

**In the Supreme Court of the United States**



STATE OF OKLAHOMA,

*Petitioner,*

v.

SHAWN THOMAS JONES,

*Respondent.*

---

**On Petition for a Writ of Certiorari to the  
Oklahoma Court of Criminal Appeals**

---

---

**REPLY BRIEF FOR THE PETITIONER**

---

---

JOHN M. O'CONNOR

*ATTORNEY GENERAL*

MITHUN MANSINGHANI

*SOLICITOR GENERAL*

*COUNSEL OF RECORD*

CAROLINE HUNT

JENNIFER CRABB

*ASSISTANT ATTORNEYS GENERAL*

BRYAN CLEVELAND

*ASSISTANT SOLICITOR GENERAL*

OFFICE OF THE OKLAHOMA

ATTORNEY GENERAL

313 N.E. TWENTY-FIRST STREET

OKLAHOMA CITY, OK 73105

(405) 522-4392

MITHUN.MANSINGHANI@OAG.OK.GOV

**In the Supreme Court of the United States**

STATE OF OKLAHOMA,

*Petitioner,*

v.

SHAWN THOMAS JONES,

*Respondent.*

---

**On Petition for a Writ of Certiorari to the  
Oklahoma Court of Criminal Appeals**

---

---

**REPLY BRIEF FOR THE PETITIONER**

---

---

1. The petition in this case presents two questions of overriding importance to the State of Oklahoma: first, whether a State has authority to prosecute non-Indians who commit crimes against Indians in Indian country; and second, whether *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020), should be overruled. These questions are identical to the questions raised in *Oklahoma v. Castro-Huerta*, No. 21-429. The petition in this case expressly incorporated the arguments for granting certiorari in *Castro-Huerta* and requested that the Court hold this case pending resolution of the petition there.

2. On November 5, respondent filed his brief in opposition (“Opp.”), which fully sets forth his arguments against review on both questions presented and references the brief in opposition filed by counsel in

*Oklahoma v. Mize*, No. 21-274. See Opp.5-12. Counsel of record on those briefs is also counsel of record for the respondent in *Castro-Huerta*, and the brief in opposition in this case responds primarily to the arguments made in the petition in *Castro-Huerta*. In addition, the Chickasaw Nation filed an amicus brief in support of respondent here, setting forth additional arguments against review of the questions presented, also responding to arguments in the petition in *Castro-Huerta*. See Chickasaw Br.3-21.

3. The brief in opposition in *Castro-Huerta* was filed on November 15. Additional amicus briefs have been filed in that case, including from the Muscogee (Creek) Nation and Cherokee Nation in support of respondent. In addition, the Choctaw Nation has filed amicus briefs in other similar cases. See, e.g., *Oklahoma v. Sizemore*, No. 21-326. To ensure an orderly presentation of the arguments to the Court, the State plans to set forth its full responses to the brief in opposition and the amicus brief of the Chickasaw Nation in this case, as well as the additional briefs filed in other cases, in the forthcoming reply brief in *Castro-Huerta*. The State respectfully requests that the Court refer to that forthcoming brief when considering the petition here.\*

---

\* Respondent argues that the State “waived” its argument on the first question presented during the proceedings below. Opp.6 n.4. But the court addressed and rejected the State’s concurrent jurisdiction in *Bosse* and held that the decision below was “controlled by” that decision. Pet.App.3a. The court below is therefore fairly read as “pass[ing] on” the issue, leaving “no question as to the proper presentation of a federal claim.” *Raley v. Ohio*, 360 U.S. 423, 436-437 (1959); see *Orr v. Orr*, 440 U.S. 268, 274-275 (1979).

\* \* \* \* \*

The petition for a writ of certiorari in *Oklahoma v. Castro-Huerta*, No. 21-429, should be granted, and the petition in this case should be held pending a decision there and then disposed of as appropriate. In the alternative, the petition for a writ of certiorari in this case should be granted.

Respectfully submitted,

JOHN M. O'CONNOR  
*ATTORNEY GENERAL*  
MITHUN MANSINGHANI  
*SOLICITOR GENERAL*  
*COUNSEL OF RECORD*  
CAROLINE HUNT  
JENNIFER CRABB  
*ASSISTANT ATTORNEYS GENERAL*  
BRYAN CLEVELAND  
*ASSISTANT SOLICITOR GENERAL*  
OFFICE OF THE OKLAHOMA  
ATTORNEY GENERAL  
313 N.E. TWENTY-FIRST STREET  
OKLAHOMA CITY, OK 73105  
(405) 522-4392  
MITHUN.MANSINGHANI@OAG.OK.GOV  
  
*COUNSEL FOR PETITIONER*

NOVEMBER 18, 2021