

Letts will make decision on jurisdiction for Cherokee murder suspect

By Quintin Ellison | Posted: Wednesday, September 18, 2013 2:00 pm

Accused murderer George Nobles, on instructions from his defense attorney, raised his Peanuts cartoon "It's All Good In The Hood" T-shirt so that Superior Court Judge Brad Letts could look at a tattoo on his back.

Earlier, Assistant District Attorney Jim Moore had described the tattoo as an Indian with a headdress. But that tattoo, Moore said, didn't help Nobles, 36, make his case that he is an American Indian.

The question of Nobles' race is key to whether the Olivet Road resident will be tried in federal or state court for allegedly gunning down Barbara Preidt last year. The 76 year old and her husband of five decades, John Preidt, were on their way from Indiana to Florida to visit family members. Barbara Preidt was killed outside the Cherokee Fairfield Inn on Painttown Road.

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.

Members of the Eastern Band of Cherokee Indians and other American Indians who belong to federally recognized tribes are tried in federal court; non-Indians, even if a crime is committed on the Cherokee Indian Reservation as this one was, are tried in state court.

Nobles' mother is an enrolled member of the Eastern Band, but her son does not meet the blood-quantum requirement of 1/16th degree. His father was white.

Nobles is what's known as a first-generation descendant. As such, certain tribal rights are granted; for instance, he could hold and live on tribal land given to him by family members, though some activities such as mining and timbering the property would be off limits.

Defense Attorney Todd Williams, during the second day of Nobles' jurisdictional hearing on Friday (Sept. 13), maintained that, as a first-generation descendant, Nobles should have been taken before a Cherokee magistrate. That legal procedure likely would have funneled Nobles into the federal system.

Nobles, however, was taken before a state magistrate, though both his co-defendants were seen by a tribal magistrate.

Swayney is an enrolled member of the Eastern Band, and Carothers is a member of the Cherokee

Nation in Oklahoma. If Carothers, who isn't even a member of the Eastern Band went before a tribal magistrate, then Nobles certainly should have, too, Williams told the judge.

"Nobody but the Cherokee tribe has the right to define who comes within its jurisdiction," he said. "Congress has granted tribes the power to try cases under their sovereign powers, and the (Eastern Band) has identified first descendants as having superior rights over members of other tribes."

Williams said, "it is very possible that this defendant is 'more Indian' " than Carothers, because the Cherokee Nation does not require a certain degree of blood quantum.

The defense attorney also attempted to establish cultural ties between Nobles and the Eastern Band – whether he'd been formally and informally treated as an Indian by the tribe.

Nobles' mother, Donna Mann of Kings Mountain, testified that the Eastern Band helped pay her son's medical bills following two separate car accidents. She also said he attended school in Cherokee.

"We have established he had significant contact with the Eastern Band," Williams said during his closing. "I think we've far exceeded our burden here ... we certainly don't want to go through a trial that would be nullified at some point on appellate law (because of jurisdiction)."

The assistant district attorney, however, said Nobles doesn't even consider himself Indian.

"As far as tribal affiliation, frankly he has had none," Moore said. "The fact he has a tattoo with an Indian with a headdress is not sufficient."

Judge Letts, who is an enrolled member of the Eastern Band, said he would make his ruling in a few weeks. During the first day of the hearing (Aug. 12), neither Moore nor Williams objected to Letts hearing the case.