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Sides over rock dispute ready for August trial

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Jul. 22--In less than two weeks, the parties in the border dispute between Kentucky and Ohio over what is colloquially called the Portsmouth Indian Head Rock will face off as the trial of Ironton historian Steve Shaffer begins.

Jury selection in the case that could send Shaffer to prison for five years will begin Aug. 3 in the Greenup Circuit Courtroom of Judge Robert Conley.

Shaffer was indicted in June 2008 for "removing, excavating and appropriating an object of antiquity," Kentucky Commonwealth's Attorney Cliff Duvall said at that time.

That is a Class D felony and means Shaffer could go to prison for one to five years.

A few months later that indictment was amended to include disturbing an archaeological site.

In September 2007, Shaffer along with other divers removed from the Ohio River near Portsmouth an 8-ton sandstone rock that historians say had remained on the river bottom for centuries somewhere between South Shore, Ky. and Portsmouth. It would periodically pop to the surface when droughts sent the water level of the river down. Because its appearance was so rare when the rock came to the surface so did the crowds.

"It only stuck up at periods of low waters," Shaffer explained in an earlier interview. "I think that is what created such interest in the rock. From the documentation I have seen, it was every five years, 10 years, maybe three years."

When it did, people would go out to it and carve their names or make drawings on it, turning it into a kind of tourist attraction. There is even speculation that some of those drawings were made by native Indians in the area especially a drawing of a round face.

That particular drawing is thought to be a Native American petroglyph and that the rock is a historic artifact protected under state and federal laws, so says the Kentucky Heritage Council.

Shaffer had read about the rock when he was a young boy and became captivated with its story. Four decades later, Shaffer spent three summers working with divers to find the rock.

However, when Shaffer brought the rock to surface, officials from the other side of the river cried foul because Kentucky owns the section of the Ohio River that touches its borders. That led to the indictments and scrutiny by national media as reporters from the New York Times, Associated Press and CBS News began chronicling the brewing court battle.

As Shaffer approaches his trial date, his attorney, Mike Curtis, of Ashland, Ky., says he is in a confident frame of mind.

"He is in good shape," Curtis said.

The attorney declined to give any details of his strategy for the case, which he anticipates will last approximately a week.

"I can't disclose anything like that," he said. "You have to keep these things close to the vest."

As to whether Shaffer can get a fair trial in the state where even some of its legislators have called the rock removal a crime, Curtis says that will be determined during jury selection.

"If we can't get a fair trial, the jurors will let us know that in voir dire," he said.

However, in his 30 years as a trial attorney, Curtis calls this case "most unusual because a person can get five years for a rock."

A call made to Commonwealth's Attorney Duvall was not returned by press time.