

Oklahoma Cherokee Tribe Appeals Freedmen Ruling to High Court

Rochelle Hines
The Associated Press

OKLAHOMA CITY (AP) -- The Cherokee Nation on Tuesday asked the tribe's highest court to restore a constitutional amendment approved by voters that would deny citizenship to non-Native American descendants of tribal members' former black slaves.

Besides asking Cherokee Nation Supreme Court to overturn a district court ruling that voided the amendment, the tribe also asked for more time to process some citizenship applications.

The Jan. 14 ruling by Judge John Cripps nullified the 2007 voter-approved amendment requiring tribal citizens to have a Native American ancestor listed on the Dawes Roll on grounds it violated an 1866 treaty between the tribe and the federal government that granted citizenship to the freedmen and their descendants.

"A constitutional case of this magnitude should be decided by the Cherokee Nation's highest court," Cherokee Nation Attorney General Diane Hammons said in a statement.

Hammons said the district court didn't go by a 2006 tribal supreme court ruling that said Cherokee citizens have the "ultimate authority" to decide who can be a citizen.

"The district court also failed to address or recognize any of the cited federal statutes or cases that have construed that pertinent portion of the 1866 treaty, in which the U.S. government limited the treaty rights of non-Indians," Hammons said.

The district court ruling came in the case of hundreds of non-Native American descendants who received notices after the amendment passed that their citizenship was being terminated. There were so many who challenged the election outcome that the court appointed a lawyer to represent them and treated all appeals as a class action.

The court filing seeks to delay the part of Cripps' ruling that the tribe had 30 days from the date of the order to process applications of non-Indians seeking tribal citizenship.

Attorney Ralph Keen, who represents a group of freedmen descendants, said he's not surprised that the tribe has appealed Cripps' ruling.



Black Indians, also known as tribal Freedmen, from the 19th century

"I look forward to arguing the matter before the Cherokee Nation Supreme Court and I am confident that the court will uphold the justice that the district court gave us," Keen said from his Stilwell office.

Keen said he had 30 days to answer the tribe's appeal petition.

A hearing on the stay request has been scheduled for Feb. 2 in Tahlequah, Keen said.

Florida Judge Strikes Down Health Care Overhaul

Ruling: New law violates people's rights by forcing them to buy health insurance

MELISSA NELSON
The Associated Press

PENSACOLA, Fla. (AP) -- A federal judge ruled Monday that the Obama administration's health care overhaul is unconstitutional, siding with 26 states that sued to block it. U.S. District Judge Roger Vinson accepted without trial the states' argument that the new law violates people's rights by forcing them to buy health insurance by 2014 or face penalties.

Attorneys for the administration had argued that the states did not have standing to challenge the law and that the case should be dismissed.

The next step is likely the U.S. Supreme

Court. Two other federal judges have upheld the insurance requirement, but a federal judge in Virginia also ruled the insurance provision violates the Constitution.

In his ruling, Vinson went further than the Virginia judge and declared the entire health care law unconstitutional.

"This is obviously a very difficult task. Regardless of how laudable its attempts may have been to accomplish these goals in passing the Act, Congress must operate within the bounds established by the Constitution," Vinson wrote in his 78-page ruling.

At issue was whether the government is reaching beyond its constitutional power to regulate interstate commerce by requiring citizens to purchase health insurance or face

tax penalties.

Attorneys for President Barack Obama's administration had argued that the health care system was part of the interstate commerce system. They said the government can levy a tax penalty on Americans who decide not to purchase health insurance because all Americans are consumers of medical care.

But attorneys for the states said the administration was essentially coercing the states into participating in the overhaul by holding billions of Medicaid dollars hostage. The states also said the federal government is violating the Constitution by forcing a mandate on the states without providing money to pay for it.

Florida's former Republican Attorney

General Bill McCollum filed the lawsuit just minutes after Obama signed the 10-year, \$938 billion health care bill into law in March. He chose a court in Pensacola, one of Florida's most conservative cities. The nation's most influential small business lobby, the National Federation of Independent Business, also joined.

Other states that joined the suit are: Alabama, Alaska, Arizona, Colorado, Georgia, Indiana, Idaho, Iowa, Kansas, Louisiana, Maine, Michigan, Mississippi, Nebraska, Nevada, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming.

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Jason Kafoury told The Skanner News this afternoon that Fair's mother is distraught and afraid for the Parkrose High School senior's safety at the adult jail, which may have been where he was injured and hospitalized.

The case is complicated by the fact that Fair had a severe psychiatric breakdown after he regained consciousness at



OHSU, and has so far not been able to recall the events that led up to his hospitalization.

None of the agencies and institutions who had a hand in Fair's custody -- the Portland Police Department, Multnomah County Sheriffs Department, Multnomah County Juvenile Justice and OHSU, where his family says he lay in a coma for

days cuffed to his hospital bed -- have yet admitted publicly who injured the teen, how, when or why.

State Rep. Lew Frederick, D-Portland, last year initiated an investigation of the Multnomah County Sheriffs Department by the Oregon State Police, which Kafoury confirmed has not yet been completed.