



Six more months of discovery in Seneca-Cayuga case

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by: Tom Wanamaker / Correspondent / Indian Country Today

SYRACUSE, N.Y. - Earlier this month, Judge Neal P. McCurn of the Northern District of New York said he wanted a rapid decision in the Seneca-Cayuga Tribe of Oklahoma v. Town of Aurelius case. On Sept. 25, however, the judge gave the parties until March 1, 2004 to submit historical evidence regarding what jurisdiction, if any, the Oklahoma tribe may exercise over territory it owns within the Cayuga land claim area in Upstate New York. The judge set March 10 as the next hearing date.

In the interim, Judge McCurn left the temporary restraining order (TRO) currently in place that prevents the Seneca-Cayugas from proceeding with construction of a proposed bingo hall on its land, while also barring the town, Cayuga County, and the state from enforcing local permitting ordinances.

"The continuation of the TRO is disappointing," said tribal member Jay White Crow after the announcement. "But we have hope and faith in the court. We intend to press on."

The ruling basically forces the Oklahoma tribe, comprised mainly of descendants of Cayugas, Senecas who left New York in the late 18th and early 19th centuries, to prove historical continuity with Cayugas who remained within New York.

The hearing, however, featured two significant developments. One, Judge McCurn ruled that his determination that the 1838 Treaty of Buffalo Creek did not disestablish the original Cayuga reservation, reached in the Cayuga land claim case, was sufficiently final and denied the municipal defendants' request to revisit the matter.

Two, the Cayuga Indian Nation of New York became an intervenor in the case, on the side of the defendants, the Towns of Aurelius and Montezuma, Cayuga County, and New York state. Descendants of Cayugas who chose to remain in New York after the American Revolution, that nation's government insists that it alone is the sole political entity legally able to exercise sovereignty over ancestral Cayuga land.

Raymond J. Heslin, attorney representing the Cayugas, said the decision to join the case came after the previous (Sept. 8) hearing, when it was decided that "the defendants needed help." Heslin added that the final decision on whether tribes may cross state lines to assert political jurisdiction would most likely have to come from the Department of the Interior.

Clint Halftown, Heron Clan Representative for the New York Cayugas, acknowledged the potential impact on Indian gaming nationwide if the Seneca-Cayugas were allowed to operate their bingo hall free from local jurisdiction.

"Would the Cherokees in Oklahoma then be allowed to return to North Carolina and open a casino," he asked rhetorically. The Cayuga Nation seeks to open one of three casinos authorized for the Catskill region and has not announced any intention of pursuing gaming within the land claim area.

Halftown reiterated his nation's concerns that, if the Seneca-Cayugas succeed with their plans, non-Cayuga Indians would be able to assert jurisdiction over ancestral Cayuga territory. He disputed the Oklahoma tribe's assertion that it is a legitimate successor-in-interest to the Cayuga government that signed the Treaty of Canandaigua in 1794.

"We're a strictly matrilineal society," Halftown told reporters after the hearing, questioning how the Oklahoma tribe could claim to be successors to both the Cayuga and Seneca Nations, and speculating that "forces behind them are driving them."

"It is simply incorrect to suggest that the [Seneca-Cayugas] don't know who they are," said Glenn M. Feldman, attorney for the Seneca-Cayugas, during the hearing. He cited five agreements reached between 1827 and 1871 between Cayugas who remained in New York and those who moved west. It "rings hollow" for the Cayuga Nation to ask whom the Seneca-Cayugas are, Feldman said.

This case stems from an attempt by the Seneca-Cayuga Tribe to open a Class II bingo hall in Aurelius. After facing strong opposition from local officials, who took legal action to force compliance with building and zoning ordinances, the tribe currently seeks a permanent injunction in U.S. District Court, Northern District of New York in Syracuse.

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