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LOCAL

Cherokee tribal police face no criminal charges in shooting of unarmed man in his home



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A decision has been made not to bring charges against officers involved in the 2022 non-fatal shooting of an unarmed Cherokee County man, according to a representative for special prosecutor Lance Sigmon who was assigned to look into Dec. 13, 2022 shooting.

The officers who fired at Jason Kloepfer, now 45, were working alongside the Eastern Band of Cherokee's tribal police SWAT team, according to a separate federal lawsuit filed by Kloepfer, which noted he suffered serious injuries.

"Mr. Sigmon notified me he had completed his review (of the case), and would not be seeking criminal charges at this time," N.C. Conference of District Attorneys Executive Director Kimberly Overton Spahos said Feb. 28.

Spahos did not respond to a Citizen Times request to speak with Sigmon or for more details about why he made his decision. Presumably, evidence would include video footage from Kloepfer's camera inside his home that captured the moments leading up to his shooting, as well as the shooting itself. Sigmon completed his review in December, Spahos said.

Kloepfer declined to comment.

His attorney, Ellis Boyle of Raleigh, said criminal activity by the deputies and tribal police began with them staying illegally on his property for hours, and included throwing a drone into his house that he picked up before coming to the door with his hands up shortly before 5 a.m. Moments later he was shot with his wife Alison Mahler standing nearby.

"This is the kind of thing that if there's no criminal justice recourse here, in essence, they're saying they can shoot you at your house and they get away with it, and we don't think that's

fair or proper," Boyle said.

On Dec. 12, 2022, deputies had come to Kloepfer's home outside the town of Murphy after a call about a loud disturbance. Officers said a determined there was a potential hostage situation. They had received calls multiple times before about disturbances at the home. Though Kloepfer lives outside the Cherokee tribal area, Cherokee County deputies called the tribal police's SWAT team for assistance.

Kloepfer in his lawsuit said he was struck at least twice and nearly died after three tribal officers – Lt. Neil Ferguson, Special Operations Officer Nathan Messer and Patrol Officer Chris Harris – shot "about 15 times."

The Citizen Times reached out to attorneys for the officers as well as those representing deputies and Sheriff Dustin Smith.

Lawyer Adam Peoples of Asheville, who is representing Ferguson, Messer and Harris, declined to comment.

Kloepfer was initially charged with communicating threats and resisting a public officer. But after returning from the hospital, he posted the in-home security video footage of him being shot with his hands up. District Attorney Ashley Hornsby Welch dismissed the charges.

Welch recused herself in the 11-month criminal probe against police by the State Bureau of Investigation, which finished in November and was then reviewed by the special prosecutor.

Kloepfer brought his suit June 20, 2023 in the U.S. District Court in the Western District of N.C. in Asheville. He named 17 defendants, including the sheriff, deputies, the tribal Police Chief Carla Neadeau and the tribal officers he said shot him.

Kloepfer has not yet stated how much he is seeking, but some similar claims have reached into the millions of dollars. In 2019, a federal jury in Raleigh awarded Mike Morgan of Apex \$8.3 million after he was beaten and shot by Wake County sheriff's deputies on his property.

U.S. District Court Judge Max Cogburn ruled in December Kloepfer's suit could continue, though claims against sheriff's department attorney Daryl Brown and the sheriff's department as a whole would be dismissed – though the sheriff and individual deputies remain defendants.

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Joel Burgess has lived in WNC for more than 20 years, covering politics, government and other news. He's written award-winning stories on topics ranging from gerrymandering to police use of force. Got a tip? Contact Burgess at jburgess@citizentimes.com, 828-713-1095 or on Twitter @AVLreporter. Please help support this type of journalism with a subscription to the Citizen Times.