

19-5417

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
JUL 25 2019
OFFICE OF THE CLERK

Travis Wayne Bentley — PETITIONER
(Your Name)

vs.

State of Oklahoma — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Oklahoma Court of Criminal Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Travis Wayne Bentley
(Your Name)

JCC Unit 5, 216 N. Murray St.
(Address)

Helena, Oklahoma 73741
(City, State, Zip Code)

(580) 852-3231
(Phone Number)

QUESTION(S) PRESENTED

1. Whether Oklahoma courts may exercise criminal jurisdiction over a Choctaw Indian in violation of treaty provisions between Choctaw Indians and the United States.

2. Whether Article I, section 8 of the US Constitution denies criminal jurisdiction to any State absent a grant by Congress.

LIST OF PARTIES

- All parties appear in the caption of the case on the cover page.
- All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the State District Court of Cleveland County court appears at Appendix B to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was June 25, 2019.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

STATEMENT OF THE CASE

Petitioner, an enrolled citizen of the Choctaw Nation, entered a blind plea of guilty and was convicted of Count I – Manslaughter First Degree; Count 2 – Driving Under the Influence of (Drugs) Great Bodily Injury; and Count 3 – Unlawful Possession of Drug Paraphernalia. He was sentenced to twenty-five years imprisonment for Count I, ten years imprisonment for Count 2, and one year imprisonment for Count 3, with all sentences ordered to run concurrently in CF-2015-1240 in the state district court of Cleveland County.

Petitioner filed a motion to withdraw his plea that was denied by the state district court and affirmed on appeal to the Oklahoma Court of Criminal Appeals (OCCA). *Bentley v. State*, No. C-2016-699 (Okl. Cr. February 7, 2017) Petitioner filed an application for post-conviction relief in state district court on July 10, 2017 and was denied relief July 2, 2018. He appealed to the OCCA where the state district court denial of relief was affirmed on June 25, 2019.

REASON FOR GRANTING THE PETITION

For nearly all of its history, the State of Oklahoma has ignored or flagrantly violated the United States Constitution (USCA Const. Art. VI § 2; Art. I § 8), treaties with Indian tribes¹, federal statutes (18 USC 1151-1153), decisions of this High Court² and, most ashamedly, its own constitution (OK Const. Article I § 3) when it comes to the prosecution of Indians. Sadly, federal authorities responsible for holding Oklahoma to the rule of law had been complicit in Oklahoma's rebellion.

As recently as October 2018 term, this Court held that treaties matter. (See *Washington State Department of Licensing v. Cougar Den*, 139 SCt 1000 (2019)). In the instant case, Petitioner as a Choctaw citizen is subject to the following treaty provisions:

¹ Treaty of Dancing Rabbit Creek, September 27, 1830, 7 Stat 333; Treaty with Chickasaws and Choctaws, April 28, 1866, 14 Stat 769

² For example, *United States v. Kagama*, 118 US 375, 384

“...the United States shall forever secure said Choctaw nation from and against all laws, except such as from time to time, may be enacted in their own national councils, not inconsistent with the constitution, treaties and laws of the United States; and except such as may and which have been enacted by Congress to the extent that Congress under the constitution are required to exercise a legislation over Indian affairs.”

Treaty of Dancing Rabbit Creek, Article IV (1830)

“Should a Choctaw, or any party of Choctaws, commit acts of violence upon the person or property of a citizen of the United States...such person so offending shall be delivered up to an officer of the United States...”

Treaty of Dancing Rabbit Creek, Article VI (1830)

As Justice Neil Gorsuch explained in a concurring opinion, ““We are charged with adopting the interpretation most consistent with the treaty’s original meaning.’ *Eastern Airlines, In. v. Floyd*, 499 US 530, 534-535 (1991)” He further explained, ““When we’re dealing with a tribal treaty, too, we must ‘give effect to the terms as the Indians themselves would have understood them.’ *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 US 172, 196 (1999)” The Choctaws understood and Petitioner understands the treaty to guarantee that no State may prosecute him for a crime absent a grant from Congress. Congress has not made any such grant to the State of Oklahoma. Consequently, Oklahoma is and has been acting without authority in prosecuting Choctaw Indians.

This Court’s responsibility is to state “what the law is”³ and that no State is above the law. The law states that only the federal government or the Choctaw Nation (or perhaps another Indian tribe) may prosecute a Choctaw Indian for crimes in the State of Oklahoma. In no case, does the State of Oklahoma possess the right to prosecute a Choctaw Indian.

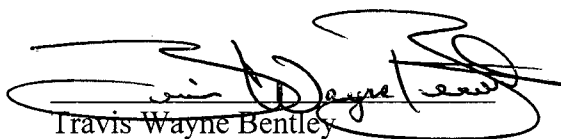
³ Madison v. Marbury, 5 U.S. 137 (1803)

CONCLUSION

In American history, there have been times when individual States, without authority, take the law in their own hands.¹ It has been this Court that has stood to reign in such egregious abuse of power and willful disregard of the law. Petitioner asks that this Court once again step in to right a wrong and declare the law: the State of Oklahoma does not have criminal jurisdiction over a Choctaw Indian according to treaty.

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Travis Wayne Bentley

Date: July 24, 2019

¹ The secession of States prior to the Civil War, or the case of Little Rock 9 in 1957 to name just two.