

19-5684

PETITION FOR REHEARING

ORIGINAL

On November 13, 2019, this Honorable Court denied Petitioner's Petition for

Mandamus/Prohibition. In the Petition for Mandamus/Prohibition, Petitioner had

claimed that, as a Cherokee Indian, he could not be prosecuted by the State of

Oklahoma for murder in the first degree in the Washington County District Court

because (1) the alleged crime occurred within the boundaries of the Cherokee

Nation reservation and an Indian may only be tried for a "major crime" by the

federal government (See 18 USC § 1151-1153), and (2) Article 13 of 1866 Treaty of

Washington between the United States and the Cherokee tribe reserved civil and

criminal jurisdiction to the Cherokee Nation when the alleged crime occurs between

members of the tribe or when the alleged crime occurs within the boundaries of the

Cherokee Nation.

Petitioner requests a rehearing of his petition for the following reasons:

1. As a pro se litigant, this Court has held that Petitioner's pleadings should be liberally construed. (See for example Erickson v. Pardus, 551 US 89, Estelle v. Gamble, 429 US at 106) Petitioner does not know why this Honorable Court denied his Petition, but he respectfully submits that if the reason for denial is that he chose the wrong writ, he asks the Court's forbearance and to liberally construe his Petition as one for a Writ of Certiorari.
2. It is in the interests of judicial economy that the Petitioner requests rehearing of his Petition. Petitioner's claims mirror Sharp v. Murphy, No.

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17-1107, currently pending before this Court, that also raises issues of tribal reservation boundaries, criminal jurisdiction and Indian status.

3. While the issues are similar in Sharp v. Murphy, they are not the same.

Absent from the Sharp case is any mention of treaty rights of tribal members, instead Sharp is about statutory interpretation of 18 USC § 1151.

In granting Petitioner's Petition, this Court would have the opportunity to deal with the treaty rights issues present in both cases.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kendall Mitchell", is written over a horizontal line.

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CERTIFICATE OF GOOD FAITH

I certify that this Petition for Rehearing is presented in good faith and not for delay.

Kendall Mitchell
Kendall Dean Mitchell

Certificate As To Grounds for Rehearing

I certify under penalty of perjury that the grounds contained in the Petition for Rehearing are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

Witness my hand this 3rd day of December, 2019

Kendall Mitchell