

No. **21-5119**

**ORIGINAL**

Supreme Court, U.S.  
FILED

**MAY 26 2021**

OFFICE OF THE CLERK

**IN THE  
SUPREME COURT OF THE UNITED STATES**

**BILLY JOE WOLFE, JR., -- PETITIONER**

**VS.**

**STATE OF ARKANSAS -- RESPONDENT**

**ON PETITION FOR A WRIT OF CERTIORARI TO  
ARKANSAS SUPREME COURT**

**PETITION FOR WRIT OF CERTIORARI**

**Billy Joe Wolfe, Jr. #404414  
James Crabtree Correctional Center, Unit 6  
216 North Murray Street  
Helena, Oklahoma 73741-1017  
(580) 852-3221**

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## **QUESTIONS PRESENTED**

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- 1) Whether the provisions of treaties between the Cherokee Nation and the United States reserve jurisdiction for crimes committed by a Cherokee Nation citizen to tribe or federal government, excluding State criminal jurisdiction?
- 2) Whether a violation of treaty stipulations with respect to extradition deprives a State Court of jurisdiction?
- 3) Whether a State Court's failure to adhere to its plea agreement promises renders the plea involuntary?
- 4) Whether ineffectiveness of counsel render a plea of guilty involuntary?

## **LIST OF PARTIES**

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

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IN THE

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SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

☒ For cases from **state courts**:

The opinion of the highest State Court to review the merits appears at  
Appendix A on the petition and is

☒ is unpublished.

The opinion of the Jefferson County Circuit Court to review the merits  
appears at Appendix A on the petition and is

☒ is unpublished.

## **JURISDICTION**

**[X]** For cases from **state courts**:

The date on which the highest State Court decided my case was April 22, 2021. A copy of that decision appears at Appendix A.

The jurisdiction of this Court is invoked under 29 U.S.C. § 1257(a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

United States Constitution, Article VI § 2

United States Constitution, Sixth Amendment

United States Constitution, Fourteenth Amendment

## STATEMENT OF THE CASE

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Petitioner, an enrolled member of the Cherokee Nation as an Indian by blood, was arrested and property seized from his home on allotted Cherokee land in Mays Country within the boundaries of the Cherokee Nation Reservation by Oklahoma Delaware County Sheriff Department officials without authorization from tribal or federal officials. Petitioner was held in Delaware County Jail in Oklahoma and then transported to Benton County, Arkansas.

There, Petitioner was charged with Capital Murder and Kidnapping. Pre-trial Motions were made to exclude evidence based on Fourth Amendment violations but no ruling ever occurred. To avoid the death penalty, Petitioner was encouraged/forced by his attorney to enter a guilty plea in exchange for a Life With Parole sentence. The plea agreement to which judge and prosecutor were parties. Petitioner was sentenced to Life Without Parole for the murder charge.

Petitioner filed a State Post-Conviction action and Relief was denied. He filed a Petitioner for Writ of Habeas Corpus, which was denied. Petition appealed to Arkansas Supreme Court, which affirmed. This Petition for Certiorari ensued.

## REASONS FOR GRANTING THE PETITION

In the American judicial system, no one is above the law. Not average citizens, not defense attorneys nor prosecutors, not even the judges in whose courtrooms everyone hopes to find justice. The State of Arkansas seems to think and behave otherwise.

Where this Honorable Court has held that a court is without jurisdiction to set sentence differently than the plea agreement, **endorsed by the Judge**, specifies, (*See, Santobell v. New York*, 92 S.Ct. 495 (1971)), the State of Arkansas says it does not have to follow the Court's direction. Where the United States Constitution and this Court has said that treaties are the supreme law of land that all Judges are bound by, the State of Arkansas says it does not have to recognize or give effect the Cherokee treaties, (*See, 1866 Treaty of Washington*, 14 stat. 799, Articles 12 and 13; *1835 Treaty of New Echota*, 7 Stat. 478, Article 5; *Alberty v. U.S.*, 162 U.S. 499 (1896); *United States Constitution*, Article VI § 2) especially where the treaties deny state criminal jurisdiction, deny interruption and intrusion by State Officials. Where this Court demands Attorneys representing indigent defendants be effective in their representation, the State of Arkansas say this is of no consequence. (*Strickland v. Washington*, 466 U.S. 668)

In all these circumstances, a State of the Union, Arkansas, declares itself above the law, immune to federal law, whether Acts of Congress or Treaties, and to the holdings of this Honorable Court.



For these reasons, (1) failure to give effect to Cherokee treaties, (2) violating the sovereignty and boundaries of the Cherokee Nation, (3) failure to provide specific performance of a judge-endorsed plea agreement, and (4) failure to provide effective assistance of counsel. Petitioner request the Petition for Certiorari be granted.

### CONCLUSION

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,

5-24-21  
Date

Billy Wolfe Jr.  
Billy Joe Wolfe, Jr., DOC #404414