t want people walking in with their Social Security checks and blowing them.”

Tribal college to install wind turbines

AGENCY VILLAGE, S.D. (AP) — Two wind turbines are slated to be erected this fall at Sisseton Wahpeton Community College in an attempt to make the campus more environmentally friendly and cut electrical costs.

“It had been in the discussion phase for a couple of years,” said Diana Canku, college president. “We all decided we would go ahead and make the campus more of a green campus.”

“We decided it would make the most economic sense to go with the wind turbines,” she said, adding that geothermal energy and design changes to the college’s structures were also considered.

The turbines also will help the college contain electricity costs, said Pam Wynia, the school’s director of institutional advancement. The turbines are expected to generate 50 percent of the college’s electricity and will replace a propane heating system.

Funding came from grants, including the departments of Agriculture and Education, that the college collected over the past few years but had not yet used, Wynia said. The Sisseton Wahpeton Tribe also provided funds.

“They kind of all came together as a perfect storm,” she said.

College programs or projects funded through grants often don’t reduce the school’s operating expenses, so this was a bonus, according to Wynia.

The original completion date was late last month, but Canku said the firm supplying the turbines was having some problems. She predicted the wind turbines would be running by the end of October.

The college facilities department will maintain the turbines.

Sisseton Wahpeton Community College hopes to develop a wind turbine maintenance program for students to take advantage of the new technology, Canku said. The school would have to develop classes and funding options before such an idea became reality.

“It’s in the very preliminary stage,” she said. “The students see the college is changing and they are impressed. Everybody’s pretty excited, the tribal community is pretty excited.”

Golf meccas



Associated Press

In this file photo taken July 3, 2003, Ray Halbritter, chief executive officer of the Oneida Indian Nation of New York, poses in the Turning Stone Casino in Verona, N.Y. Halbritter’s love of golf coupled with a savvy business sense has allowed him to develop Turning Stone into one of the top golf meccas in the Northeast. Halbritter also has landed a PGA Tour event, the only one ever staged on Native American land.

Gambling issue could affect casinos

By Joe Hanel  
Herald Denver Bureau

DENVER — Amendment 50 asks Colorado voters to open the door to higher betting limits in the three Front Range gambling towns of Central City, Black Hawk and Cripple Creek.

The amendment doesn’t mention Southwest Colorado’s American Indian casinos in Ignacio and Towaoc, but it might lead to \$100-betting limits at the Ute casinos as well.

The campaign by Colorado casinos would amend the state constitution to allow \$100 bets in the Front Range towns - up from the current \$5 limit - and let casinos stay open around the clock. It also would let casinos offer roulette and craps. The changes, however, could take effect only if voters in the casino towns approved them in a separate, future election.

Federal law allows Indian casinos to offer the same games and betting limits allowed elsewhere in the state, said Don Burmania, communications director for the state’s Division of Gaming.

That federal law is reflected in the 1995 state-tribal gaming compact between Colorado and the two Ute tribes. The compact says any changes in state gambling limits would apply to the Ute tribes, as well, so Amendment 50 would mean the tribal casinos could raise their bet limits, Burmania said.

Peter Ortego, attorney for the Ute Mountain Ute tribe, however, said he’s not sure yet how Amendment 50 would apply to Ute casinos.

The question of raising betting limits in Towaoc is “on the table” for the tribe, Ortego said, but he’s still trying to figure out if higher bets would be allowed under Amendment 50 under the provisions of the 1995

compact.

The Southern Ute casino is staying out of the campaign.

“We have elected not to get involved. We see that as a matter for the casinos up north and the state,” said Matt Olin, general manager of Sky Ute Casino.

Casinos expect to make more money under Amendment 50, and the extra tax money would go to community colleges.

“It’s a way to boost our community colleges without raising taxes,” said Katy Atkinson, spokeswoman for the pro-50 campaign.

Raising the bet limits to \$100 would still keep Colorado’s limits among the nation’s lowest, Atkinson said.

Amendment 50 attracted little organized opposition until two Denver-area men, Scott Yates and Jonathan Anderson, created a low-budget campaign.

Yates says he’s not against gambling and thinks

the current low-bet system works well.

“(Amendment 50) is not limited-stakes gambling. Hundred-dollar-bet, 24-hour casinos are basically Las Vegas-style casinos,” Yates said. “It’s just too much for what Colorado is interested in having.”

Social ills like bankruptcy and suicide will rise along with the bet limits, Yates said.

Amendment 50

What it does: It opens the door for \$100-bet limits and 24-hour casinos in the Front Range towns of Black Hawk, Central City and Cripple Creek. Local voters would have to approve the changes in a separate election. The extra tax money from higher bets would go to community colleges - an estimated \$29 million the first year of higher betting, according to the Legislature’s analysts.