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Kentucky wants case against Shaffer dropped

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Jul. 25--It looks like the rock that caused all the fuss will stay right where it is.

Days before it was to come to trial, the case against Ironton historian Steve Shaffer for his part in the removal from the Ohio River of what was called the Indian Head Rock appears over.

Friday a motion by Greenup Commonwealth's Attorney Cliff Duvall asked that the charges against Shaffer be dismissed. Shaffer's attorney, Mike Curtis, got the news that afternoon from a reporter from The Independent in Ashland, Ky.

"He is not able to prove within a reasonable doubt that the rock that was removed was that known as the Indian Head Rock," Curtis said.

The Ashland-based attorney, who had led the defense of the case since Shaffer was indicted in June 2008, said he expects Greenup Circuit Judge Robert Conley to enter an order on Monday that would put an end to a border dispute between Kentucky and Ohio and put the national spotlight on the area.

"Needless to say, Steve was tickled," Curtis said. "He couldn't believe it. I think he was in shock. We had been meeting most of Thursday for trial preparation to narrow down (a defense) making it something the jury could understand."

In September 2007 Shaffer led divers in a successful attempt to get an 8-ton sandstone rock out of the Ohio River near Portsmouth and South Shore, Ky.

He believed he had found what was considered to be the Indian Head Rock which historians say bears a "petroglyph" or drawing on it by native Americans. That rock received the sanction of the Kentucky Heritage Council, thus making it a historic artifact protected under state and federal laws.

Last June a specially called Greenup County grand jury had indicted Shaffer for removing and appropriating an object of antiquity. That indictment was later amended to include disturbing an archaeological site. Shaffer faced up to five years in prison for a Class D felony.

After the rock was removed from the river, it was stored in the Portsmouth municipal garage, and some city leaders had hoped it could become a tourist attraction. It was the focus of at least one festival.

The fight between Shaffer and Kentucky focused on the fact that Kentucky owns the portions of the Ohio River that touch its border. Thus the state's position was the rock belonged to it.

However, Kentucky now raises a question on whether the rock Shaffer retrieved is the one with the council's designation.

The paperwork designating the rock as antiquity did not list a specific location in the Ohio, Curtis said.

"(It said it was) located somewhere in the Ohio River and in order to get a permit you shall accurately describe the location," Curtis said. "The site permit (Duvall) had to introduce it.

"Without that he had no case. With that he still had no case.

"I think (dismissing the case) was the right thing to do. (Duvall) was going to have a tough time," Curtis said. "There are other rocks in the river. He couldn't prove it because there was no location."

The case against Shaffer caught the attention of national media. Articles on it were published in the New York Times and by the Associated Press.

CBS-News ran more than one segment about the border fight on who had the right to the rock.

In February Kentucky Attorney General Jack Conway sued the city of Portsmouth, Shaffer and two other men involved in retrieving the rock in federal court.

After the criminal charges against Shaffer are dismissed, Curtis said he will move for dismissal of the civil case.

"We want to get the civil case dismissed so he can move on," Curtis said.

When asked if the case had been a waste of the taxpayers' money, the defense attorney said, "I think you would have to ask the public in general."