

## **PRESS RELEASE**

### **From the Office of the Tribal Prosecutor for the Eastern Band of Cherokee Indians:**

John Michael Arkansas, 55, was convicted on July 21, 2015, in the Cherokee Court for one count of Special Domestic Violence for violating a Domestic Violence Protective Order, pursuant to the newly enacted Cherokee Code Section 14-40.1(c)(2) and was sentenced to 75 days imprisonment, suspended for 1 year. He was placed on Supervised Probation and ordered to pay a special fine of \$1,000 in addition to \$600 in restitution to the victim of the offense. The sentence, issued by the Honorable Kirk G. Saunooke, Cherokee Court Judge, was the first Cherokee Court conviction under the tribal provisions of the reauthorized Federal Violence Against Women Act of 2013 ("VAWA 13") which enable the Eastern Band of Cherokee Indians to prosecute non-Native perpetrators for certain crimes of domestic violence occurring on Cherokee lands.

Tribal Prosecutor, Jason Smith stated, "I want to thank Assistant Tribal Prosecutor Justin Eason, Cherokee Police Officer Wahnetah Toineeta, and Domestic Violence Advocate Iva Key for their hard work and dedication to this case and to fighting domestic violence which made this outcome a possibility. It is critical in this system that Domestic Violence Protective Orders be followed and enforced, regardless of the identity of the perpetrator. This case proves that the Eastern Band of Cherokee Indians can and will prosecute *all* perpetrators of domestic violence offenses occurring within their lands."

On June 8, 2015, in Ordinance Number 526, the Eastern Band of Cherokee Indians implemented the tribal jurisdictional provisions of VAWA 13 which authorized the prosecution of cases involving non-Native perpetrators of domestic violence. The significance of this implementation is that Cherokee will now be able to punish non-Native perpetrators in the Cherokee Court for the commission of certain domestic violence crimes against Native victims on EBCI lands. This work was the culmination of several years of effort by the Office of the Tribal Prosecutor, the Cherokee Court, the Principal Chief and Tribal Council. Cherokee is one of only 7 tribes nationwide that have enacted the special criminal jurisdictional provisions of VAWA 13 and one of only 4 tribes that have obtained convictions against non-Native perpetrators.

Tribal Prosecutor, Jason Smith concluded: "This recognition by the Federal government in VAWA 13 of the inherent sovereignty of Native tribes to punish *all* perpetrators of crimes occurring within their boundaries is an important first step in returning full criminal jurisdiction to tribal governments. However, I understand in discussions with some of the other tribes who have implemented VAWA 13 that the continued limitations on criminal jurisdiction have created situations where justice remains elusive. Particularly in domestic violence cases involving child abuse and maltreatment, because of the limitations that remain in the VAWA 13 tribal provisions, tribes remain unable to prosecute non-Native perpetrators of domestic violence for acts committed against or

involving child victims. While VAWA 13 and its previous versions have created several specific Federal domestic violence crimes available for prosecution in Federal Court, there remain gaps when child victims are involved. In those situations, we are forced to push for prosecution in Federal or State Courts or are left without recourse where those gaps exist. I am hopeful that as we continue to successfully implement the provisions of VAWA 13, we will gain support for future amendments which will remedy these gaps affecting child victims.”

The specific provisions of the Cherokee Code which were added pursuant to VAWA 13 can be found in Section 14-40.1(c) which is accessible online at [www.municode.com](http://www.municode.com) or through the Cherokee Tribal Operations Program at 828-359-7021.