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OPINION OF THE COURT OF CRIMINAL APPEALS, STATE OF OKLAHOMA (APRIL 22, 2021)

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

SHAWN THOMAS JONES,

Appellant,

v.

STATE OF OKLAHOMA,

Appellee.

Case No. F-2017-1309

Before: Dana KUEHN, Presiding Judge, Scott ROWLAND, Vice Presiding Judge, Gary L. LUMPKIN, Judge, David B. LEWIS, Judge, Robert L. HUDSON, Judge.

OPINION

LEWIS, JUDGE:

Shawn Thomas Jones, Appellant, was tried and convicted of two counts of murder in the second degree, in violation of 21 O.S.2011, § 701.8, in Pontotoc County District Court, Case No, CF-2016-591. The Honorable C. Steven Kessinger, District Judge, presided at Jones's jury trial and sentenced Jones according to

the jury's verdict to consecutive terms of life imprisonment on each count, and imposed various fees and costs. Jones filed an appeal from the Judgment and Sentences raising nine propositions of error. We find that the issue raised in the third proposition entitles Jones to relief, thus the remaining propositions are moot.

In Proposition Three Appellant claims the District Court lacked jurisdiction to try him. Appellant argues that while he is not Indian, his victims were citizens of the Chickasaw Nation and the crimes occurred within the boundaries of the Chickasaw Nation Reservation. Appellant, in his direct appeal, relies in part on *Murphy v. Royal,* 875 F.3d 896 (10th Cir. 2017), which was affirmed by the United States Supreme Court in *Sharp v. Murphy,* 591 U.S. ___, 140 S. Ct. 2412 (2020) for the reasons stated in *McGirt v. Oklahoma,* 591 U.S. ___, 140 S. Ct. 2452 (2020).

Appellant's claim raises two separate questions: (a) the Indian status of the victims and (b) whether the crimes occurred in Indian Country. These issues require fact-finding. This Court remanded this case to the District Court of Pontotoc County for an evidentiary hearing. The District Court was directed to make findings of fact and conclusions of law on two issues: (a) the victims' status as Indians; and (b) whether the crime occurred in Indian Country, within the boundaries of the Chickasaw Nation Reservation. Our Order provided that the parties could enter into written stipulations.

The District Court filed its *Findings of Fact and Conclusions of Law* in the District Court and with this Court's Clerk. In the findings of fact regarding the first question, the parties stipulated that the

victims each had 7/32 Indian blood and were enrolled members of the Chickasaw Nation, a federally recognized tribe, at the time of the crime; and their membership was verified by the Chickasaw Nation.

Regarding the second question, the finding of fact included a litany of treaties and agreements that established a reservation for the Chickasaw Nation; the parties stipulated that the crime occurred within the historical boundaries of the Chickasaw Nation; the Chickasaw Nation is a federally recognized tribe; and no evidence was presented that the treaties have been expressly nullified or modified in any way to reduce or disestablish the reservation.

The trial court concluded that a reservation was set aside for the Chickasaw Nation; the reservation has not been disestablished by Congress; the crime occurred within the boundaries of said reservation; and the victims were members of a federally recognized tribe, namely the Chickasaw Nation.

Finally the trial court concluded that the crime occurred in Indian Country and the victims were Indians as defined by *McGirt,* 591 U.S., 140 S. Ct. 2452 (2020); *see* 18 U.S.C. § 1152; *see also* 18 U.S.C. § 1153 (Major Crimes Act). We find that the findings of fact and conclusions of law are supported by the record. This case is controlled by our recent decision in *Bosse v. State,* 2021 OK CR 3, ___P.3d ___ (crime occurring within the boundaries of the Chickasaw Nation Reservation against citizens of the Chickasaw Nation).

CONCLUSION

Appellant's victims were Indian, and these crimes were committed in Indian Country. The federal government, not the State of Oklahoma, has jurisdiction to prosecute Appellant. Proposition Three is granted. The remaining propositions are moot.

DECISION

The Judgment and Sentence of the District Court of Pontotoc County is **REVERSED** and the case is **REMANDED** with instructions to **DISMISS.** Pursuant to Rule 3.15, Rules of the Oklahoma Court of Criminal Appeals, Title 22, Ch.18, App. (2021), the **MANDATE** is **STAYED** for twenty (20) days from the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF PONTOTOC COUNTY THE HONORABLE C. STEVEN KESSINGER, DISTRICT JUDGE

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Opinion by: Lewis, J.
Kuehn, P.J.: Concur
Rowland, V.P.J.: Concur
Lumpkin, J.: Concur in Results
Hudson, J.: Concur in Results

LUMPKIN, JUDGE,
CONCURRING IN RESULTS:

Bound by my oath and the Federal-State relationships dictated by the U. S. Constitution, I must at a minimum concur in the results of this opinion. While our nation's judicial structure requires me to apply the majority opinion in the 5-4 decision of the U.S. Supreme Court in *McGirt v. Oklahoma,* ___ U.S. ___, 140 S. Ct. 2452 (2020), I do so reluctantly. Upon the first reading of the majority opinion in *McGirt,* I initially formed the belief that it was a result in search of an opinion to support it. Then upon reading the dissents by Chief Justice Roberts and Justice Thomas, I was forced to conclude the Majority had totally failed to follow the Court's own precedents, but had cherry picked statutes and treaties, without giving historical context to them. The Majority then proceeded to do what an average citizen who had been fully informed of the law and facts as set out in the dissents would view as an exercise of raw judicial power to reach a decision which contravened not only the history leading to the disestablishment of the Indian reservations in Oklahoma, but also willfully disregarded and failed to apply the Court's own precedents to the issue at hand.

My quandary is one of ethics and morality. One of the first things I was taught when I began my service in the Marine Corps was that I had a duty to follow lawful orders, and that same duty required me to resist unlawful orders. Chief Justice Roberts's scholarly and judicially penned dissent, actually following the Court's precedents and required analysis, vividly reveals the failure of the majority opinion to

follow the rule of law and apply over a century of precedent and history, and to accept the fact that no Indian reservations remain in the State of Oklahoma.[1] The result seems to be some form of "social justice" created out of whole cloth rather than a continuation of the solid precedents the Court has established over the last 100 years or more.

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[1] Senator Elmer Thomas, D-Oklahoma, was a member of the Senate Committee on Indian Affairs. After hearing the Commissioner's speech regarding the Indian Reorganization Act (IRA) in 1934, Senator Thomas opined as follows:

> I can hardly see where it (the IRA) could operate in a State like mine where the Indians are all scattered out among the whites and they have no reservation, and they could not get them into a community without you would go and buy land and put them on it. Then they would be surrounded very likely with thickly populated white sections with whom they would trade and associate. I just cannot get through my mind how this bill can possibly be made to operate in a State of thickly-settled population. (emphasis added).

John Collier, Commissioner of Indian Affairs, *Memorandum of Explanation* (regarding S. 2755), p. 145, hearing before the United States Senate Committee on Indian Affairs, February 27, 1934. Senator Morris Sheppard, D-Texas, also on the Senate Committee on Indian Affairs, stated in response to the Commissioner's speech that in Oklahoma, he did not think "we could look forward to building up huge reservations such as we have granted to the Indians in the past." *Id.* at 157. In 1940, in the Foreword to Felix S. Cohen, *Handbook of Federal Indian Law* (1942), Secretary of the Interior Harold Ickes wrote in support of the IRA, "It]he continued application of the allotment laws, under which Indian wards have lost more than two-thirds of their reservation lands, while the costs of Federal administration of these lands have steadily mounted, must be terminated." (emphasis added).

The question I see presented is should I blindly follow and apply the majority opinion or do I join with Chief Justice Roberts and the dissenters in *McGirt* and recognize "the emperor has no clothes" as to the adherence to following the rule of law in the application of the *McGirt* decision?

My oath and adherence to the Federal-State relationship under the U.S. Constitution mandate that I fulfill my duties and apply the edict of the majority opinion in *McGirt.* However, I am not required to do so blindly and without noting the flaws of the opinion as set out in the dissents. Chief Justice Roberts and Justice Thomas eloquently show the Majority's mischaracterization of Congress's actions and history with the Indian reservations. Their dissents further demonstrate that at the time of Oklahoma Statehood in 1907, all parties accepted the fact that Indian reservations in the state had been disestablished and no longer existed. I take this position to adhere to my oath as a judge and lawyer without any disrespect to our Federal-State structure. I simply believe that when reasonable minds differ they must both be reviewing the totality of the law and facts.

HUDSON, J., CONCUR IN RESULTS

Today's decision applies *McGirt v. Oklahoma,* 140 S. Ct. 2452 (2020) to the facts of this case and dismisses two second degree murder convictions from Pontotoc County. I concur in the results of the majority's opinion based on the stipulations below concerning the Indian status of the victims and the location of these crimes within the historic boundaries of the Chickasaw Reservation. Under *McGirt,* the State cannot prosecute Appellant. Thus, as a matter of *stare decisis,* I fully concur in today's decision.

I disagree, however, with the majority's definitive conclusion based on *Bosse v. State,* 2021 OK CR 3, ___ P.3d ___ that Congress never disestablished the Chickasaw Reservation. We should find instead no abuse of discretion based on the record evidence presented.

Finally, I maintain my previously expressed views on the significance of *McGirt,* its far-reaching impact on the criminal justice system in Oklahoma and the need for a practical solution by Congress. *See Bosse,* 2021 OK CR 3, ___ P.3d ___ (Hudson, J., Concur in Results); *Hogner v. State,* 2021 OK CR 4, ___ P.3d ___ (Hudson, J., Specially Concurs); and *Krafft v. State,* No. F-2018-340 (Okl. Cr., Feb. 25, 2021) (Hudson, J., Specially Concurs) (unpublished).

DISTRICT COURT OF PONTOTOC COUNTY, STATE OF OKLAHOMA, FINDINGS OF FACT AND CONCLUSIONS OF LAW (SIGNED NOVEMBER 18, 2020, FILED NOVEMBER 19, 2020)

IN THE DISTRICT COURT IN AND FOR PONTOTOC COUNTY, STATE OF OKLAHOMA

SHAWN THOMAS JONES,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

Case No. CF-2016-591

Case No. F-2017-1309

Before: C. Steven KESSINGER, District Judge.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This matter came on for hearing on October 19, 2020, pursuant to the Order Remanding for an Evidentiary Hearing issued by the Oklahoma Court of Criminal Appeals filed August 24, 2020.

The State of Oklahoma appeared by District Attorney, Mr. Paul B. Smith, Assistant District Attor-

ney, Ms. Tara Portillo, and Attorneys General Mr. Theodore M. Peeper and Mr. Joshua R. Fanelli. The Appellant appeared by OIDS attorney, Ms. Kristi Christopher. The Chickasaw Nation, an interested party, appeared by attorney of record, Ms. Debra Gee, having filed an *Amicus Curiae* brief.

The Court heard the argument of counsel and took this matter under advisement.

The Court of Criminal Appeals ordered this Court to address and determine the following:

1. The Indian status of the victims.
2. Whether the crimes occurred in Indian country.

I. The Status as Indians of Appellant's Victims

The Court of Criminal Appeals ordered this Court to determine the Indian status of the Appellant's victims by determining whether (1) the victims had some Indian blood, and (2) were recognized as Indians by a tribe or the federal government. The Court will initially address those issues.

FINDINGS OF FACT

1. On October 8, 2020, the parties filed certain Stipulations as to fact questions.

2. Brooke Lea Trotter had 7/32nd Indian blood and was an enrolled member of the federally recognized Chickasaw Nation at the time of the crime. Verification of Ms. Trotter's Indian blood and tribal membership was supplied by the Chickasaw Nation.

3. Becky Nicole Trotter had 7/32nd Indian blood and was an enrolled member of the federally recognized

Chickasaw Nation at the time of the crime. Verification of Ms. Trotter's Indian blood and tribal membership was supplied by the Chickasaw Nation.

CONCLUSIONS OF LAW

The Court of Criminal Appeals ordered this Court to determine Indian status of the victims. This Court was directed to determine whether (1) the victims had some Indian blood and (2) the victims were recognized as Indians by a tribe or the federal government.

The parties stipulated that the victims had 7/32nd Indian blood and were enrolled members of the federally recognized Chickasaw Nation at the time of the crime. The Court adopts the parties' stipulations and finds that Brooke Lea Trotter and Becky Nicole Trotter each "had some Indian blood."

The parties stipulated that the "victims were recognized as Indians by a tribe or the federal government." This stipulation is supported by the Chickasaw Nation letters confirming citizenship. The Court finds that Brooke Lea Trotter and Becky Nicole Trotter were recognized members of the Chickasaw Nation.

II. Whether the Crimes Occurred in Indian Country

The Court of Criminal Appeals ordered this Court to determine whether the crimes occurred in Indian country. The Court must follow the analysis in *McGirt* and determine (1) whether Congress established a reservation for the Chickasaw Nation, and (2) if so, whether Congress specifically erased those boundaries and disestablished the reservation. In

making this determination, the District Court should consider any evidence the parties provided, including treaties, statutes, maps and/or testimony.

FINDINGS OF FACT

1. The Indian Removal Act of 1830 authorized the President's representatives to negotiate with Native American tribes for their removal to federal territory west of the Mississippi River in exchange for their ancestral lands.

2. Pursuant to the authority outlined in the Indian Removal Act of 1830, the 1830 Treaty of Dancing Rabbit Creek was entered. The United States of America granted to the Choctaw Nation certain lands "in fee simple" to them and their descendants, to insure to them while they shall exist as a Nation, and live on it" in exchange for the Choctaw Nation ceding their lands east of the Mississippi River. Article 4 granted the Choctaw people "the jurisdiction and government of all the persons and property that may be within their limits west, so that no Territory or State shall ever have a right to pass laws for the government of the Choctaw Nation of Red People and their descendants; and that no part of the land granted them shall ever be embraced in any Territory or State." The land granted to the Choctaw Nation was described as: "beginning near Fort Smith where the Arkansas boundary crosses the Arkansas River, running thence to the course of the Canadian fork; if in the limits of the United States, or to those limits; thence due south to Red River, and down Red River to the west boundary of the Territory of Arkansas; thence north along that line to the beginning."

3. The 1837 Treaty of Doaksville granted the Chickasaw people a "district within limits of the 1830 Treaty of Dancing Rabbit Creek territory to be held on the same terms that the Choctaws now hold it." The 1837 Treaty entered between the Choctaws and Chickasaws made the provisions of the 1830 Treaty of Dancing Rabbit Creek applicable to the Chickasaw Nation.

4. In 1855, the Treaty of Washington reaffirmed the 1837 Treaty of Doaksville and modified the western boundary of the Chickasaw territory. Congress explicitly asserted that "pursuant to the Indian Removal Act, the United States do hereby forever secure and guarantee the lands embraced within the said limits, to the member of the Choctaw and Chickasaw tribes" and reserved those lands from sale "without the consent of both tribes." The 1855 Treaty further reaffirmed the Chickasaw Nation's right of self-government.

5. Following the Civil War, the Chickasaw and Choctaw Nations entered into the 1866 Treaty, which did not alter the Chickasaw District but reiterated the Choctaw and Chickasaw Nations' right to self-governance and reaffirmed the rights granted under the previous treaties.

6. The parties stipulated that the Appellant's crime occurred in Pontotoc County, Oklahoma, at State Highway 3E and County Road 3590 intersection near Ada, Oklahoma. The parties further stipulated that this address is within the historical geographic area of the Chickasaw Nation, as set forth in the 1855 and 1866 treaties between the Chickasaw Nation, the Choctaw Nation and the United States.

7. The Chickasaw Nation is a federally recognized Indian tribe that exercised sovereign authority under a constitution approved by the Secretary of Interior.

8. No evidence is presented that these treaties have been formally nullified or modified in any way to reduce or cede the Chickasaw Nation lands to the United States, any state or territory.

9. The parties further stipulated that [i]f the Court determines that those treaties established a reservation, and if the Court further concludes that Congress never explicitly erased those boundaries and disestablished the reservation, then the crime occurred within Indian country as defined by Title 18 U.S.C. § 1151(a).

CONCLUSIONS OF LAW

First, the Court finds that a reservation was established for the Chickasaw Nation by the treaties discussed above. Title 18 U.S.C. § 1151(a) defines "Indian Country" as "all land within the limits of any Indian reservation under the jurisdiction of the United States Government . . . " As noted by the United States Supreme Court in *McGirt v. Oklahoma,* 140 S. Ct. 2452, 2461, "early treaties did not refer to the Creek lands as a 'reservation'-perhaps because that word had not yet acquired such distinctive significance in federal Indian law. We have found similar language in treaties from the same era sufficient to create a reservation."

The Court in *McGirt* stated that the "most authoritative evidence of [a tribe's] relationship to the land . . . lies in the treaties and statutes that promised the land to the Tribe in the first place." It specifically

noted that Creek treaties promised a "permanent home" that would be "forever set apart," and assured a right to self-government on lands that would lie outside both the legal jurisdiction and geographic boundaries of any state. As such, the Supreme Court found that, "Under any definition, this was a reservation." The Chickasaw Nation is subject to the same analysis.

In applying the reasoning the Supreme Court used in *McGirt* to the case at bar, this Court must reach the same conclusion. Specifically, in the 1830 Treaty of Dancing Rabbit Creek, the Choctaw Nation was granted the land in question "in fee simple to them and their descendants, to insure to them while they shall exist as a nation." It secured the rights of self-government and jurisdiction over all persons and property within the treaty territory and promised that no state shall interfere with those rights.

These rights applied equally to the Chickasaw Nation under the 1837 Treaty of Doaksville. The Treaty of Doaksville secured to the Chickasaw Nation a "district within the limits of [the Treaty Territory]," and guaranteed them the same privileges, rights of homeland ownership and occupancy that the Choctaw held under the 1830 Treaty.

In the 1855 Treaty of Washington, the Choctaw and Chickasaw governments were made independent of each other. The United States promised that it does "hereby forever secure and guarantee the lands embraced within the said limits, to the members of the Choctaw and Chickasaw tribes," and explicitly reserved those lands from sale "without the consent of both tribes." It re-affirmed the tribes' rights of self-government, stating "the Choctaws and Chickasaws

shall be secured in the unrestricted right of self-government, and full jurisdiction, over persons and property, within their respective limits . . . "

The aforementioned treaty rights were once again reaffirmed in the 1866 Treaty of Washington, which was entered when the Chickasaw and Choctaw Nations agreed to cede certain defined lands to the United States for a sum of money. Therefore, like the Creek treaty promises, the United States' treaty promises to the Chickasaw Nation were not made gratuitously.

Applying the reasoning used by the United States Supreme Court in *McGirt,* the plain wording of the treaties demonstrate the Chickasaw lands were set aside for the Chickasaw people and their descendants and assured the right to self-government on lands that would lie outside both the legal jurisdiction and geographic boundaries of any state. It is, therefore, clear that Congress established a reservation for the Chickasaw Nation.

Upon finding that a reservation was established by Congress for the Chickasaw Nation, this Court must next determine whether Congress has erased those boundaries and disestablished the reservation. As the Supreme Court made clear in *McGirt,* "[t]o determine whether a tribe continues to hold a reservation, there is only one place we may look: the Acts of Congress."

The constitutional authority to breach a treaty "belongs to Congress alone," and the Court will not lightly infer such a breach "once Congress has established a reservation." "[On]ce a reservation is established, it retains that status until Congress explicitly

indicates otherwise.' While "[d]isestablishment has never required any particular form of words, it does require that Congress clearly express its intent to do so, [c]ommon[ly with an] [e]xplicit reference to cession or other language evidencing the present and total surrender of all tribal interests."

The Appellant and the State disagree where the burden to prove disestablishment should be placed. However, regardless which party bears the burden, no evidence was presented to the Court to establish that Congress explicitly erased or disestablished the boundaries of the Chickasaw Nation or that the State of Oklahoma has jurisdiction of this matter. No evidence was presented that the Chickasaw reservation was "restored to public domain," "discontinued, abolished or vacated." Without, explicit evidence of a present and total surrender of all tribal interests, the Court cannot find the Chickasaw reservation was disestablished.

This Court finds that Congress established a reservation for the Chickasaw Nation, and Congress never specifically erased those boundaries and disestablished the reservation. Therefore, the crime occurred in Indian country.

CONCLUSION

WHEREFORE, this Court finds that Brooke Lea Trotter and Becky Nicole Trotter were Indians and that the crime for which Appellant was convicted occurred in Indian country for purposes of the General Crimes Act, Title 18 U.S.C. § 1152.

IT IS SO ORDERED!

Signed this November 18, 2020.

/s/ C. Steven Kessinger
District Judge

COURT OF CRIMINAL APPEALS, STATE OF OKLAHOMA, ORDER REMANDING FOR EVIDENTIARY HEARING (AUGUST 24, 2020)

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

SHAWN THOMAS JONES,

Appellant,

v.

STATE OF OKLAHOMA,

Appellee.

No. F-2017-1309

Before: David B. LEWIS, Presiding Judge., Dana KUEHN, Vice Presiding Judge., Gary L. LUMPKIN, Judge., Robert L. HUDSON, Judge., Scott ROWLAND, Judge.

ORDER REMANDING FOR EVIDENTIARY HEARING

Shawn Thomas Jones, Appellant, was tried and convicted of two counts of murder in the second degree, in violation of 21 O.S.2011, § 701.8, in Pontotoc County District Court, Case No, CF-2016-591. The Honorable C. Steven Kessinger, District Judge, presided at Jones's jury trial and sentenced Jones according to

the jury's verdict to consecutive terms of life imprisonment on each count, and imposed various fees and costs.[1]

In Proposition Three Appellant claims the District Court lacked jurisdiction to try him. Appellant argues that while he is not Indian, his victims were citizens of the Chickasaw Nation and the crimes occurred within the boundaries of the Chickasaw Nation. Appellant, in his direct appeal relies, in part, on *Murphy v. Royal,* 875 F.3d 896 (10th Cir. 2017), which was affirmed by the United States Supreme Court in *Sharp v. Murphy,* 591 U.S. ___, 140 S. Ct. 2412 (2020) for the reasons stated in *McGirt v. Oklahoma,* 591 U.S. ___, 140 S. Ct. 2452 (2020).

Appellant's claim raises two separate questions: (a) the Indian status of the victims and (b) whether the crimes occurred in Indian Country. These issues require fact-finding. We therefore **REMAND** this case to the District Court of Pontotoc County, for an evidentiary hearing to be held within sixty (60) days from the date of this Order.[2]

Recognizing the historical and specialized nature of this remand for evidentiary hearing, we request the Attorney General and District Attorney work in coordination to effect uniformity and completeness in the hearing process. Upon Appellant's presentation of *prima facie* evidence as to the victim's legal status as Indian and as to the location of the crime in

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[1] Appellant will be required to serve 85% of his sentences before becoming eligible for parole.

[2] In light of this order, Appellee's request to file a response filed July 16, 2020, is rendered moot.

Indian Country, the burden shifts to the State to prove it has subject matter jurisdiction.

The hearing shall be transcribed, and the court reporter shall file an original and two (2) certified copies of the transcript within twenty (20) days after the hearing is completed. The District Court shall then make written findings of fact and conclusions of law, to be submitted to this Court within twenty (20) days after the filing of the transcripts in the District Court. The District Court shall address only the following issues.

First, the Indian status of the victims. The District Court must determine whether (1) the victims had some Indian blood, and (2) were recognized as Indians by a tribe or the federal government.[3]

Second, whether the crimes occurred in Indian Country. The District Court is directed to follow the analysis set out in *McGirt,* determining (1) whether Congress established a reservation for the Chickasaw Nation, and (2) if so, whether Congress specifically erased those boundaries and disestablished the reservation. In making this determination the District Court should consider any evidence the parties provide, including but not limited to treaties, statutes, maps, and/or testimony.

The District Court Clerk shall transmit the record of the evidentiary hearing, the District Court's findings of fact and conclusions of law, and any other

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[3] *See e.g. Goforth v. State,* 1982 OK CR 48, ¶ 6, 644 P.2d 114, 116. *See also United States v. Diaz,* 679 F.3d 1183, 1187 (10th Cir. 2012); *United States v. Drewry,* 365 F.3d 957, 960-61 (10th Cir. 2004); *United States v. Prentiss,* 273 F.3d 1277, 1280-81 (10th Cir. 2001).

materials made a part of the record, to the Clerk of this Court, and counsel for Appellant, within five (5) days after the District Court has filed its findings of fact and conclusions of law. Upon receipt thereof, the Clerk of this Court shall promptly deliver a copy of that record to the Attorney General. A supplemental brief, addressing only those issues pertinent to the evidentiary hearing and limited to twenty (20) pages in length, may be filed by either party within twenty (20) days after the District Court's written findings of fact and conclusions of law are filed in this Court.

Provided however, in the event the parties agree as to what the evidence will show with regard to the questions presented, they may enter into a written stipulation setting forth those facts upon which they agree and which answer the questions presented and provide the stipulation to the District Court. In this event, no hearing on the questions presented is necessary. Transmission of the record regarding the matter, the District Court's findings of fact and conclusions of law, and supplemental briefing shall occur as set forth above.

IT IS FURTHER ORDERED that the Clerk of this Court shall transmit copies of the following, with this Order, to the District Court of Pontotoc County: Appellant's Brief in Chief filed July 27, 2018; Appellee's Response Brief, filed November 14, 2018; and Appellant's Reply Brief filed December 4, 2018.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 24th day of August, 2020.

/s/ David B. Lewis
Presiding Judge

/s/ Dana Kuehn
Vice Presiding Judge

/s/ Gary L. Lumpkin
Judge

/s/ Robert L. Hudson
Judge

/s/ Scott Rowland
Judge

ATTEST:

/s/ John D. Hadden
Clerk