

Utah custody fight complicated by tribal law

SALT LAKE CITY (AP) — Heather and Clint Larson hoped they'd be spending Christmas with a newly adopted 6-month-old boy.

Instead, after a monthslong court battle, the couple had to hand him over to representatives of the birth mother's American Indian tribe, Minnesota's Leech Lake Band of Ojibwe, and watch him being driven away.

"It was horrific. We lost our child," said Heather Larson, 29, of South Jordan.

The wrenching, personal struggle for both sides has been complicated by a jurisdictional fight over who has the authority to decide what should happen to the boy, named Talon.

Arguments have hinged on whether the boy should be subject to the Indian Child Welfare Act, a 1978 law designed to give tribes more control over decisions involving Indian children.

While legal details of most custody disputes are not readily available to the public, lawyers for both sides described the dispute for The Associated Press.

The boy, now in tribal custody, is in a suburban Minneapolis foster home with his two brothers, according to Frank Bibeau, an attorney with the tribe.

The Larsons, who had been taking care of the boy since he was born last summer, aren't giving up. "We're not done fighting," Heather Larson said.

But Talon's birth mother, a member of the Leech Lake Band of the Ojibwe Indian tribe, also is intent on regaining custody.

"He's my son, he's mine and my husband's son, he's the brother of my other children, he's the grandchild of my mom. He's ours," Natasha Roybal told KSTP-TV in Minneapolis.

The AP was unable to reach Roybal for comment.

The Larsons, their attorney and the adoption agency say the Indian Child Welfare Act shouldn't apply to the boy because he doesn't meet membership requirements.

The birth mother's attorney, Shannon Smith, said the woman is a member of the tribe and her two other children are treated as members. Smith said it's clear that Talon should be considered a member, too.

David Simmons, director of government affairs at the National Indian Child Welfare Association in Portland, said it looks like the Utah adoption agency didn't do enough investigating about whether the 1978

law would apply to Talon.

Denise Garza, director of Heart and Soul Adoptions in Farmington, Utah, which facilitated the adoption, said the agency acted properly and did its homework, but the birth mother wasn't upfront with them. Garza said she couldn't provide additional details.

"If the birth mom would have told us the truth from the very beginning, this whole thing would have played out very differently," Garza said.

She said the adoption agency has dealt with the Indian Child Welfare Act and Indian tribes in the past without major problems.

"We've never dealt with a case like this before," Garza said. "It's something you hope no one ever has to go through."

State officials, who haven't been involved in the case because it's a private adoption, said Heart and Soul's license is up to date and there have been no sanctions against it.

The Larsons, who have a 7-year-old son, were excited about the prospect of adding to their family. Earlier this year, Heart and Soul connected them with the pregnant Minnesota woman. Over the following months, Heather Larson and Roybal

talked regularly, met in person in Utah and became friends.

Just before Talon was born, the Larsons learned he would likely struggle with drug-related problems after birth. It didn't deter them.

The birth mother came to Utah and Talon was born June 9, dealing with effects of prescribed methadone, according to Smith. He spent the next nine days in the hospital, most of them with the Larsons by his side.

A day after Talon was born, the birth mother relinquished her rights, Larson and Smith said. In Utah, unlike many other states, there's no grace period for backing out after the document is signed.

"When those papers were signed, it was a sigh of relief, a sigh of 'Wow, this is really happening,'" Larson said. "We were able to let ourselves go and fall in love with him."

But a few days later, Roybal was full of regret. She wanted her baby back. "She didn't feel right about any of it," Smith said.

While she was in Utah giving birth, tribal officials in Minnesota began looking into reports that her two other sons weren't in a safe environment, Smith

said. The tribe took custody of the two sons, according to Smith, and began looking into the boy born in Utah.

Bibeau, the tribe's attorney, said no one is questioning the Larsons' ability to care for the boy. "We're not saying the Larsons are bad people but victims of Heart and Soul," he said.

A tribal court in Minnesota decided in October that the boy belongs with the tribe.

A state judge in Utah said she didn't have the authority to supersede the tribe, attorneys said.

The decision was finally made that the boy would leave Utah on Dec. 14. "We held him every minute of every day that we could," Larson said.

By then, Larson said Talon had gotten over his withdrawals and other health problems. He was sleeping through the night, happy and easygoing.

One of their hardest jobs was preparing their 7-year-old son Kade, who sometimes changed Talon's diapers, helped with baths and proudly showed him off to everyone at church.

He relished having a little brother.

"He's waited his whole life for this," Larson said.

Tribes may gain more river input

MITCHELL, S.D. (AP) — American Indian tribes could have more influence in management of the Missouri River after a by-law change by the Missouri River Association of States and Tribes.

The change increased the number of tribal representatives on MoRAST's board of directors from six to 13.

That puts the 28 tribes in the Missouri River Basin on a more equal footing with MoRAST's seven member states, who also have 13 representatives on the board. Six states have two each, but Wyoming, which is not a "mainstem" river state, has only one.

Eleven tribes were represented at MoRAST's most recent meeting in Rapid City. That contrasts with a MoRAST meeting one year ago in Pierre when no tribal representatives attended.

"That's a big step forward, because our group has really wanted to live up to its name of representing both states and tribes in the basin," said David Pope, MoRAST's executive director in Topeka, Kan. "And we think we're off and running in that regard now."

Pope said the earlier lack of tribal involvement was indicative of a long-standing problem afflicting Missouri River organizations.

"Historically, there's probably little doubt that the tribes have been underrepresented or not involved to the depth, at least, that probably would be appropriate for their status in the basin and the significant role that they play," he said.

"I think our group is the primary one that's really fully embraced their involvement."

Another change by MoRAST allows tribal representatives to be reimbursed up to \$500 for travel to MoRAST's meetings, which are held throughout the river basin.

Cremation pit found on Georgia island

SAVANNAH, Ga. (AP) — Exposed by erosion at the edge of a crumbling bluff, the pit discovered beneath 2 feet of sandy dirt at first appeared to be a grave just long and deep enough to bury a human body.

Excavation by archaeologists on Ossabaw Island revealed something more puzzling — just a few small bones, apparently from fingers or toes, mixed with charcoal, bits of burned logs and pottery shards predating the arrival of the first European explorers by at least a century.

The find has led researchers to suspect American Indians used the ancient pit to burn bodies of the dead, making it a rare example of cremation among the early native inhabitants of the southeastern U.S.

"It's a special sort of burial," said Tom Gresham, an Athens archaeologist who worked on the excavation and serves on Georgia's Council on American Indian Concerns. "The way Indian tribes over time buried their dead varied tremendously. But

cremations are fairly rare."

Located six miles off the Savannah coast, Ossabaw Island remains one of Georgia's wild-est barrier islands. Hogs, deer, armadillos and Sicilian donkeys roam the state-owned island's 11,800 acres of wishbone-shaped uplands. Live oaks tower above the remains of slave plantations and ancient Indian burial mounds.

Researchers have found evidence that humans came to Ossabaw more than 4,000 years ago. It's believed Indians at first may have used the island as a winter camp to feed on shellfish before moving inland to hunt deer in the spring.

Burial mounds on Ossabaw typically hold intact human remains, said Dave Crass, Georgia's state archaeologist. Archaeologists said Friday that carbon dating on charcoal from the pit place it between 1290 and 1420 A.D.

Archaeologists initially thought the pit could be 1,000 to 3,000 years old based on pot-

tery shards they found. Though carbon dating revealed it to be more recent, the find is still considered prehistoric because it predates the arrival of the first European explorers in Georgia in 1520.

Crass said other prehistoric graves on Ossabaw tend to be bodies buried intact, in a near fetal position, in shallow bowl-shaped pits.

"What makes this particular site unusual is that the individual was apparently cremated and then the remains were presumably taken from this pit and interred somewhere else," Crass said.

David Hurst Thomas, a curator of anthropology at the American Museum of Natural History in New York, said the cremation pit sounds significant.

Thomas was not involved in the Ossabaw excavation but has been studying Indian burials on neighboring St. Catherines Island for 30 years. Out of about 900 graves he's studied there that predate the arrival of Eu-

ropeans, only nine held cremated remains, he said.

"Based on our St. Catherines experience, this is about a one-in-100 shot," Thomas said. "As a mortuary feature of that antiquity, I would say that's a big deal."

The Ossabaw cremation pit, roughly 6 feet long and 3 feet deep, had other unique characteristics.

Crass and fellow archaeologists, at first, suspected it might be a more modern grave because of its flat bottom and straight sides.

Early Indian graves tend to have round bottoms because people lacked shovels or other digging tools, said Dan Elliott, a Savannah archaeologist who helped excavate the Ossabaw pit last month.

"We're thinking it was a fairly formal structure that was used to deflesh people — it looks almost like a little oven," Elliott said. "That's so far back in history that we don't know what was on their minds, but it shows

there was a special reverence for the dead."

The state Council on American Indian Concerns gave the archaeologists permission to excavate the Ossabaw pit because erosion was destroying it.

The few human bones found in the pit will be studied further in hopes of determining if they belonged to more than one person. Once that's done, Crass said, they'll be reinterred with the Council overseeing the burial.

Thomas said such a find is a step in helping researchers understand America's early inhabitants, though why they would choose to cremate some of their dead and bury others intact remains a mystery.

"We don't know whether that's high status or low status. Is that the way you treat elders or battle captains?" Thomas said. "We're buried according to who we are when we die. It tells us a lot about a society by the way they treat the dead."

AG urges prosecution over Seminole gaming in Fla.

TALLAHASSEE, Fla. (AP) — Florida Attorney General Bill McCollum said last week he has asked the federal government to prosecute the Seminole Indian tribe over its blackjack operations.

Meanwhile, a state House committee began discussing how to approach a gambling agreement with the tribe.

McCollum sent the U.S. Attorney's office in Tampa a letter urging action. Since the summer, the tribe has been offering Las Vegas-style slot machines and card games at its casino in Hollywood under an agreement struck with Gov. Charlie Crist a year ago.

The state Supreme Court has since struck down that compact,

which gave the tribe exclusive rights to operate blackjack and other card games as well as a guarantee that the state won't expand Las Vegas-style slots beyond Miami-Dade and Broward counties. The justices said Crist didn't have authority to enter into the agreement on his own, but the games continue.

The fact that the tribe expanded blackjack to its Tampa and Immokalee casinos after the court ruling shows it doesn't respect the law, McCollum said. However, McCollum doesn't have the authority to stop the games because they are on Indian land.

A spokesman for the U.S. Attorney's office confirmed that

McCollum's letter had been received, but declined to comment further.

An attorney for the tribe said McCollum's request makes no sense.

"There is no basis for criminal prosecution here. This is a regulatory issue," said Barry Richard, adding that the tribe has been in regular contact with the National Indian Gaming Commission about the issue.

The tribe has already given the state more than \$71 million under the compact, which guarantees Florida at least \$375 million over the first three years and at least \$100 million a year after that. Richard said the tribe had to act quickly to set up its card tables to ensure it could meet its

obligation. The money the state has already received has been set aside until the issue is resolved.

McCollum's request to prosecute the tribe was praised by Rep. Bill Galvano, who co-chairs the recently formed Select Committee on Seminole Indian Compact Review. Galvano, R-Bradenton, said the state's congressional delegation should also push federal authorities to stop the games.

Galvano's committee met for the first time Thursday. Afterward he said its mission wasn't to approve or reject the compact that Crist signed, but to proceed as if there is no compact.

Federal officials pressed Florida for years to enter a compact with the Seminoles. If

Florida didn't negotiate with the tribe in good faith, federal officials said they could approve Indian gaming without giving the state a share of the proceeds.

Galvano acknowledged that the state won't get any revenue from the tribe if it doesn't negotiate a compact, but said the exclusive gambling rights the tribe would receive don't have to mean allowing blackjack, which is otherwise illegal in Florida. He said there is a possibility of negotiating exclusive geographic rights to Las Vegas-style slot machines beyond where they are currently allowed. For now, only Miami-Dade and Broward horse and dog tracks and jai-alai frontons can install Vegas slots.

Casinos suffer in bad economy

FRESNO, Calif. (AP) — While Indian casinos don't have to report their revenue, gamblers say they are visiting less frequently — and wagering less.

Some gamblers who would have traveled to Nevada are wagering closer to home, casino operators say, but not enough to offset the smaller amounts of money they are spending. Fresno's Donna and Chuck Henderson, who used to gamble every other day, say they now visit twice a month and stick to penny slots.

Gaming analysts say California tribal casino revenues are likely either flat or suffering single-digit declines.

Gambling revenues in Nevada are down 22 percent from last year.