

20-7318

ORIGINAL

No. _____

FILED
OCT 29 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Alex Klinger — PETITIONER
(Your Name)

Mike Hunter, Attorney General of OKLAHOMA vs.
Scott Nunn, Warden 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

ALEX Klinger
(Your Name)

1000 216 N Murray St Unit 4E 87A
(Address)

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

(501) 852-3221
(Phone Number)

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QUESTIONS PRESENTED

1. Whether an appellate court must apply the standard laid out in this Court's decision in *Jackson v. Virginia* to determine whether the State has disproved self-defense beyond a reasonable doubt.
2. Whether a defendant may be held criminally liable for injuries sustained by state official during the execution of an illegally obtained search warrant for a crime alleged to be committed outside the state court jurisdiction.
3. Whether, under the Court's decision in *Blockburger* and its progeny. Petitioner's convictions for assault and battery with a deadly weapon and maiming violate Double Jeopardy.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Article VI § 2 (Appendix B)

Treaty with Choctaws and Chickasaws, 14 Stat. 769 (1866) (Appendix B)

Treaty with Choctaws, 11 Stat. 611 (1855) (Appendix B)

21 O.S. 2011, § 652 (Appendix B)

21 O.S. 2011, § 751 (Appendix B)

25 U.S.C. § 1304 (Appendix B)

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[] is unpublished.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[] is unpublished.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 _____ 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.

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 September 17, 2020.
A copy of that decision appears at Appendix A.

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. § ~~1254~~ ¹²⁵⁴ 1257(a)

STATEMENT OF THE CASE

Petitioner Alex Warren Klingler was tried by a jury in the District Court of Grady County, CF-2017-284, and convicted of three counts of Assault and Battery with Deadly Weapon, in violation of 21 O.S. 2001, § 652(C), six counts of Shooting with Intent to Kill, in violation of 21 O.S. 2001, § 652(A), and one count of Maiming, in violation of 21 O.S. 2001, § 751.

Petitioner appealed to the Oklahoma Court of Criminal Appeals claiming that the State failed to introduce sufficient evidence to overcome his affirmative defense of self-defense and that his convictions for both Assault and Battery and Maiming run afoul of Double Jeopardy. The Oklahoma Court of Criminal Appeals affirmed and this Petition for Writ of Certiorari ensued.

REASONS FOR GRANTING THE WRIT

The interplay between tribal and state criminal jurisdiction when crimes occur within the boundaries of an Indian reservation and that Indian reservation is within the territorial limits of a state is a very new concept to Oklahoma authorities and courts. Since this Court's ruling in *McGirt v. Oklahoma*, state actors have yet to fully appreciate or apply this Court's precedents with respect to treaties, Indian status and jurisdiction.

The presenting case, where Petitioner and his longtime intimate partner got into a physical altercation over narcotics that resulted in injuries to the intimate partner, proved an excellent opportunity for this Court to provide jurisdictional guidance when a non-Indian is accused of a crime within an Indian reservation where he also resides.

Apparently, despite decades of this Court's rulings on the jurisdiction of authorities when issuing search warrants, arrest warrants, prosecutions and sentencing with respect to non-Indians in Indian country, Oklahoma is determinatively unaware and in violation.

Additionally, Oklahoma courts will struggle with when a criminal episode constitutes a single act or two or more separate, distinct acts.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Alex Warren Klingler

Date: 1-16-2021