

Charges against 15 Chukchansi casino raiders upheld by Madera County judge

By Marc Benjamin

New footage shows a police force from a rival faction of the Picayune Rancheria tribe arriving at Chukchansi Gold Resort & Casino on Oct. 9, 2014, to take over the gaming office. THE FRESNO BEE

MADERA — • *A Madera County Superior Court judge refuses to dismiss charges against 15 defendants in the Chukchansi office raid.*

- *State laws apply on Indian lands, the judge rules in rejecting the motion to dismiss.*
- *The judge suggests that unreasonable force may have been used in the raid.*

A Madera County Superior Court judge decided Friday not to dismiss criminal charges filed against 15 defendants, including two tribal members, who are accused of raiding the Chukchansi Gold Resort & Casino office and unlawfully detaining members of another security force.

Judge Dale Blea said the county acted properly in making the arrests.

“California has a right and obligation to enforce its criminal laws on tribal lands as it would anywhere else in the state,” he said. “I do not find a distinction between crimes committed on tribal land and crimes committed by rival factions acting against one another.”

Blea said none of the defendants had immunity in the casino office raid, which resulted in charges of kidnapping, assault and other crimes.

“Even if some of the defendants were acting as officers of the legitimate tribal government, they cannot use the doctrine of sovereign immunity as a criminal defense against criminal prosecution for the violation of state laws,” said Blea. “Equally clear is the role that peace officers may be prosecuted when they effect arrests by the use of unreasonable force.”

He said there is no question that the tribe can resolve its disputes without his court’s intervention.

In a related issue, 13 of 15 of the defendants in the case have filed claims against Madera County, saying the county violated their civil rights and improperly arrested and jailed them. They allege false imprisonment, loss of work, emotional distress, monetary loss, nonfeasance by sheriff’s deputies, malicious prosecution and civil rights violations, Madera County Counsel Regina Garza said. The claims will have to be heard by Madera County supervisors. If supervisors reject the claims, the defendants can sue the county.

Blea said that if he had dismissed the criminal cases, that would have sent a message that a tribal faction headed by Tex McDonald, which hired the police force, was the legitimate government and had the right to forcibly evict security employees who were hired by another faction headed by Reggie Lewis and Nancy Ayala.

Such a ruling would be saying that the Lewis-Ayala employees had “no right to be on tribal land, notwithstanding that they were employed by the Lewis-Ayala faction,” Blea said.

“The potential for escalation of violence absent state intervention is obvious,” Blea said.

Blea heard from lawyers representing tribal police officers, their security associates and two tribal council members, McDonald and Vernon King. They wanted kidnapping, assault with a deadly weapon and other felony crimes dismissed against the 15 men. Madera County prosecutor Nicholas Fogg countered that the county district attorney and sheriff had the authority to file criminal charges against the men.

Lawyers for the tribal police officers and their security associates argued that they had immunity from prosecution because they believed they were acting in good faith as police officers, and for that reason can't be prosecuted with kidnapping and assault. McDonald and King argued that they had sovereign immunity because they were involved in the casino office raid in their capacities as tribal council members.

The judge heard about an hour of arguments in a Friday morning hearing and then recessed for lunch, calling the matter a "hornet's nest."

When he returned in the afternoon, he sided with prosecutors.

District Attorney David Linn said the actions of police were not the point of Friday's hearing.

He said the county has "far more pressing issues ... rather than trying to mediate a family dispute," especially with fire season coming.

"I would like to get this resolved and move on," Linn said. "The people are totally sickened by it."

But, he said, prosecutors will prepare for the preliminary hearing.

Lawyer Mark Coleman, who represents nine of the defendants, said the case could wind up being a "waste of time and resources" because the county is "never going to win this at trial."

Coleman also questioned the judge's suggestion of "unreasonable force," noting that even prosecutors never mentioned it in their briefs.

The defendants will return to court next Friday to schedule a three-week preliminary hearing that will most likely take place this summer.

King said he wanted the preliminary hearing as soon as possible. He remains in Madera County Jail.

His brother, Norman King, said his family was disappointed Friday. "It just didn't go our way today, but there is a long way to go," he said.

In his recent visits with his brother, he said, they mostly spend time talking about family. "He is a family man with kids and grandkids," Norman King said. "We are just praying for the day that he comes home."

Jeanette Sample, a close friend of McDonald, said both he and King are diabetics and require special care in the jail.

Sample said McDonald was doing his job when he went into the hotel on Oct. 9.

Video taken that night shows him tackling a man in a hallway. King, on the other hand, spent most of the night sleeping because he was having trouble regulating his diabetes, according to tribal police officers accompanying him that night.

Lawyer Patrick Hanly, who represents tribal police chief John Oliveira, said the tribe could have as many councils or police forces as it wants and the judge could not intervene.

"All you have to decide is that you can't tell this Indian tribe or any Indian tribe how to govern themselves," Hanly told the judge in the morning hearing.

The tribal police officers hired by the McDonald faction entered the casino on Oct. 9 and encountered security forces hired by the Lewis-Ayala faction, which had taken over the casino on Aug. 24. The McDonald group said they wanted audit information from the gaming office after the National Indian Gaming Commission told the tribe it would temporarily close the casino and hotel if audits from 2012 and 2013 were not sent by Oct. 27.

After the office raid, security forces detained by the McDonald tribal police officers were released to then-Madera County Sheriff John Anderson. Anderson released the men, who then entered the hotel basement as McDonald's officers were trying to turn off a fire alarm that had been pulled by a Lewis-Ayala security employee. That alarm led to the casino's evacuation.

The following day, the NIGC and the state Attorney General's office shut down the casino because of concerns about the safety of patrons and employees. The casino has been closed since.

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