

## Judge asked to dismiss Arkansas casino lawsuit

Written by Administrator  
Wednesday, 11 December 2019 04:41 -

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An anti-casino group asked a Pulaski County circuit court judge Tuesday to dismiss a lawsuit it brought against the state Racing Commission to bar it from issuing a Pope County casino license until the question is brought before the voters.

The voluntary dismissal request filed in the case -- by James Knight on behalf of the group Citizens for a Better Pope County -- does not elaborate on the reason the group is dropping the suit.

Little Rock attorney Jerry Malone, who represents the grass-roots group in the suit, said he could not comment on the latest court action.

"There are a lot of things that come together to make certain decisions," Malone said. "I don't want to say anything to impact anything."

[\[RELATED: See complete Democrat-Gazette coverage of casinos in Arkansas at arkansasonline.com/casinos\]](http://arkansasonline.com/casinos)

The dismissal request came the day after Fifth Judicial Circuit Judge Bill Pearson of Clarksville ruled in a separate case -- in which the group unsuccessfully sued Ben Cross, the county judge of Pope County, and members of the Pope County Quorum Court over the latter's endorsement of a casino applicant -- that Citizens for a Better Pope County does not have to pay the county's legal fees.

"Pope County will continue to monitor the progress of the various cases that are still pending, and we view this [Pulaski County] voluntary dismissal [request] as one step closer to providing resolution to the entire issue," Cross said Tuesday.

Both cases sought to invalidate the Aug. 13 endorsement by the Pope County Quorum Court of Cherokee Nation Businesses for a casino license there.

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Before the county's resolution was issued, Cross unveiled a negotiated 11-page economic development agreement with the Cherokees that included a \$38.8 million "economic development fee" that would be disbursed among the county, some cities and some nonprofit organizations.

Voters statewide in November 2018 approved Amendment 100, which allows new casinos in Pope and Jefferson counties if they have the support of local officials. The amendment also allows Oaklawn Racing Casino Resort in Hot Springs and Southland Gaming and Racing in West Memphis to expand their operations into full-fledged casinos, but they aren't required to have local endorsements. The amendment also allows sports betting.

Pope County voters soundly rejected Amendment 100 and also approved County Ordinance 2018-0-42, that said an election must be called to allow voters to decide if they want officials to back a casino applicant.

On Oct. 28, the Pope County Quorum Court repealed the ordinance and the next day, Pearson declared Ordinance 2018-0-42 unconstitutional.

Pearson said in his ruling that the ordinance takes away powers granted by Amendment 100 to county and city officials. Ordinances cannot add additional qualifications to constitutional amendments, he ruled.

Citizens for a Better Pope County filed a notice last week that the group was appealing Pearson's Oct. 29 decision to the state Supreme Court.

Cross issued two letters of support on Nov. 13 for Cherokee Nation Businesses -- one in support of a casino license for property outside of Russellville and another for a potential site within the city limits of Dover. On top of that, the Dover mayor issued his own letter of support.

The two lawsuits, as well as a handful of suits and complaints brought by various interests, were lodged after the Racing Commission initially rejected all five applicants for the Pope County casino license -- Gulfside Casino Partnership of Mississippi, Cherokee Nation Businesses of

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Oklahoma, Kehl Management of Iowa, Warner Gaming of Nevada and Choctaw Nation Division of Commerce of Oklahoma -- because none at the time had endorsements by local officials currently in office.

A Racing Commission rule and a state law added that the endorsements must come from officials serving at the time the license application is made.

Gulfside sued the Racing Commission on Aug. 15 in Pulaski County after its application was denied because the endorsements it contained were from former local officials who had issued their support in December 2018 right before leaving office.

That case is being tossed back and forth between Pearson and Pulaski County Circuit Judge Tim Fox because of disagreements over the venue.

A second application window -- which was opened by the Racing Commission after the Cherokee endorsement -- closed Nov. 18 with applications submitted by Cherokee Nation Businesses and the Choctaw Nation.

The Racing Commission decided Oct. 17 to hold off on considering applicants until all pending lawsuits have been resolved.

Since then, the grass-roots, pro-casino group Pope County Majority has lodged a letter-writing campaign asking the Racing Commission to issue the casino license to Cherokee Nation Businesses even though the pending litigation is not resolved.

The \$225 million Legends Resort proposed by the Cherokees would include 50,000 square feet of gambling with 1,200 slot machines and 32 table games, as well as sports betting.

The resort -- which is expected to be completed in one phase within 18 months -- also would feature a 200-room luxury hotel, a 15,000-square-foot meeting and conference center, a pool,

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an outdoor music venue, a recreational-vehicle area and dog park, and an outdoor water park.

As of Tuesday there have been nearly 80 emails or letters to the Racing Commission from members of Pope County Majority, but also from others asking that a casino license not be issued until the legal cases have run their course.

"We wanted the Racing Commission to know the majority of citizens in Pope County are wanting Legends to be the casino built in Pope County and the citizens support the choice of both the Quorum Court and now County Judge Ben Cross," Debbie Ann Williams, a leader of Pope County Majority. "Furthermore, we are tired of all of the delays and want the license issued within the 30 business days following the close of the application period."

Michael Goad, a Pope County Majority member, said in a Dec. 4 letter to the Racing Commission that issuing the casino license will spur expanded economic development in the Arkansas River Valley.

"Delays in issuing the casino license to CNB [Cherokee Nation Businesses] will postpone the payment of funds specified in the Economic Development Agreement between Pope County and CNB," Goad said. "It will also unnecessarily prolong the wait for casino tax revenue to flow to the coffers of the local and state government. This includes the significant percentage of the tax on casino gaming receipts that will go towards purses for Oaklawn thoroughbred racing."

But another letter writer, James Corbin, who signed his email with "Christians against Casinos," urged the Racing Commission to hold off on issuing a Pope County casino license until all lawsuits and appeals have been decided and also said that the "corruption by our elected officials in the county is very disappointing."

"Another issue is that this Pope County Majority group is NOT the majority in Pope County! Sure they have over 7,000 members, but alot of them don't even live in Pope County, the State or even the country," Corbin said in the email. "All they have done is sent out invites on Facebook trying to get their numbers up, they don't care where you live at!"

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Scott Hardin, a spokesman for the state Department of Finance and Administration, has said that the Racing Commission may waive at its Dec. 19 meeting a rule it adopted earlier this year that requires the commission to award and issue a casino license within 30 days of the close of the application period.

"The Commission previously determined a licensing decision for Pope County would not take place until lower court decisions were issued," Hardin said. "Whether this decision would extend throughout a potential appeals process is yet to be determined. This will be an item of discussion at the upcoming meeting."

*Metro on 12/11/2019*

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