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**OPINION OF THE COURT OF CRIMINAL
APPEALS, STATE OF OKLAHOMA
(MAY 27, 2021)**

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

LAURIE JEAN MARTIN,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

NOT FOR PUBLICATION

Case No. F-2017-991

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

SUMMARY OPINION

LUMPKIN, JUDGE:¹

¹ As stated in my separate writing in *Bosse v. State*, 2021 OK CR ___, ___ P.3d ___, (Lumpkin, J., concurring in result), I am bound by my oath and adherence to the Federal-State relationship under the U. S. Constitution to apply the edict of the majority opinion in *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020). However,

Appellant Laurie Jean Martin was tried by jury and convicted of Misdemeanor Manslaughter in the First Degree, in violation of 21 O.S.2011, § 711(1), in the District Court of Carter County, Case No. CF-2016-782A. The trial court sentenced Appellant in accordance with the jury's recommendation to forty years imprisonment. Appellant must serve 85% of her sentence before becoming eligible for parole consideration. Appellant appeals from this conviction and sentence.

In Proposition I, Appellant contends the District Court lacked jurisdiction to try her. Appellant argues that she is a citizen of the Choctaw Nation and the crime occurred within the boundaries of the Chickasaw Reservation.

Pursuant to *McGirt v. Oklahoma*, No. 18-9526 (U.S. July 9, 2020) Appellant's claim raises two separate questions: (a) her Indian status and (b) whether the crime occurred in Indian Country. These issues require fact-finding. We therefore remanded this case to the District Court of Craig County for an evidentiary hearing.²

Recognizing the historical and specialized nature of this remand for evidentiary hearing, we requested the Attorney General and District Attorney work in coordination to effect uniformity and completeness in

I continue to share the position of Chief Justice Roberts' dissent in *McGirt*, 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.

² Because we remanded the case for an evidentiary hearing and authorized supplemental briefing thereafter, Appellee's Request to File Response to Appellant's Jurisdictional Claim is moot.

the hearing process. Upon Appellant's presentation of *prima facie* evidence as to Appellant's legal status as an Indian and as to the location of the crime in Indian Country, the burden shifts to the State to prove it has subject matter jurisdiction. The District Court was ordered to determine whether Appellant has some Indian blood and is recognized as an Indian by a tribe or the federal government. The District Court was also directed to determine whether the crime occurred in Indian Country. The District Court was directed to follow the analysis set out in *McGirt* to 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 so doing, the District Court was directed to consider any evidence the parties provided, including but not limited to treaties, statutes, maps, and/or testimony.

We also directed the District Court that in the event the parties agreed as to what the evidence would show with regard to the questions presented, the parties 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. The District Court was also ordered to file written findings of facts and conclusions of law with this Court.

An evidentiary hearing in this case was timely held before the Honorable Dennis R. Morris, District Judge, and Findings of Fact and Conclusions of Law were timely filed with this Court. The record indicates that appearing before the District Court were attorneys from the office of the Attorney General of Oklahoma,

the Carter County District Attorney's Office and appellate defense counsel.

In its Findings of Fact and Conclusions of Law, the District Court set forth that the State of Oklahoma and Appellant stipulated "(1) Appellant Martin has 1/32 Indian blood quantum; and (2) Appellant Martin was a member of the Choctaw Nation (Membership Number CN ___ 39) at the time of the crime; and (3) The [sic] Choctaw Nation is an Indian Tribal Entity recognized by the federal government."

Thereafter, the District Court found Appellant Martin "(1) has 'some Indian blood', specifically 1/32 blood quantum, and (2) is 'recognized as an Indian by a tribe' specifically the Choctaw Nation, a Tribal Entity recognized by the federal government." The District Court concluded "Appellant is an Indian for purposes of criminal jurisdiction."

Regarding whether the crime occurred in Indian country, the Findings of Fact and Conclusions of Law states that based upon the parties' stipulations, the Court finds as follows: "(1) [t]he crime occurred in the city of Ardmore, Carter County, Oklahoma; (2) That Ardmore, Oklahoma is within the historical boundaries of the Chickasaw Nation, as set forth in, and adjusted by, the 1855 and 1866 treaties between the Chickasaw and Choctaw Nations and the United States."

In determining whether Congress established a reservation for the Chickasaw Nation, the District Court considered and found as follows:

- (3) The State's Brief on Remand for Evidentiary Hearing, by and through Attorney General for the State of Oklahoma, Mike Hunter, sets forth no fact or law contrary to the evi-

dence presented by Appellant's Brief, as to her Proposition I of her direct appeal, and/or the Amicus Curiae Chickasaw Nation's Brief.

- (4) The Indian Removal Act of 1830 authorized the President of the United States' representatives to negotiate with Indian tribes for their removal to federal territory west of the Mississippi River in exchange for the land on which they historically resided.
- (5) Pursuant to the Indian Removal Act of 1830, the United States and the Choctaw Nation entered into the 1830 Treaty of Dancing Rabbit Creek. In the Treaty the United States granted the Choctaw Nation specific lands "in fee simple to them (Choctaw) and their descendants, to ensure to them while they shall exist as a nation and live on it." In exchange, the Choctaw Nation ceded their historical lands east of the Mississippi River.
- (6) The Choctaw Nation and the Chickasaw Nation entered into the 1837 Treaty of Doaksville. In the Treaty the Choctaw Nation granted the Chickasaw Nation a "district within the limits of (the territory of the 1830 Treaty of Dancing Rabbit Creek) to be held on the same terms that the Choctaws now hold it . . ." The 1837 Treaty made the provisions of the 1830 Treaty of Dancing Rabbit Creek applicable to the Chickasaw Nation.
- (7) In the 1855 Treaty of Washington, Congress modified and expressly reaffirmed "the boundaries of the Choctaw and Chickasaw

country.” Further, the 1855 Treaty reaffirmed the Chickasaw Nation’s right of self-government.

- (8) The 1866 Treaty of Washington provided “peace and friendship [sic] between the United States and the Choctaw and Chickasaw Nations at the close of the Civil War. Further, the 1866 Treaty reaffirmed the Choctaw and Chickasaw Nations’ rights and lands granted under the previous Treaties and reaffirmed their rights to self-governance.
- (9) The Chickasaw Nation is a federally recognized Indian tribe as stipulated to by the parties.
- (10) Ardmore, Oklahoma, where this crime occurred, is within the boundaries of the Chickasaw Nation as established by the Treaties and stipulated to by the parties.

The District Court found that “[i]n applying the reasoning used by the United States Supreme Court in *McGirt* to the case at bar, it is abundantly clear that Congress established a ‘reservation for the Chickasaw Nation.’” [sic]

Further, regarding whether Congress specifically erased the boundaries or disestablished the Chickasaw Reservation, the District Court found “[n]o evidence has been presented to the Court to establish that Congress has taken any action whatsoever to erase the boundaries or disestablish the Chickasaw Reservation. The State of Oklahoma, as Plaintiff/Appellee sets forth no evidence or argument as to the issue of disestablishment.” The District Court found

“that Congress has not specifically or explicitly acted to disestablish the Chickasaw Nation Reservation.”

The District Court concluded, “Congress established a reservation for the Chickasaw Nation and that Congress had not disestablished the Chickasaw Nation Reservation. That Appellant Martin is an Indian for purposes of criminal jurisdiction and the crime occurred in Indian Country for the purposes of the General Crimes Act, 18 U.S.C. § 1152.”

Both Appellant and the State were given the opportunity to file response briefs addressing issues from the evidentiary hearing. Appellant argues that the District Court’s findings are “well supported.” She argues she is an Indian and the crime occurred in Indian Country; therefore, the State was without jurisdiction to prosecute her.

In its response brief, the State acknowledges the District Court accepted the parties’ stipulation to Appellant’s Indian status based on documentation showing Appellant had 1/32 Indian blood quantum and was a member of the Choctaw Nation on the date of the crime and made those fact findings. The State also asserts the District Court applied *McGirt* and found Congress did establish a Chickasaw Reservation and that Congress has not specifically or explicitly acted to disestablish the Chickasaw Nation Reservation. The State requests that should this Court find Appellant is entitled to relief based on the District Court’s findings, this Court should stay any order reversing the conviction for thirty (30) days so that the appropriate authorities can review the case and determine whether it is appropriate to file charges and take custody of Appellant. *Cf.* 22 O.S. 2011, § 846.

After thorough consideration of this proposition and the entire record before us on appeal including the original record, transcripts, and briefs of the parties, we find that under the law and the evidence relief is warranted. While the State stipulated to the Appellant's status as an Indian, the State presented no stipulation, argument or evidence regarding the existence of the Chickasaw Reservation. This acquiescence has created a legal void in this Court's ability to adjudicate properly the facts underlying Appellant's argument. This Court is left with only the trial court's Findings of Fact and Conclusions of Law to review for an abuse of discretion. An abuse of discretion is any unreasonable or arbitrary action taken without proper consideration of the facts and law pertaining to the matter at issue. *State v. Delso*, 2013 OK CR 5, ¶ 5, 298 P.3d 1192, 1194.

Based upon the record before us, the District Court's Findings of Fact and Conclusions of Law are supported by the evidence presented at the evidentiary hearing. We therefore find Appellant has met her burden of establishing her status as an Indian, having 1/32 degree Indian blood and being a member of the Choctaw Nation on the date of the crime. We also find the District Court appropriately applied *McGirt* to determine that Congress did establish a Chickasaw Reservation and that no evidence was presented showing that Congress explicitly erased or disestablished the boundaries of the Chickasaw Reservation or that the State of Oklahoma had jurisdiction in this matter. We find the State of Oklahoma did not have jurisdiction to prosecute Appellant in this matter.³ The Judgment

³ While Art. 7 of the Oklahoma Constitution vests the district courts of Oklahoma with "unlimited original jurisdiction of all

and Sentence in this case is hereby reversed and the case remanded to the District Court of Carter County with instructions to dismiss the case.⁴

DECISION

The **JUDGMENT and SENTENCE is REVERSED AND REMANDED** with instructions to Dismiss. The **MANDATE** is not to be issued until **twenty (20) days** from the delivery and filing of this decision.⁵

AN APPEAL FROM THE DISTRICT COURT
OF CARTER COUNTY THE HONORABLE
DENNIS R. MORRIS, DISTRICT JUDGE

APPEARANCES AT EVIDENTIARY HEARING

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justiciable matters,” the federal government has pre-empted the field as it relates to major crimes committed by or against Indians in Indian country.

⁴ This resolution renders the other six (6) propositions of error raised in Appellant’s brief moot.

⁵ By withholding the issuance of the mandate for 20 days, the State’s request for time to determine further prosecution is rendered moot.

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Opinion by: Lumpkin, J.

Kuehn, P.J.: Concur in Results
Rowland, V.P.J.: Specially Concurs
Lewis, J.: Concur in Results
Hudson, J.: Specially Concurs

**KUEHN, PRESIDING JUDGE,
CONCURRING IN RESULT:**

I agree with the Majority that the State of Oklahoma had no jurisdiction to try Appellant, and her case must be dismissed. This Court recently found that the Chickasaw Reservation was not disestablished, and is Indian country. *Bosse v. State*, 2021 OK CR 3, ¶¶ 11-12. Oklahoma does not have jurisdiction to prosecute crimes committed by or against Indians in Indian country. *Bosse*, 2021 OK CR 3, ¶ 28; 18 U.S.C. §§ 1152, 1153. Because the issue of reservation status has already been decided, I find the Majority’s discussion of it superfluous dicta. I further note that the Majority’s inclusion of a blood quantum is unnecessary. This Court, like the Tenth Circuit, requires only a finding of *some* Indian blood to determine Indian status, and has explicitly rejected a specific blood quantum requirement.¹ *Bosse*, 2021 OK CR 3, ¶ 19.

I also disagree with the Majority’s characterization of the State’s position below as “acquiescence.” As I have said before, the State’s decision to stipulate to some issues and take no position on the issue of reservation status was an available legal strategy and conserved judicial resources.² *Hogner v. State*, 2021

¹ Inclusion of Appellant’s tribal membership number is inappropriate.

² This position is also entirely consistent with the State’s position in civil Indian Child Welfare Act proceedings. On August 1, 2020, the Oklahoma Department of Human Services, on behalf of the State, entered into an Intergovernmental Agreement Between the State of Oklahoma and Each of the Five Tribes Regarding Jurisdiction Over Indian Children Within Each Tribe’s

OK CR 4, ¶ 2 (Kuehn, P.J., concurring in result). And I repeat that there is no “void” in the record. Petitioner provided the trial court with law and evidence relevant to the jurisdictional issue. The State chose not to augment or contest this law and evidence. There was a full record below and a full record on appeal. The trial court’s findings and conclusions clearly set forth the details of the evidence it used to make its decisions. Often, in a criminal trial, the defendant does not offer evidence to counter the evidence of guilt presented by the State. And yet, this Court routinely finds the evidence is sufficient for our review, without complaining that the defendant’s choice leaves a void in the record. The same is true here.

Reservation (filed, Oklahoma Secretary of State, Aug. 1, 2020). Throughout the Agreement the State explicitly recognizes the continued existence of the Chickasaw Reservation.

**ROWLAND, VICE PRESIDING JUDGE,
SPECIALLY CONCURRING:**

I specially concur in the majority's disposition of this case for the reasons stated in my separate writing to *Hogner v. State*, 2021 OK CR 4, ___ P.3d ___.

LEWIS, JUDGE, CONCUR IN RESULTS:

Based on my special writings in *Bosse v. State*, 2021 OK CR 3, ___ P.3d ___ and *Hogner v. State*, 2021 OK CR 4, ___ P.3d ___, I concur in the results of the decision to dismiss this case for the lack of state jurisdiction.

HUDSON, JUDGE, SPECIALLY CONCURRING:

Today's decision applies *McGirt v. Oklahoma*, 140 U.S. 2452 (2020) to the facts of this case and dismisses a first degree misdemeanor manslaughter conviction from the District Court of Carter County. I fully concur in the majority's opinion based on the stipulations below concerning Appellant's Indian status and the location of this crime within the historic boundaries of the Chickasaw Reservation. Under *McGirt*, the State has no jurisdiction to prosecute Appellant. Instead, Appellant must be prosecuted in federal court. I therefore as a matter of *stare decisis* fully concur in today's decision.

I also join Judge Rowland's observation in his special writing in *Hogner v. State*, 2021 OK CR 4, ___ P.3d ___, that the Major Crimes Act does not affect the State of Oklahoma's subject matter jurisdiction in criminal cases but, rather, involves the exercise of federal criminal jurisdiction to effectively preempt the exercise of similar state authority. *Id.* at ¶ 4 (Rowland, V.P., Concurring in Result). Further, 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 (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 CARTER COUNTY,
STATE OF OKLAHOMA, FINDINGS OF FACT
AND CONCLUSIONS OF LAW
(NOVEMBER 12, 2020)**

IN THE DISTRICT COURT OF CARTER
COUNTY, STATE OF OKLAHOMA

LAURIE JEAN MARTIN,

Defendant/Appellant,

v.

THE STATE OF OKLAHOMA,

Plaintiff/Appellee.

Case No. CF 2016-782A

OCCA No. F-2017-991

Before: Dennis MORRIS, District Judge.

**FINDINGS OF FACT AND CONCLUSIONS OF
LAW ON REMAND FROM THE OKLAHOMA
COURT OF CRIMINAL APPEALS**

Laurie Jean Martin, Defendant/Appellant (Martin), was tried by jury and convicted of First Degree Misdemeanor Manslaughter on August 11, 2017. On September 13, 2017, this Court, as per the jury's verdict, sentenced Martin to forty (40) years imprisonment. Martin timely appealed the jury's verdict and this Court's imposition of sentence.

On August 14, 2020, the Oklahoma Court of Criminal Appeals entered its Order for Evidentiary Hearing, directing this Court to hold an evidentiary hearing on Appellant Martin's Proposition I, that this Court lacked jurisdiction to try her. Appellant's Proposition I argues that Martin is a citizen of the Choctaw Nation, as such an Indian, and that her crime occurred within the boundaries of the Chickasaw Nation.

The remand order specifically states that this Court shall address only two (2) issues:

First, the Appellant's (Martin) status as an Indian. The District Court must determine whether:

- (1) Appellant has some Indian blood, and
- (2) is recognized as an Indian by a tribe or the federal government.

Second, whether the crime occurred in Indian Country. The District Court is directed to 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.

The matter came on for evidentiary hearing on October 9, 2020. Appellant appeared by counsel, Michael Morehead. Appellee appeared by Assistant Attorneys General, Tessa Henry and Taylor Ledford. State appeared by District Attorney, Craig Ladd. This Court heard stipulations and statements of counsel and took the matter under advisement.

In consideration of this matter this Court has reviewed the following pleadings as filed in the matter:

- Defendant/Appellant's Remanded Hearing Brief Applying *McGirt* Analysis to Chickasaw Nation Reservation, filed October 9, 2020 (provided to the Court on October 7, 2020, via email);
- State's Brief on Remand for Evidentiary Hearing, filed October 14, 2020, (provided to the Court on October 7, 2020, via email);
- Amicus Curiae Chickasaw Nation's Brief in Support of the Continued existence of the Chickasaw Reservation and its Boundaries, filed on October 7, 2020, and as admitted by stipulation of the parties.

I: Appellant's Status as Indian

Findings of Fact

On September 24, 2020, prior to the evidentiary hearing, the parties submitted factual stipulations to this Court, and the Court makes the following findings of fact:

- (1) Appellant Martin has 1/32 Indian blood quantum; and
- (2) Appellant Martin was a member of the Choctaw Nation (Membership Number CN194639) at the time of the crime; and
- (3) The Choctaw Nation is an Indian Tribal Entity recognized by the federal government.

Conclusions of Law

In *U.S. v Diaz*, 679 F.3d 1183, 1187 (10th Cir. 2012), the Court succinctly states, “To find that a person is an Indian the Court must first make factual findings that the person has “some Indian blood” and, second, that the person is “recognized as an Indian by a tribe or by the federal government.” *U.S. v. Prentiss*, 273 F.3d 1277, 1280 (10th Cir. 2001).

Upon the Court’s finding of facts, as stipulated by the parties, this Court finds that Appellant Martin (1) has “some Indian blood”, specifically 1/32 blood quantum, and (2) is “recognized as an Indian by a tribe”, specifically the Choctaw Nation, a Tribal Entity recognized by the federal government.

THIS COURT FINDS AND ORDERS Appellant is an Indian for purposes of criminal jurisdiction.

II: Whether the Crime Occurred in Indian Country

Findings of Fact

The parties also submitted factual stipulations to this Court, and the Court makes the following findings of fact:

- (1) The crime occurred in the city of Ardmore, Carter County, Oklahoma;
- (2) That Ardmore, Oklahoma is within the historical boundaries of the Chickasaw Nation, as set forth in, and adjusted by, the 1855 and 1866 treaties between the Chickasaw and Choctaw Nations and the United States.

The Court further makes the following findings of fact:

- (3) The State's Brief on Remand for Evidentiary Hearing, by and through Attorney General for the State of Oklahoma, Mike Hunter, sets forth no fact or law contrary to the evidence presented by Appellant's Brief, as to her Proposition I of her direct appeal, and/or the Amicus Curiae Chickasaw Nation's Brief.
- (4) The Indian Removal Act of 1830 authorized the President of the United States representatives to negotiate with Indian tribes for their removal to federal territory west of the Mississippi River in exchange for the land on which they historically resided.
- (5) Pursuant to the Indian Removal Act of 1830, the United States and the Choctaw Nation entered into the 1830 Treaty of Dancing Rabbit Creek. In the Treaty the United States granted the Choctaw Nation specific lands "in fee simple to them (Choctaw) and their descendants, to ensure to them while they shall exist as a nation and live on it." In exchange, the Choctaw Nation ceded their historical lands east of the Mississippi River.
- (6) The Choctaw Nation and the Chickasaw Nation entered into the 1837 Treaty of Doaksville. In the Treaty the Choctaw Nation granted the Chickasaw Nation a "district within the limits of (the territory of the 1830 Treaty of Dancing Rabbit Creek) to be held on the same terms that the Choctaws

now hold it . . .” The 1837 Treaty made the provisions of the 1830 Treaty of Dancing Rabbit Creek applicable to the Chickasaw Nation.

- (7) In the 1855 Treaty of Washington, Congress modified and expressly reaffirmed “the boundaries of the Choctaw and Chickasaw country.” Further, the 1855 Treaty reaffirmed the Chickasaw Nation’s right of self-government.
- (8) The 1866 Treaty of Washington provided “peace and friendship between the United States and the Choctaw and Chickasaw Nations at the close of the Civil War. Further, the 1866 Treaty reaffirmed the Choctaw and Chickasaw Nations’ rights and lands granted under the previous Treaties and reaffirmed their rights to self-governance.
- (9) The Chickasaw Nation is a federally recognized Indian tribe as stipulated to by the parties.
- (10) Ardmore, Oklahoma, where this crime occurred, is within the boundaries of the Chickasaw Nation as established by the Treaties and as stipulated to by the parties.

Conclusions of Law

II: (1) Whether Congress Established a Reservation for the Chickasaw Nation

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

...” The Treaties with the Choctaw and Chickasaw Nations, as outlined herein, did not specifically use the word “reservation” in the Treaties, and instead used the terms “land”, “district,” and “country” interchangeably.

The United States Supreme Court in *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020) at 2461, stated “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. But we have found similar language in treaties from the same era sufficient to create a reservation.”

The Court in *McGirt*, went on to state that the “most authoritative evidence of a [a tribe’s] relationship to the land . . . lies in the treaties and statutes that promised the land to the tribe in the first place.” *Id.* at 2475-76. The Court specifically noted that the Treaties promised a “permanent home,” “forever set apart,” and assured “self-government.” *Id.* At 2461-62. Similarly, the 1830 Treaty of Dancing Rabbit Creek granted the Choctaw Nation, and subsequently the Chickasaw Nation, “to them and their descendants . . . while they shall exist as a nation and live on it” and assured and subsequently reassured the right of self-government.

In applying the reasoning used by the United States Supreme Court in *McGirt* to the case at bar, it is abundantly clear that Congress established a “reservation for the Chickasaw Nation.

THIS COURT FINDS AND ORDERS Congress established a reservation for the Chickasaw Nation.

II: (2) Whether Congress Specifically Erased the Boundaries and Disestablished the Reservation

In *McGirt*, the Supreme Court succinctly states “to determine whether a tribe continues to hold a reservation, there is only one place we may look: the Acts of Congress.” *Id.* At 2462. The Supreme Court states that “once a reservation is established, it retains that status until Congress explicitly indicates otherwise.” *Id.* At 2649. The Supreme Court further states that “disestablishment . . . does require that Congress clearly express its intent to do so, with an explicit reference to cession or other language evidencing the present and total surrender of all tribal interests. *Id.* at 2463.

No evidence has been presented to the Court to establish that Congress has taken any action whatsoever to erase the boundaries or disestablish the Chickasaw Reservation. The State of Oklahoma, as Plaintiff/Appellee sets forth no evidence or argument as to the issue of disestablishment.

THIS COURT FINDS AND ORDERS that Congress has not specifically or explicitly acted to disestablish the Chickasaw Nation Reservation.

CONCLUSION

THIS COURT FINDS AND ORDERS that Congress established a reservation for the Chickasaw Nation and that Congress has not disestablished the Chickasaw Nation Reservation. That Appellant Martin is an Indian for purposes of criminal jurisdiction and the crime occurred in Indian Country for the purposes of the General Crimes Act, 18 U.S.C. 1152.

App.24a

IT IS SO ORDERED.

Dated this 12th day of November 2020.

/s/ Dennis Morris

District Judge

**ORDER OF THE COURT OF CRIMINAL
APPEALS, STATE OF OKLAHOMA,
REMANDING FOR EVIDENTIARY HEARING
(AUGUST 14, 2020)**

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

LAURIE JEAN MARTIN,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

F-2017-991

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

**ORDER REMANDING
FOR EVIDENTIARY HEARING**

Laurie Jean Martin was tried by jury and convicted of First Degree Misdemeanor Manslaughter in the District Court of Carter County, Case No. CF-2016-782A. In accordance with the jury's recommendation the Honorable Dennis R. Morris sentenced Appellant to 40 years imprisonment. Appellant must serve 85%

of her sentence before becoming eligible for parole consideration. Appellant appeals from this conviction and sentence.

In Proposition I Appellant claims the District Court lacked jurisdiction to try her. Appellant argues that she is a citizen of the Choctaw Nation and the crime occurred within the boundaries of the Chickasaw Nation.

Pursuant to *McGirt v. Oklahoma*, No. 18-9526 (U.S. July 9, 2020), Appellant's claim raises two separate questions: (a) her Indian status and (b) whether the crime occurred in Indian Country. These issues require fact-finding. We therefore **REMAND** this case to the District Court of Carter County, for an evidentiary hearing to be held within sixty (60) days from the date of this Order.

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 Appellant's legal status as an Indian and as to the location of the crime in 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 Appellant's status as an Indian. The District Court must determine whether (1) Appellant has some Indian blood, and (2) is recognized as an Indian by a tribe or the federal government.¹

Second, whether the crime 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 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

¹ See *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. Prentiss*, 273 F.3d 1277, 1280-81 (10th Cir. 2001).

(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 Carter County: Appellant's Brief in Chief filed May 16, 2018; Appellant's Reply Brief filed October 3, 2018; and Appellee's Response Brief, filed September 13, 2018.

**WITNESS OUR HANDS AND THE SEAL OF
THIS COURT** this 14th 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