

LAW

# Jurisdiction **FRICITION**

## Murder Case Spotlights Sovereignty Scramble

By Jeff Hinkle

**A** GRISLY MURDER IN A SMALL Idaho town has triggered the latest sovereignty fight between the Nez Perce tribe and the North Central Idaho Jurisdictional Alliance (NCIJA).

On a cold December morning of last year, Willis T. Greene's body was found in a yard outside of the house he sometimes called home. His hair had been ripped out of his skull and his upper body pummeled. An autopsy deter-

mined the cause of death as hypothermia, but it was the beating he took the night before that rendered him unconscious and exposed to the frigid temperatures.

Lawmen concluded Greene, a Nez Perce Indian, argued with fellow tribal members Appollis X. Scott, Bryan T. Crowe and Izaak W. Johnson in a Lapwai, Idaho, bar that evening. The argument escalated into a brawl; the brawl into a beating.

Scott, Crowe and Johnson were arrested and charged with second degree murder.

The crime took place on land held in trust by the tribe. But a federal judge was asked to rule on the crime's location.

Some argued that the land was classified as diminished reservation land, meaning — based on a Supreme Court decision from earlier this year — that land no longer belonged to the tribe.

Attorneys for NCIJA filed an amicus — or friend of the court — brief stating that position. They hoped the crime scene would be ruled diminished land.

That decision would set a precedent, believed Daniel M. Johnson, chairman of NCIJA.

"The facts in this case are virtually indistinguishable from the Yankton decision earlier this year," he said.

"In that case, land was purchased from the Yankton Sioux for homesteading in the 1890s, therefore the reservation had been diminished. In this case the Nez Perce admitted that they sold the land to homesteaders in 1893."

Visitors to the

Alliance's web site learn this: NCIJA was established in December 1996 "out of necessity, to defend the members and citizens of the area from the ever expanding claims of the Nez Perce tribe to jurisdiction ... over the residents and the property of the area ...."

"We're a group of 22 different government entities in the area," Johnson said. "We're made up of school districts, highway districts, and county and city employees. We're trying to defend our rights and our property."

Douglas R. Nash, tribal attorney for the Nez Perce, questions the Alliance's motivations. "Behind their efforts is the absolute idea that they are appalled that an Indian would have jurisdiction over a non-Indian. Of course, every time one of them drives into a new county or state they face new jurisdictional questions. Basically NCIJA would like to see the whole reservation disappear," he said.

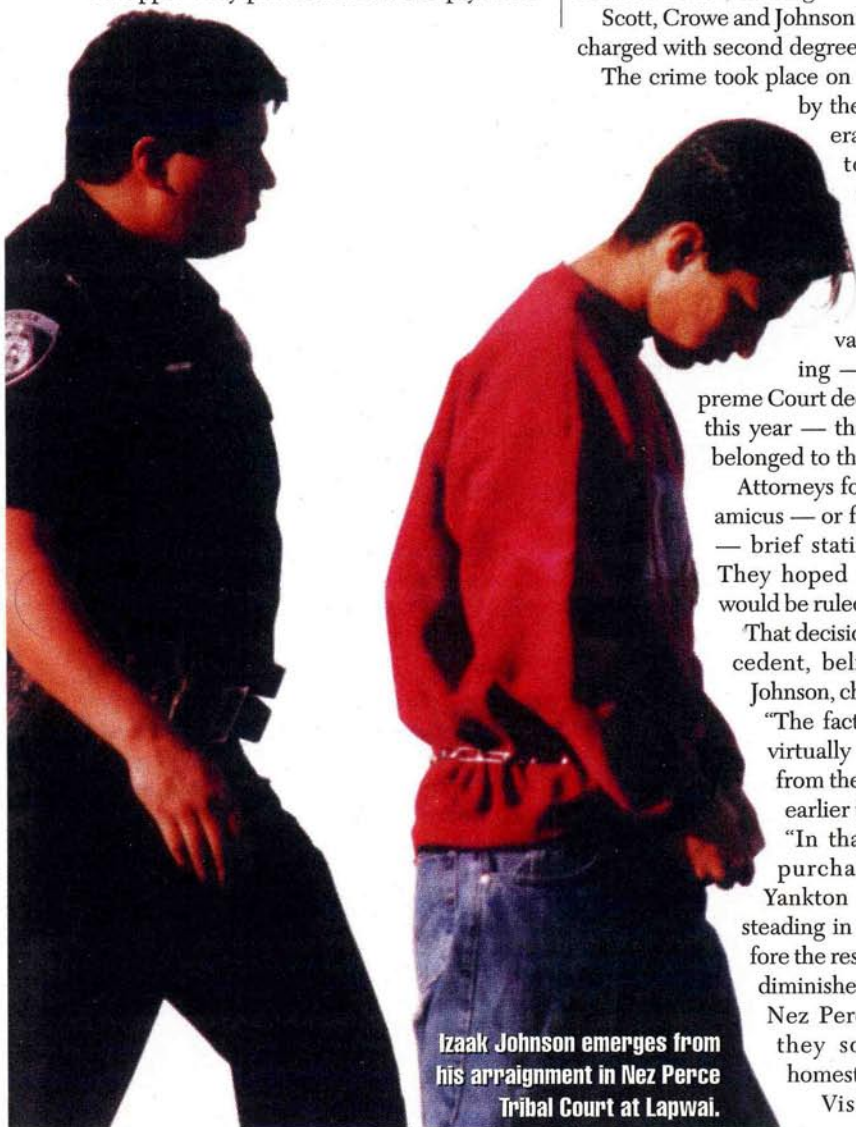
"The thing that is most galling to Alliance members," Nash said, "is that Indians don't pay state and local taxes. Never mind that this reservation has been here longer than most of the cities and towns."

Johnson said it is not the lack of taxes his group objects to, but rather the tribe's ability to impose taxes. "They can tax the non-Indian residents in the form of sales tax. They can pass a property tax," Johnson said. Although any elected official in a bad mood has the ability to tax, Johnson believes tribal taxes are especially frustrating. "I have some say in other forms of government. I can vote for a governor or a senator. I have no voice when it comes to the tribal government."

Before the Greene murder, the Nez Perce and the NCIJA most often shared headlines in news reports concerning the tribes enforcement of Tribal Employment Rights Ordinances (TERO).

Since the 1970s, the tribe has assessed TERO fees for construction projects on reservation land. TERO ordinances also include requirements for Indian hiring preferences.

Such stipulations are viewed differently two decades later. Now hiring quotas, or anything that smacks of affirmative action, raises suspi-



Izaak Johnson emerges from his arraignment in Nez Perce Tribal Court at Lapwai.

Lewiston Morning Tribune/Barry Kough

cions in the post-Gingrich era. Such measures are harder to sell.

"TEROs exist all over Indian Country," Nash said. "To understand how it applies to us, you need to go back in time. We're a largely rural reservation. Before TERO, during the winter months unemployment on our reservation could go as high as 80 percent. Most experts will tell you once unemployment hits 7 or 8 percent, you've got a crisis."

Nash said TERO changed all that. Not only were jobs created, but TERO fees created funding for training and education, he said.

Alliance members question the cost of TERO improvements. They claim construction companies regularly inflate estimates on TERO projects in anticipation of those requirements. The inflated prices are paid for by resident taxpayers.

"We can't control what construction companies do," Nash said. "We've identified some companies who inflate their prices. We look

into those and try and hold them accountable."

On August 17, Judge Edward T. Lodge ruled the Greene murder occurred within the boundaries of the Nez Perce Reservation. On that



same day, attorneys for Scott and Crowe entered a plea agreement on behalf of their clients making a trial unnecessary. Johnson's fate is yet to be determined.

Tribal officials called the jurisdictional deci-

sion a victory. Samuel N. Penney, the chairman of the Nez Perce Tribal Executive Committee said it is the tribe's hope "that this issue can be put behind us and that we can get on with addressing the issues that are important to this region."

Johnson said his group was disappointed in the decision, but the judge's decision "wasn't conclusive by a longshot. There are a great many issues out there concerning jurisdiction. This was just one of them."

Regardless, Nash foresees little prospect of working with the NCIJA. "The tribe is in discussions with the state over TERO and some unemployment issues," he said. "But we're not interested in any discussions with the Alliance. Their approach has been less than truthful."

Johnson, on the other hand, has no ill feelings towards the tribe. "I'm a third generation Idahoan. I have friends in the tribe. I think the vast majority of Nez Perce know we're not anti-Indian. We're just sticking up for our rights." □