



Billy the Kid's lawyers want their client dug up

Old West outlaw's counsel joins in petition seeking DNA tests to confirm outlaw's true identity

By Alan Boyle

Science editor

Updated: 9:52 p.m. CT March 3, 2004

Not content with digging up Billy the Kid's mother to settle a debate over the outlaw's fate, now local sheriffs want to exhume the remains under the Kid's gravestone. And since New Mexico's governor appointed a lawyer to represent the Old West outlaw, one of the petitioners seeking the exhumation of Billy the Kid is ... Billy the Kid.

The petition, filed in New Mexico's 10th District Court last Thursday, opens the latest chapter in a 123-year-old mystery: Who's buried in Billy the Kid's grave?

Exploring that question touches on genetic science and the economics of small-town tourism as well as one of the greatest legends of the Old West.

Tangled Old West tale

Most historians agree that Billy the Kid, a.k.a. William Bonney, was gunned down by Sheriff Pat Garrett in 1881 and buried in Fort Sumner, N.M. But "Brushy Bill" Roberts in Texas, as well as John Miller in Arizona, each went to his own grave decades later claiming that he was the "real" Kid, and that the man shot in Fort Sumner was an impostor. One old-timer even says Garrett's widow told him the sheriff shot an innocent man to cover up the Kid's escape.

Ten months ago, the sheriffs of De Baca County and Lincoln County reopened the investigation, saying that they would take a DNA sample from the Kid's mother, who was buried in Silver City, N.M., then try to match it up with remains from the purported "sons." That idea didn't sit well with the mayors of Fort Sumner and Silver City, who feared the hubbub would do damage to the Old West cemeteries and cast clouds of doubt over the legends that brought tourists to their towns.

The sheriffs started the legal action last November by petitioning a judge for the exhumation of Catherine Antrim, the mother. The judge put that case on hold until August — but signaled that it didn't make much sense to take a sample of the mother's DNA unless other remains were sampled as well.

That's why De Baca County Sheriff Gary Graves, Lincoln County Sheriff Tom Sullivan and his assistant, Steve Sederwall, filed last week's petition for the Kid's exhumation. The three officials were joined by Bill Robins III and David Sandoval, attorneys appointed by New Mexico Gov. Bill Richardson to represent the Kid's interests.

The sheriffs' investigation could well lead to a posthumous pardon for the Kid — thus, the long-deceased "co-petitioner" has an interest in seeing the DNA tests done, Robins told MSNBC.com.

"Frankly, we did not expect there to be such a resistance in Silver City" to the mother's exhumation, Robins said. "We don't want to wait, and then go to another court and have that long of a delay in another court. Our thinking is to kill two birds with one stone."

Robins said the legal team was preparing to seek the exhumation of the Kid claimants in Texas and Arizona as well.

"Our effort remains to get to the truth concerning Billy the Kid, and we feel procedurally this is the most effective and timely way of doing it," he said.

Challenge expected

Fort Sumner Mayor Ray Lopez has not yet filed a formal response to last week's court filing and was unavailable for comment Wednesday, but in the past he has argued strongly against exhumation. Sandy Paul of the Fort Sumner Chamber of Commerce said she was positive town officials would challenge any effort to

dig up the Kid.

"We will probably do everything within our power to prevent this from happening," Paul told MSNBC.com.

Opponents of the exhumation say there's no question that the Kid was shot and buried in Fort Sumner. Moreover, they say the graves have been moved over the years, and there's no guarantee that the Kid or his mother are still buried where their gravestones have been placed.

One of the most vocal opponents, Trish Saunders of the Billy the Kid Historic Preservation Society, says the digging could damage surrounding graves as well as the whole historical aura that has been built up around Old West cemeteries.

"We get e-mail from people literally all over the world, saying, 'We come to see gravesites that are undisturbed. We want to see the mythic Old West as it is now — lonesome, undisturbed, preserved,'" she said.

But wouldn't a renewed investigation actually give a 21st-century boost to Old West tourism? Saunders said she was sympathetic to that argument. "It will certainly attract a brief blip of controversy, but in the long term, the damage will be severe," she said.

Saunders said her organization was concerned about the sheriffs' latest move, "but we are optimistic that reason will prevail and that this petition will be turned down." Billy the Kid's status as a co-petitioner showed that the drive for exhumation was "just reaching into the realm of the ridiculous," she said.

"How can someone who died 120 years ago petition for the removal of his own corpse?" she asked.

Robins, who is handling the Kid's case on a pro-bono basis, admitted that he was in an unusual position. "This is a strange case," he said.

© 2006 MSNBC Interactive

URL: <http://www.msnbc.msn.com/id/4441143/>

© 2007 MSNBC.com