

21-7030

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

DEC 17 2021

OFFICE OF THE CLERK

Darrin Lynn Pickens — PETITIONER
(Your Name)

vs.

State of Oklahoma — 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

Darrin Lynn Pickens
(Your Name)

129 Conner road
(Address)

Hominy, OK 74035
(City, State, Zip Code)

(Phone Number)

RECEIVED

DEC 27 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Does the State of Oklahoma have Subject matter Jurisdiction over any person who commits an offense within the boundaries of Indian Country?
2. Does the States Enabling Act of 1906, have any authority in the 70,000 Square miles of federally restricted land?

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TABLE OF AUTHORITIES CITED

CASES U.S. vs. Bullcoming, WD. of Okla. 2018	PAGE NUMBER 3
Cases McGirt vs. Oklahoma, ND. of Okla. 18-9526	Page Number 3
Cases Murphy vs. Royal, 866 F.3d 1189 (2017)	Page Number 3
Cases Solem vs. Bartlett, 104 S.Ct. 125	Page Number 3
Cases Catner vs. U.S., WD. of Ark., C.I.V. 18 (F.S. Ark. 2018)	Page number 7
Cases Martin vs. U.S., WD. of Ark., C.I.V. 18 (F.S. Ark. 2018)	Page number 7
Cases Carpenter vs. Murphy, ND. of Okla., 17-1107	Page number 7

STATUTES AND RULES

18 U.S.C. § 1151/1152/1153/1165	Page 9, 10, 11
25 U.S.C. § 1301/1302/1303	Page 7, 12
25 U.S.C. § Ch. 14, Subch. VIII [§] 501 et seq.	Page 7, 11, 12
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OTHER

Muscogee Creek Nation Treaty	Page 10, 11
Indian Appropriation Act	Page 8
Oklahoma Indian Welfare Act	Page 6
Indian Civil Rights Act	Page 3, 7, 11, 12

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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 NA to the petition and is

☐ reported at NA; 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☐ is unpublished.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 NA to the petition and is

☐ reported at NA; 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 PC-2021-1302; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Creek County district court appears at Appendix B to the petition and is

☐ reported at CF-1990-66; 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 NA.

☐ 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: NA, and a copy of the order denying rehearing appears at Appendix NA.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including NA (date) on NA (date) in Application No. A NA.

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 12-8-2021
December 8th.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: NA, and a copy of the order denying rehearing appears at Appendix NA.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including NA (date) on NA (date) in Application No. A NA.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

All persons born or naturalized in the United States, and subject to reside. No State shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its Jurisdiction the equal protection of the laws. The Fourteenth Amendment.

The Oklahoma Constitution Article 1 § 3 reads: The people inhabiting the State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, Tribe, or Nation; and that until the title to any such public land shall have been extinguished by the United States, the same shall be and remain subject to the Jurisdiction, disposal, and Control of the United States....

The Indian Civil Rights Act of 1968, applies to any person who is subjected to Jurisdiction of an Federally recognized as A Indian reservation in the United States, 25 U.S.C. § 1301-1303.

STATEMENT OF THE CASE

During the early morning hours of February 4, 1990, Petitioner robbed the Mr. Quick Convenience store in Sapulpa Oklahoma. After the robbery Petitioner shot the store clerk. A customer found the clerk body between 2:00 and 3:00 Am on February 4th. Petitioner, was arrested and tried by Jury in the District Court of Creek County, before District Judge Donald Thompson. Petitioner, was convicted of First Degree murder in violation of 21 O.S. 1981, § 701.7, and was sentenced to death. Petitioner, appealed and was granted A new trial on Direct Appeal in 1994. In 1998, Petitioner was tried and convicted and sentenced to death again. In 2005, the OCCA modified Petitioner's death sentence to life without, on the issue of mental retardation from the U.S. Supreme Court in 2002, in Atkins vs. Virginia,

REASONS FOR GRANTING THE PETITION

According to the Article 1, § 3 of the Oklahoma Constitution, of the state of Oklahoma fully forfeited all Jurisdiction within Indian Country. In *Klindt vs. Oklahoma*, 782 P.2d 401 (1989 OK CR. 75), the Oklahoma Court of Criminal Appeals, held that "Indian Country" is Indian Country, before Statehood of 1906, the entire state of Oklahoma was Indian Territory; therefore, the entire 70,000 square miles of Oklahoma is Indian Country.

It is well-established that Indian Country is federal restricted land, and the state has absolutely no Jurisdiction on federal land. Clearly, the State of Oklahoma does not have subject matter Jurisdiction "on" any offense committed within Indian Country.

The Indian Civil Rights Act of 1968, was designed for Indian reservations and applies to any person who is subject to their Jurisdiction, is subjected to its laws under the I.C.R.A., not "any" state laws applies on federal land-Indian reservations.

The state of Oklahoma's legal proceedings against Petitioner are in Violation of the Due process and equal protection Clause of the Fourteenth Amendment to the United States Constitution.

The above stated facts establish that the state never had subject matter Jurisdiction over Petitioner; therefore, this Petition should be granted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Darwin Lynn Pickens

Date: 12-17-2021

A FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

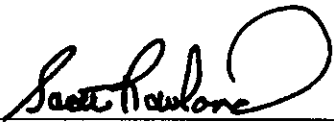
The conviction in this matter was final before the July 9, 2020 decision in *McGirt*, and the United States Supreme Court's holding in

McGirt does not apply. Therefore, the District Court's order denying post-conviction relief is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2021), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

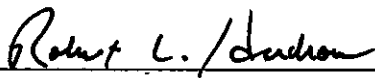
IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this

8th day of December, 2021.




SCOTT ROWLAND, Presiding Judge



ROBERT L. HUDSON, Vice Presiding Judge

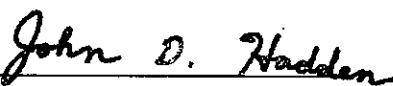


GARY L. LUMPKIN, Judge



DAVID B. LEWIS, Judge

ATTEST:



Clerk

PA