Chippewa Cree deny election results protest

By Travis Coleman
Great Falls Tribune

GREAT FALLS, Mont. — The Chippewa Cree Tribe's election board on Wednesday denied a tribal member's attempt to protest the results of last week's primary election on the Rocky Boy's Indian Reservation.

The protest was led by Kenneth Blatt St. Marks, who earned 320 votes in the race for tribal chairman during the primary election Oct. 7, but fell 45 votes short of advancing to the Nov. 4 general election.

In his letter of protest, St. Marks wrote he was challenging the results of, and the procedure for, the primary election. St. Marks alleged the tribe's election board violated several tribal ordinances before and during the primary and demanded the election results be voided and a new primary election be held again as soon as possible.

St. Marks received the board's decision to deny his protest in a letter Wednesday night.

"The protest clearly touches upon a number of procedural issues conducted by the election board; however, it fails to support just cause in granting a new election," the letter says.

The members of the tribe's election board are Kathy Henry, Michelle Billy, Cecilia Parker, Elsie Geboe, Rena Gardipee and board clerk Janice Meyers.

St. Marks said he plans to appeal the decision and will try to file the protest in tribal court. That appeal could come as soon as today.

The alleged actions undermined the integrity of the primary election, St. Marks said, later adding they ultimately led to him losing in the primary.

St. Marks had alleged the tribe's election board was not impartial because some members are related by blood or marriage to primary election candidates. He also alleged that election board members were campaigning for candidates in Great Falls before the election.

The board responded in its denial letter that the tribe's constitution and election ordinances do not exclude tribal members who are related to candidates from serving on the board. They also said St. Marks' allegation that board members were campaigning for candidates was "unsupported by documentation ... therefore will not be addressed."

The board responded to all of St. Marks' allegations, including that the board violated tribal ordinances by not doing background checks on all election candidates; that candidate filing fees of as much as $25 per candidate were collected by someone other than Meyers, the board clerk, as required by law; and that the time frame for casting absentee ballots was illegally extended.

The board said St. Marks did not have documentation to support his accusation that the board did not do background checks on candidates.

Also, the election board appointed three other board members to collect filing fees after approving Meyers' request for emergency leave.

The board also said they have historically extended the time frame for turning in absentee ballots and that 14 votes were collected during that extended period.

"This amount fails to warrant a new election," the board said.

St. Marks also wrote that the tribe allegedly denied a candidate's right to choose poll watchers who sit outside the voting booths to watch balloting, counting and recording of the election results.

He said at least two request letters were submitted by election candidates to board members "in a timely manner." But the board said they denied the request because Henry, the board's chairman, received it 15 minutes before the polls closed on election night.

First Nations Day

Associated Press

United Tribes Technical College President David Gipp speaks at the First Nations Day event held in the auditorium of the North Dakota Heritage Center on the state capitol grounds in Bismarck, N.D., on Friday morning.

Cherokee council fails to override veto on clinic bill

By Clifton Adcock
Tulsa World

TULSA — The Cherokee Nation Tribal Council failed to override a veto by Principal Chief Chad Smith on legislation that set a timeline for funding four clinics that would have provided employees of the tribe's newly acquired hospital guarantees of federal employment.

The council's 9-8 vote Monday night in favor of the veto override was not enough; 12 votes were required. Three councilors changed their votes from the body's 12-5 September vote to pass the bill.

The bill would have required the tribe's administration to determine funding levels and sources for medical clinics in Vinita, Jay and Tahlequah and a dental clinic in Salina within six months while also allowing employees at the W.W. Hastings Indian Hospital to remain federal employees if they wanted.

The Cherokee Nation took over operations at Hastings, in Tahlequah — formerly administered by the federal government — Oct. 1.

In his veto, Smith wrote that the only clinic not in the process of being built is the one in Tahlequah. In a statement, he added that hospital employees could choose to remain federal employees.

Before Monday's vote, Smith told councilors that the bill was politically motivated and an attempt to take credit for work the administration had already done.

"I believe the motivation behind this bill is councilmen needed to show their constituents they were going to do something for them before the next election," he said.

Several councilors disagreed that the bill was political and limited tribal health-care options. They said it was intended to stop delays and legislate guarantees that Hastings employees could remain federal employees.

"This is not to get re-elected; this is just right," Councilor Bill John Baker said.

The idea that the legislation and Smith's veto were politically motivated boiled to the surface during the meeting.

Councilor Tina Glory-Jordan, a sponsor of the bill, and Smith sparred over the issue. .

Judge keeps Big Horn sheriff recall off ballot

By Clair Johnson
Billings Gazette

BILLINGS, Mont. — A special election to recall Big Horn County Sheriff Lawrence "Pete" Big Hair will not be held because the petition signed by residents is "fatally defective," a state district judge ruled this week.

A permanent injunction signed Monday by District Judge Randal Spaulding and filed Tuesday enjoins the county clerk and recorder from placing the recall petition on the ballot.

Spaulding ruled that the recall petition was defective because the petition drive's organizer, Robert Runge, did not swear to the purported truth of the facts contained in the statement for recall. A recall petition must have a written statement containing the reasons for the recall.

Runge said in a notarized affidavit that the statement of facts in the recall petition was true and accurate to "the best of my knowledge and belief."

Affidavit insufficient

An affidavit based on the best of one's knowledge was insufficient, Spaulding ruled.

Spaulding, of Roundup, ruled after Big Hair filed for a temporary and permanent injunction Oct. 6. There was no hearing. District Judge Blair Jones, whose district includes Big Horn County, removed himself from the case.

Big Hair's attorney, Carl DeBelly of Billings, said swearing to the best of one's knowledge isn't a high enough standard to support a recall petition. The statement must be "sworn as to the truth of the matter asserted," he said. "No hearing, no amount of facts could have made this flawed petition effective."

While the swearing issue alone was enough to sink the recall petition, the judge said the petition had other technical problems.

Runge exceeded by four words his 200-word limit in his statement of reasons, Spaulding said. Runge used the abbreviation "POST" rather than "Police Officer Standard Testing," which would have exceeded the word limit.

While a 204-word statement could be considered "substantial compliance" with the law, it would be "fundamentally unfair" to require Big Hair to stick to his 200-word limit in his statement for why he should be retained, the judge said.

Further, while Big Hair and Runge understand the POST abbreviation and significance of POST certification of peace officers, it was "highly unlikely that the ordinary elector does," Spaulding said. The abbreviation was potentially confusing and should not have been included, he added.

Reasons for recall

Another problem was that many of the petition's reasons for recall were general, while the Montana Supreme Court has held that allegations in a recall petition must be definite and specific.

Runge alleged that "while addressing a public forum on law enforcement, he (Big Hair) could not answer questions from citizens concerning how many deputies he had on staff, how many are POST certified, what his law enforcement budget is, and how much had been expended."

"It is not clear whether Mr. Runge contends that such constitutes incompetence, breach of oath of office, or official misconduct by the Petitioner," Spaulding said.

Runge said Tuesday that he was disappointed with the ruling and didn't have an opportunity to present his side to the court.

"I swore to the facts as I knew them," Runge said. "I have over 1,200 people in Big Horn County that think I should take action, and I think the county attorney should take action. Basically, the county attorney did not oppose anything in the petition for injunction. I think the county attorney should have protested."

County Attorney Georgette Hogan did not immediately return a call seeking comment.

Big Hair had prepared a statement for the recall election explaining to voters why he should remain in office.

Big Hair submitted a 172-word statement Oct. 9 to the county clerk and recorder. He said, "I am competent, I have not violated my oath of office, and I have not committed acts of official misconduct."

The sheriff said he knows his staffing levels and his budget and all his deputies are certified or have arranged to complete certification as required.

Big Hair also said all inmate labor was "directed to the public good and not for private gain, just as the City Court, County Attorney's Office and my predecessor had previously done. I want to establish a formal program similar to what other Montana counties have done so that inmates can give back to the community. ... I want to remain your sheriff to continue to improve the quality of our community for the good of all," he wrote.

Runge led a drive to collect 1,157 signatures - two more than needed - on a petition to recall Big Hair. A former deputy sheriff, Runge organized the recall drive after hearing about problems with Big Hair. The petition calls Big Hair incompetent and alleges that he has allowed underqualfied people to work as deputies and accuses him of breaching a code of ethics.

Clerk and Recorder Cyndy Maxwell had been preparing to put the issue to a special vote during the Nov. 4 general election.

Crow Agency man again sentenced to life

By Clair Johnson
Billings Gazette

BILLINGS, Mont. — A federal judge Wednesday again sentenced a Crow Agency man to life in prison for the beating deaths of two Hardin women.

Chief U.S. District Judge Richard Cebull resentenced Eugene R. Rising Sun, 27, to life. Cebull ran the sentence consecutively to a previous drug sentence.

The judge called Rising Sun's behavior "evil" and said society must be protected from his violent nature "for the rest of his life."

Cebull sentenced Rising Sun in November 2006 to two consecutive life terms for killing LaFonda Big Leggins, 23, and Koren Diebert, 26. Rising Sun was indicted on first-degree murder but pleaded guilty to two counts of second-degree murder. He faced a maximum of life in prison under the statutes.

Rising Sun appealed, arguing that his sentence was unreasonable and that Cebull erred in applying two sentencing enhancements.

A three-judge panel of the 9th U.S. Circuit Court of Appeals in April agreed with Rising Sun about the enhancements, and declined to consider whether the sentence was reasonable. The panel vacated Rising Sun's sentence and sent the case back to U.S. District Court for resentencing.

Rising Sun waived his appearance for resentencing. He is incarcerated at the federal prison in Terre Haute, Ind.

Cebull used his judicial discretion in finding that the guideline range did not provide a reasonable sentence.

"This case is a case all by itself," he said. "It is beyond anything the FBI agent and those of us involved in the case have ever seen." A life sentence may be punitive, he said, but the heinous nature of the crimes required it.

Rising Sun's criminal history also led the judge to conclude he was an extremely violent person and that society needed protection.

Rising Sun came from a dysfunctional background that included alcohol, drugs and abuse. He also had numerous convictions as a juvenile but received little punishment.

At 15, Rising Sun was convicted in Big Horn County of disorderly conduct, possessing alcohol, assault and threatening a public officer and was sentenced to the Department of Corrections.

"But that was suspended," Cebull said.

A month later, he was charged with felony assault in Big Horn County juvenile court, and the case was referred to Crow Tribal Court.

"Disposition is unknown," the judge said.

At 16, Rising Sun was charged with felony aggravated assault in Big Horn County juvenile court. The case was referred to Crow Tribal Court.

"Disposition unknown, once again," Cebull said.

While still 16, Rising Sun was charged again with felony assault in Big Horn County juvenile court.

"No action taken," the judge said.

When he was 17, Rising Sun got community service for alcohol possession and had his probation continued when he violated probation.

Also at 17, Rising Sun was convicted in federal court of stabbing a man and was sentenced to the Bureau of Prisons until he was 21.

"That term of imprisonment was for naught," Cebull said. After his release, Rising Sun got involved in a methamphetamine conspiracy beginning in July 2003.

About a month before the murders, law enforcement arrested drug-trafficking suspects at a Billings motel. The case eventually led to Rising Sun and others being indicted and convicted on drug charges. Cebull sentenced Rising Sun in 2005 to 71 months in prison.

Assistant U.S. Attorney Lori Suek again sought two consecutive life sentences. While it wouldn't make a difference to Rising Sun, consecutive life sentences would account for the two murders and deter others in the community, she said.

Mark Werner, Rising Sun's federal defender, suggested that a sentence of about 35 years was reasonable and would take Rising Sun "out of circulation" until he was 60. Such a sentence also would deter others and give Rising Sun reasons to take advantage of educational and vocational training in prison.

Cebull declined again to impose two consecutive life terms, saying it served no purpose.

"A person has only one life," he said, adding, "Life is life in the federal system."

Big Leggins and Diebert were last seen with Rising Sun and his brothers on Nov. 18, 2003. Authorities found the women's frozen bodies nine days later in a ditch in a remote area south of Hardin on the Crow Reservation.