

Decision postponed regarding jurisdiction in murder trial

By Quintin Ellison | Posted: Monday, August 12, 2013 2:43 pm

In what could prove a precedent-setting case, a local judge must rule on whether a man charged with murder on the Cherokee Indian Reservation is tried in state or federal court.

The man, 36-year-old George Nobles, is accused of gunning down an Indiana woman last year while stealing the woman's purse. Barbara Preidt, 76, was killed outside the Cherokee Fairfield Inn on Painttown Road. She and her husband of 50 years, John Preidt, were on their way to Florida to visit other family members.

Nobles faces state charges of first-degree murder, armed robbery and felon in possession of a firearm (two counts). Law enforcement officers also charged two other Cherokee residents in connection with the murder. Ashlyn Carothers, 20, was charged in tribal court with aid and abet armed robbery and aid and abet homicide in the first degree. Dewayne Edward Swayney, 43, was charged in tribal court with tampering with evidence.

Nobles is a first-generation descendant. His mother is an enrolled member of the Eastern Band of Cherokee Indians but he is not. Enrolled members must meet a blood quantum requirement of 1/16th degree plus be a direct lineal descendant from someone listed on the Baker Roll of 1924, a census taken by the federal government.

Kathie McCoy, an enrollment officer for the Eastern Band, testified that she had verified that Nobles is not a member of the tribe. Additionally, she said that Nobles does not have an enrollment-office issued letter attesting to the fact that he is a first-generation descendant, though she said Nobles would qualify for such a letter. A photo identification and a certified birth certificate are required to obtain the letter. Nobles, according to other testimony, did not possess a photo identification.

At question is whether a first-generation descendant such as Nobles should be treated the same way as an enrolled member would be treated – that is, be tried in federal, not state, court. Nobles' attorney is attempting to get his client's charges transferred to federal court and out of the state's jurisdiction.

The Friday, Aug. 9, hearing, however, took place in Jackson County Superior Court under Judge Brad Letts, who is an enrolled member of the Eastern Band. Neither Assistant District Attorney Jim Moore nor defense attorney Todd Williams objected to Letts hearing the case, the judge noted as the jurisdictional hearing got under way.

The jurisdictional hearing wasn't completed by the end of the day Friday, and a date to finish the legal proceeding hasn't been determined yet.

When Nobles, Carothers and Swayney were arrested, only Nobles was placed under the state's jurisdiction. Carothers is a member of the Cherokee Nation in Oklahoma, and Swayney is an enrolled member of the Eastern Band. Both Carothers and Swayney were taken before a Cherokee magistrate – Nobles was not. He went before a state magistrate.

Attorney Williams attempted to establish that proper legal procedure wasn't followed because, he maintained, a first-generation descendant such as Nobles also should have gone before the Cherokee magistrate as long as there were no outstanding state charges. That likely would have funneled Nobles into the federal system, where Eastern Band members arrested on the Cherokee Indian Reservation are prosecuted.

"Is it not the province of that magistrate to inquire if he's a first-generation descendant?" Williams asked Cherokee Detective Sean Birchfield.

"It was believed that Mr. Nobles was not an enrolled member and we had no knowledge he was a first-generation descendant," Birchfield said on why the suspect went into the state system.

Nobles, who was released from a Florida prison in November 2011 on armed burglary and grand theft charges, was described as a white man in his criminal records from that state. Probation officers from Gaston and Swain counties testified that Nobles did not object to the "W" designation and that he never discussed the matter with them. Nobles was on probation from Florida; he moved first to Gaston and then to Swain County. He was living on Olivet Road in Jackson County at the time of the murder.

Eastern Band Attorney General Annette Tarnawsky said that in her opinion the criminal charges against Nobles should be handled by state, not federal, authorities.

"It's appropriate to the situation," Tarnawsky testified. "They (police) acted properly."

Law enforcement officers, the tribal attorney general said, have the discretion to not pursue tribal charges against suspects.