

Update on Jim Thorpe Repatriation

museum, a 500-bed hospital, an Olympic stadium, and a sporting goods factory with a Jim Thorpe trademark. Patsy Thorpe signed an interment agreement to ensure that the town consolidation occurred, and historians report that she was paid expenses and perhaps additional sums of money to close the deal.

The plans for Jim Thorpe, in death, to save the Borough faced setbacks from the beginning. It took three years for the Borough to deliver on the promised mausoleum, and none of the grandiose developments focused on commercializing the grave ever materialized. Meanwhile, the desecration of Jim Thorpe's remains continued. Believing the casket was too heavy, the locals had it opened and examined the body. Subsequently, a group of protestors tried to "pry the coffin out of the crypt with the intent of dumping it" on the front porch of the home of one of the promoters of the burial initiatives.

Within a few years, when it became clear that the efforts to use Jim Thorpe's remains for economic development were futile, two referendums were called to reverse the name change. Before the first vote, vandals defaced the mausoleum with a hammer. As a local community leader expressed: "You mention Jim Thorpe and nobody knows what you're talking about," to which he added, in an interview with Sports Illustrated: "All we got is a dead Indian."

Decision: An Indian Civil Rights Statute that May Not Always Mean What it Says

The enactment of NAGPRA in 1990 marked a significant achievement in the long struggle of Native Americans to reclaim control over their ancestors' remains and to avoid their exploitation. Prior to the enactment of NAGPRA, American Indian people had faced a long history of having their peoples' remains disrespected and desecrated, which included grave robbing and the treatment of remains as scientific curiosities, or worse. But this legacy encompassed numerous issues, and has long included—as this case illustrates—the use of Indian remains and graves as roadside attractions. NAGPRA was therefore crafted broadly to remedy a serious violation of Indian peoples' civil rights.

The litigation initially was filed in the United States District Court for the Middle District of Pennsylvania in June 2010 by John Thorpe. Following his death in early 2011, his surviving brothers, Bill and Richard, and the Sac and Fox Nation joined in the case.

The litigation did not seek an immediate repatriation of Jim Thorpe's remains. Instead, it sought to compel the Borough to participate in a repatriation proceeding under NAGPRA. That proceeding, which would have provided family members and other parties with a legal interest in the case an opportunity to comment and to express their wishes.

In April 2013, a United States District Court in Pennsylvania, following extensive briefing by the parties on the pur-

pose, interpretation, and application of NAGPRA, ruled that the statute applied to the Borough of Jim Thorpe and to the remains of Jim Thorpe. The Borough appealed that ruling to the Third Circuit.

In October 2014, the Third Circuit reversed the decision of the federal district judge. The appeals court agreed that the plain language of NAGPRA applied to the Borough and to the remains. Nevertheless, the court invoked a seldom-used judge-made doctrine, and reversed on the grounds that a repatriation of Jim Thorpe's remains would be an "absurd" result shocking to most people in society.

"NAGPRA—like most other civil rights legislation—was drafted using broad language, because it was intended to be used as a remedial tool to correct a wide variety of historic abuses of the rights of Indian people," said Steve Ward, an attorney at Conner & Winters, LLP, in Tulsa, and who represented the Nation and the Thorpes in the litigation.

"The effect of this ruling is that Indian people and tribes still have this important statute, but its use may well be limited, depending on a particular judge's perspective and understanding of the issues relating to Indian rights."

Chief Rhoads observed that the denial of Jim Thorpe's stated request to be buried on Indian land within the Sac and Fox Reservation is remembered—in the tribe and elsewhere in Indian country—as a serious injustice. "For now, it appears we will have to continue living with this memory, and without tools under the law to remedy this abuse of our human and religious rights," she said.

Statement of Principal Chief Rhoads
Following is Principal Chief Kay Rhoads' statement concerning the Supreme Court's refusal to review the case:

On behalf of the Sac and Fox Nation, I want to express our disappointment about the decision of the United States Supreme Court not to review the ruling of the Third Circuit in the litigation seeking to initiate a repatriation proceeding concerning the remains of Jim Thorpe.

The famous Sac and Fox athlete's remains were taken forcibly from a traditional burial ceremony in 1953 under circumstances that illustrate the lack of respect in general in our country's history for the traditions and religious beliefs of American Indians. Jim Thorpe's remains were shipped around the country, and eventually were turned over to two small Pennsylvania towns—now called the Borough of Jim Thorpe—that hoped to use them as part of a grandiose economic development plan, which, of course, never was realized. This type of treatment of Indian people's remains—the remains of our human beings and our family members—is, unfortunately, not unusual in American history.

This litigation was brought pursuant to civil rights legislation enacted to correct historic abuses of the human rights of American Indian people—the Native American Graves Protection and Repatriation Act, or "NAGPRA." The treat-

ment of Jim Thorpe's remains was, in fact, within the core purposes of NAGPRA—to prevent the commercial exploitation of Indian peoples' remains and graves, and to require the law to respect their religious and other traditions with respect to burials. This was not only our view, but it is a view confirmed by the United States District Court that heard this case, and it was further affirmed by the parties that supported our request for review in the United States Supreme Court of the adverse ruling of the United States Court of Appeals for the Third Circuit, which included the Native American Rights Fund (one of the original supporters of NAGPRA), the National Congress of American Indians, members of Congress, legal scholars, and various organizations that promote the protection of the free exercise of religious and cultural practices.

The Third Circuit agreed with the federal district court that the plain language of NAGPRA clearly applies to the remains of Jim Thorpe. However, the appeals court overturned that judgment based upon a seldom-used judge-made doctrine for the reason that they personally believed Congress could not possibly have intended to permit such a repatriation. I think the Third Circuit's ruling represents to some extent a misunderstanding of both NAGPRA and the injustices it was intended to correct. Nev-

ertheless, it calls into question whether Indians and tribes will be in a position to continue to use these important legislative tools to fight and correct a long history of discrimination and abuse of Indian peoples' rights.

The Supreme Court's decision not to review the Third Circuit's ruling represents a personal defeat for the Indian family of Jim Thorpe, including his surviving sons, Richard Thorpe and Bill Thorpe, who have sought for some 60 years to have their father buried in Sac and Fox country accordance with his wishes. It gives the family, the Sac and Fox Nation and Indian people concern about the lack of respect and love for this great man and tribal religious beliefs when non-Indian people choose to exploit Mr. Thorpe remains and disregard his final wish to be buried among his people and family. It also saddens and concerns me that the plain language of important civil rights legislation like NAGPRA can be overridden based upon judges' subjective views about what they believe a law was intended to address.

The denial of Jim Thorpe's stated request to be buried on Indian land within the Sac and Fox Reservation is remembered in our tribe and elsewhere in Indian country as a serious injustice. For now, it appears we will have to continue living with this memory, and without tools under the law to remedy this abuse of our human and religious rights.

Sac and Fox Nation Women's Auxiliary

The Sac and Fox Nation Women's Auxiliary meet the 3rd Thursday every month at 6:00 p.m. We have a pot luck dinner at every meeting. Our meeting locations alternate from the Stroud-Elder's Building to the Shawnee-Multi Purpose Building. If anyone needs information, they can contact Shawna Spoon by phone at 405-275-2581 or by e-mail at shawnaspoon@att.net.

Co-ed DODGEBALL Tournament

Saturday, November 14, 2015
12:00 p.m.

Thunderbird Casino Event Center

- Up to 40 teams accepted!
- Register by October 26th
- \$5 per player (6-8 player per team and must have at least 2 tribal employees)
- Must be 18 years or older
- Prizes for 1st & 2nd place
- Pick up registration packets October 30th at the Absentee Shawnee Tribal Complex or Little Axe Health Center

Admission \$1 or a donation of a non-perishable food item for Absentee Shawnee Foster Care Families

To sign Up Call or Email
Jackie Denny at 405-275-4030; jdenny@astribe.com
or
Shawnee Martinez at 405-701-7994; smartinez@astribe.com

Business Committee Meeting Minutes
are now accessible on the Website and Facebook
sacandfoxnation-nsn.gov

OES PUBLIC NOTICE

OES has a **RECYCLE DROP OFF TRAILER** in it's parking lot most of the year

The Sauk Language Department of the Sac and Fox Nation of Oklahoma is currently accepting resumes for part and/or full-time work for individuals experienced in working with youth and young adults. Additional experience working with multi-media technology (i.e. graphic arts, web design, etc.) is preferred, but not mandatory. Resumes with portfolios would be given preferential treatment.

This is a call for resumes and portfolios only. Scope of work, project specifications, and rate of pay negotiated on a case-by-case basis. Those interested in working with youth and young adults **must be capable of attending design meetings in Stroud, OK and working on-site at least part time.**

Please email your resume to the following:
language@sacandfoxnation-nsn.gov

NO PHONE CALLS PLEASE



Vocational Rehabilitation Transitional Services
Iowa Tribe of Oklahoma

History:
The Iowa Tribe of Oklahoma Vocational Rehabilitation Program has provided vocational services to American Indians with disabilities for twenty years and counting, with Transition Services at six years. Our mission is to develop specialized services to American Indian students with disabilities currently making the transition from high school to work or achieving a post-secondary education.

Services we can provide:
We assist with testing fees (ACT, SAT), provide work clothing for new jobs, tuition assistance, assistive devices such as hearing aids, walkers, wheelchairs, eye glasses, along with physical and mental evaluations.

Qualifications:
You must be a member of a federally recognized tribe, a junior or senior in high school and must reside in on of the Iowa Tribe VR services area counties. You must also provide documentation from your doctor or physician noting your disability.

COUNTIES served by ITOVR

- KAY
- NOBLE
- PAWNEE
- PAYNE
- POTTAWATOMIE
- LINCOLN
- LOGAN

Iowa Tribe of Oklahoma Vocational Rehabilitation

P.O. Box 728
Perkins, OK 74059

Phone: 405-547-2402 ext 168
Toll free: 1-888-336-4692
Fax: 405-547-1090
E-mail: Christa Tsotaddle, Transitional Counselor
ctsotaddle@iowanation.org

"See the Person, Not the Disability"

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