

No.

24-5552

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

AUG 16 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Roy Dean Hatjo

(Your Name)

— PETITIONER

CASE NO. CF-2017-665

vs.

The State of Oklahoma

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Oklahoma Court of Criminal Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Roy Dean Hatjo - CASE NO. CF-2017-665

(Your Name)

1515 Hwy 39, P.O. Box 260

(Address)

Lexington, Okl. 73051

(City, State, Zip Code)

NONE

(Phone Number)

RECEIVED

AUG 23 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- i. Whether the Pottawatomie County had Sovereign Authority or Jurisdiction to PROSECUTE NATIVE AMERICANS?
- ii. Whether the Pottawatomie County could charge Petitioner ^{NEWLY DISCOVERED EVIDENCE} under Section § 652. Ordinary Pocket Knife is not a deadly weapon?
- iii. Whether the Pottawatomie County had advised Petitioner ^{NEWLY DISCOVERED EVIDENCE} about 32,20 MAY RIPPY violent crime offenders Registration Act?
- iv. Whether the Pottawatomie County Task Force violated ^{NEWLY DISCOVERED EVIDENCE} Petitioner's Constitutional Rights?

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:

ATTORNEY GENERAL GENTNEY F. DRUMMOND

RELATED CASES

THE STATE OF OKLAHOMA V. ROY HATJO
NO. PC 2024-130 (OKL. CRIM. APP.)

THE STATE OF OKLAHOMA V. ROY HATJO
(POTTAWATOMI CNTY., OKLA. DIST. CT)

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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 _____ to the petition and is

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☐ is unpublished.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

☐ reported at _____; 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☐ is unpublished.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 Oklahoma State Criminal Court of Appeals; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Oklahoma State Criminal Court of Appeals court appears at Appendix A to the petition and is

☐ reported at _____; 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 _____.

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

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

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 MAY 31, 2024.
A copy of that decision appears at Appendix A _____.

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

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

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

the OKLAHOMA COURT of CRIMINAL APPEALS DENIED Post-CONVICTION RELIEF MAY 31, 2024, this PETITION IS BEING FILED WITHIN 90 DAYS OF THAT DENIAL.

this COURT HAS JURISDICTION PURSUANT TO 28 U.S.C. § 1257(A)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

the INDIAN COMMERCE CLAUSE / the SUPREMACY CLAUSE,
the DUE PROCESS CLAUSE, AND the RELEVANT PROVISION
of title 18 of the U.S. CODE AND title 22 of
the OKLAHOMA STATUTES.

Introduction

Whether the Pottawatomie County had
SOVEREIGN AUTHORITY or JURISDICTION
to PROSECUTE NATIVE AMERICANS?

OKLAHOMA HAS, HOWEVER, PROSECUTE MANY
THIBES of INDIANS for such OFFENSES
AMONG them is Petitioner Roy HATJO A
REGISTERED MEMBER of the MUSCOGEE
(CREEK) NATION of OKLAHOMA.

the ENTIRE Pottawatomie County OCCUPIES
INDIAN COUNTRY. THE RESERVATION CON-
TINUES to EXIST TODAY, AND IS INDIAN
COUNTRY within MEANING of the (M.C.A.)
(SEE *Sizemore v. State*, 485 P.3d 867, 871
(OKLA. CT. APP. 2021) Pet. for Cert. filed No. 21-326
(U.S. Aug 27, 2021, AS CONFIRMED in *McBitt*).

IN 2017, OKLAHOMA PROSECUTED Petitioner for A
CRIME that ALL AGREE OCCURRED ON THE
SAC AND FOX RESERVATION IN Pottawatomie —
COUNTY, OKLAHOMA.

The District Court Abuse its Discretion Denying the Petitioners Application for Post-Conviction Relief Because the Trial Courts Determination is Not Consistent with United States Supreme Court Precedent.

Petitioner States that the State Court Lack Jurisdiction in this matter. The Tenth Circuit has stated [W]hen we speak of Jurisdiction, we mean Sovereign Authority, Not Subject-Matter Jurisdiction. "SEE US. V. LANGFOLD 641 F.3d 1195, 1197 FN.1 10th Cir 2011" to show the trial court abused its discretion the decision Petitioner must show "A CLEARLY ERRONEOUS CONCLUSION AND JUDGEMENT, ONE THAT IS CLEARLY AGAINST THE LOGIC AND EFFECT OF THE FACTS — PRESENTED. NELOMS V. STATE, 2012, OKCH 735 274 P.3d 161

BECAUSE IN 1936, CONGRESS PASSED THE
OKLAHOMA WELFARE ACT. 49 STAT 1976,
PERMITTING OKLAHOMA INDIANS TO TAKE
ADVANTAGE OF MOST OF THE WHEELER-
HOWARD ACT. SEE HATJO V. KLEPPE 420 F.
SUPP. 1110, 1136 (D.C. 1976)

THE OKLAHOMA LEGISLATURE EVEN COGNIZES
THESE RESERVATION LANDS AND THERE ARE
SIGNS POSTED WHEN ENTERING —
RESERVATION AREAS IN POTTAWATOMI COUNTY.

IN OKLAHOMA TAX COMM'N V. SAC AND FOX —
NATION 508 U.S. 114, 113 S.Ct. 1985, 124 L.Ed.
2d 30 (1993).

THE SUPREME COURT SPECIFICALLY STATED THAT
INDIAN ALLOTMENTS, WHETHER RESTRICTED
OR HELD IN TRUST BY THE UNITED STATES —
"ARE INDIAN COUNTRY!"

(SAC AND FOX REPORT)

UNDER the 1891 Treaty the tribe Retained the 800 ACRES. Today, the SAC AND FOX NATION HAS APPROXIMATELY 21500 MEMBERS it HAS A FULLY FUNCTIONING TRIBAL - GOVERNMENT WITH ITS HEADQUARTERS ON the 800 ACRES RESERVED to it UNDER the 1891 Treaty / COMPACTS of SELF-GOVERNANCE BETWEEN the SAC AND FOX NATION AND the UNITED STATES OF AMERICA JUNE 6, 1991.

ALL EASTERN REGION OF OKLAHOMA IS INDIAN COUNTRY / the WHOLE OF OKLAHOMA IS INDIAN TERRITORY before STATEHOOD.

ALL TRIBAL NATIONS ARE UNDER FEDERAL GOVERNMENT of the UNITED STATES of AMERICA.

STATEMENT OF THE CASE

PETITIONER WAS CHARGED BY INFORMATION IN POTTAWATOMI COUNTY DISTRICT COURT CASE NO. CF-2017-665 ON DECEMBER 14, 2017 WITH ONE COUNT OF ASSAULT AND BATTERY WITH A DEADLY WEAPON § 652 AND FOUR COUNTS OF ASSAULT WITH A DANGEROUS WEAPON § 645.

PETITIONER ENTERED A BLIND PLEA OF GUILTY TO ALL CHARGES ON SEPTEMBER 17, 2018. FORMAL SENTENCING WAS HELD ON OCTOBER 31, 2018, AND PETITIONER WAS SENTENCED TO LIFE ON ALL COUNTS.

PETITIONER FILED A MOTION TO WITHDRAW HIS ~~PLEAS~~ ON NOVEMBER 6, 2018.

PETITIONER'S MOTION WAS DENIED AND HE PERFECTED A TIMELY APPEAL TO THE OCCA WHO DENIED CERTIORARI. AUGUST 29, 2019.

ON JULY 30, 2020, PETITIONER FILED PRO SE
AN APPLICATION FOR POST-CONVICTION RELIEF.

ON OCTOBER 29, 2020, THE STATE FILED RE-
SPONSE TO PETITIONER'S APPLICATION FOR
POST-CONVICTION RELIEF.

ON SEPTEMBER 6, 2023 PETITIONER
FILED WRIT OF HABEAS CORPUS - MA-2023-781
WAS FILED SEPTEMBER 18, 2023

ON OCTOBER 12, 2023 THE DISTRICT COURT
ISSUED AN ORDER DENYING PETITIONER'S REQUEST
FOR POST-CONVICTION RELIEF.

ON OCTOBER 19, 2023 PETITIONER FILED A NOTICE
OF POST-CONVICTION APPEAL.

ON OCTOBER 23, 2023, PETITIONER, THROUGH
COUNSEL FILED A NOTICE OF POST-CONVICTION APPEAL

ON JANUARY 18, 2024 PETITIONER FILED A APPLICATION
FOR POST-CONVICTION RELIEF SEEKING AN APPEAL
OUT OF TIME.

ON FEBRUARY 5, 2024, THE COURT GRANTED AN
APPEAL OUT-OF-TIME CASE NO. PC-2024-74
HATJO V. STATE.

the Petitioner is a Native American,
a member of Muscogee (Creek) Nation

this offense occurred in Pottawatomie
County, Oklahoma. This Land is considered
Indian Land belonging to: Iowa,
SAC AND FOX, Absentee Shawnee, Pottawatomie
and Kickapoo tribes, according to the
United States Supreme Court and the
Oklahoma Department of Transportation.
See Appendix E] The entire Pottawatomie
County occupies Indian Country.

All Eastern Region of Oklahoma is Indian
Country U.S.A.

the offense occurred at Walmart store
located at 196 Shawnee Mall Dr. Shawnee,
Oklahoma in the parking lot of Walmart
on the night of December 1st of 2017.
The Walmart store is on SAC AND FOX
Nation's Reservation 18 U.S.C.A-1151,
1154, 1156 "Indian Country"

PETITIONER WAS INTOXICATED ARRIVING
AT THE WALMART STORE AROUND LATE
THAT WAS THE REASON (WIFE) PATRICIA
WAS UPSET WITH PETITIONER.

WALMART SURVEILLANCE VIDEO WAS
REVIEWED, IN THE SURVEILLANCE
VIDEO YOU SEE THAT PATRICIA HATJO
(WIFE) HAVING ARGUMENT WITH PETITIONER
THEN YOU SEE THAT PATRICIA PUSHING
PETITIONER TO THE GROUND.

THEN YOU SEE PETITIONER GETS UP OFF
THE GROUND AND WAVES HIS HANDS IN
THE AIR AND NEVER STRIKING OR HITTING
PATRICIA HATJO IN ANY WAY OF ABUSE.
THE ONLY CONTACT BETWEEN PETITIONER
AND PATRICIA HATJO WAS WHEN SHE PUSHED
PETITIONER TO THE GROUND.

ABUSE NEVER OCCURRED AND ABUSE WAS
NEVER SEEN IN THE SURVEILLANCE VIDEO.

ON the Night of December 1st, 2017,
A group of friends witness ABUSE
happening there in the parking lot of
Walmart Store located at 196 Shawnee
Mall Dr. Shawnee, OK. OK. St. T. 215644

A group of friends. D.A.B., E.G.R., J.L.H.,
Taylor Klaus testified that they seen
Petitioner ABUSING his wife Patricia
Hartjo in the parking lot of Walmart
Store.

the group of four friends began speaking
to the Petitioner, notice "Petitioner was
intoxicated and his speech was slurred.

while they were speaking with Petitioner,
Petitioner pulled out a knife and lunged
toward the entire group, waving the
knife in the air.

When NONE of the individuals did NOT SEE A KNIFE AND COULD NOT HAVE BEEN ASSAULTED WITH A KNIFE.

if they did NOT SEE A KNIFE? SEE BLEVINS v. STATE 11 OKLA. CRIM. 563

STATE WITNESS D.A.B. TESTIFIED THAT HE DID NOT SEE A KNIFE UNTIL HE NOTICED THAT HE WAS STABBED.

SECOND WITNESS TESTIFIED THAT HE DID NOT SEE A KNIFE OR NEVER SAW A KNIFE UNTIL AFTER STABBING D.A.B. TESTIMONY FROM J.L.H.

THIRD WITNESS JASON OVERLY WAS A WALMART EMPLOYEE TESTIFIED THAT HE SAW PETITIONER GRAB SOMETHING FROM HIS RIGHT SIDE, BUT DID NOT KNOW WHAT IT WAS AT THE TIME AND IT WAS DARK.

THERE IS NO TESTIMONY FROM EMILY RAGDALE AND TAYLOR KLAUSE IN THE PRELIMINARY HEARING THAT WAS HELD MARCH 8, 2018.

PROSECUTING WITNESS D.A.B. WAS
STUCK IN THE DARK BY PETITIONER
AND SUSTAINED INJURIES, WHICH WERE
MADE BY SHARP INSTRUMENT. SECTION
21 OKL. ST. ANN. § 645

NEWLY DISCOVERED EVIDENCE

THE TRIAL COURT PROSECUTING ATTORNEY
ADAM R. PANTET CHARGED PETITIONER UNDER
SECTION 21 OKL. ST. ANN. § 652.

ASSAULT AND BATTERY WITH DEADLY WEAPON
SHOOTING OR DISCHARGING FIREARM WITH
INTENT TO KILL - USE OF VEHICLE TO
FACILITATE DISCHARGE OF WEAPON IN
CONSCIOUS DISREGARD OF SAFETY OF
OTHERS - ASSAULT AND BATTERY W/ DEADLY
WEAPON, ETC GANG RELATED SHOOTING,

ORDINARY POCKET KNIFE IS NOT A DEADLY
WEAPON "PRO SE" WITHIN THIS SECTION § 652
ORDINARY ONE WHO ASSAULTS ANOTHER WITH
A KNIFE OR OTHER SHARP INSTRUMENT SHOULD
BE PROSECUTED UNDER SECTION 21 OKL. ST. ANN.
§ 645 NOT UNDER SECTION § 652.

(SEE BLEVINS V. STATE 11 OKL. CTIM. 563)
THE INFORMATION DOES NOT CHARGE THE
OFFENSE OF ASSAULT AND BATTERY WITH
A DEADLY WEAPON WITH INTENT TO KILL.
UNDER SECTION § 652.

BECAUSE THE INFORMATION WHOLLY FAILS
TO ALLEGE OR DESCRIBE A DEADLY WEAPON
AND FAILS TO DESCRIBE THE MANNER IN WHICH
THE ALLEGED KNIFE WAS USED.

TO MAKE IT DEADLY WEAPON TO-WIT
KNIFE (SEE PONKILLA V. STATE (69 OKL.
CT. 31, 99 P. 2d 911))

TRIAL COURT FAIL TO INTRODUCE THE KNIFE
AS OF EVIDENCE ON THE SENTENCING
DAY AUG. 29, 2018

THE TESTIMONY WITNESSES DID NOT
SEE A KNIFE OF THE SIZE OF THE KNIFE
THE LENGTH OF THE BLADE OF THE DEADLY
CHARACTER OF THE WEAPON, IDEA THAT
IT WAS DEADLY. SEE CLEMONS V. STATE
8 OKL. CT. 452, 128 PAC. 739 AND RUSSELL
V. STATE 9 OKL. CT. 692, 133 PAC. 475,
COLLEGENIA V. STATE, 9 OKL. CT. 425, 132
PAC. 375.

ON SENTENCING DAY OCT 30, 2018.
Honorable Judge John Catavani
Mention to the Court that there
was no mention of a knife
or where it came from and
where it fell in the dark?

there being no proof that the weapon
in the Record of the Deadly Character
of the weapon and no proof as was offered
repelling the idea that the weapon was
deadly and dangerous, under the
Assault and Battery statute, Ok. Stat.
Section 641, 642, and 644.

REASONS FOR GRANTING THE PETITION

this Court held that Federal Government must be held to its word.

BECAUSE the UNITED STATES PROMISED to RESERVE certain lands for Tribes in the NINETEENTH CENTURY AND NEVER RESCINDED those PROMISES.

THOSE LANDS REMAIN RESERVED to the Tribes, TODAY.

IN PARTICULAR, these lands remain "INDIAN COUNTRY" within meaning of the MAJOR CRIME ACT. (M.C.A.)

Which divest States of Jurisdiction to PROSECUTE ANY INDIAN "who committed ONE of the OFFENSES ENUMERATED in SECTION 1153(A) of title 18 U.S. CODE while in "INDIAN COUNTRY" 18 U.S.C. § 1153(A) ONLY the Federal Government may PROSECUTE such crimes.

NEWLY DISCOVERED EVIDENCE

ARREST WITHOUT A WARRANT

ON THE MORNING OF DECEMBER 6, 2017,
IN OKEMAH, OK. OF MUSKOGEE COUNTY AT OR
AROUND 4:00 AM PETITIONER WAS ARRESTED
FOR ASSAULT AND BATTERY W/ DEADLY WEAPON
SECTION § 652. AFTER PETITIONER HAD BOND
OUT ON 20,000 DOLLAR BOND WITHIN 24 HOURS
BOND WAS REVOKED WITHOUT REASON OR NOTICE
THE ARRESTING OFFICER AND HIS FELLOW EN-
FORCEMENT OFFICERS ACTED WITHOUT —
AUTHORITY OR AUTHORIZATION WITHIN THE LAW.
A CRIMINAL ARREST WARRANT MUST BE ISSUED
BASED ON PROBABLE CAUSE. HERE "THERE
WAS NO PROBABLE CAUSE UNDER 4TH AMENDMENT
REQUIRES POLICE HAVE PROBABLE CAUSE TO
BELIEVE THAT PERSON COMMITTED OR IS —
COMMITTING A CRIME.

there is NO ARREST WARRANT AFFIDAVIT IN THE EXHIBIT
OR IN THE TRANSCRIPTS FOR EVIDENCE.

A WARRANT ISSUED TO A LAW ENFORCEMENT OFFICER ORDERING THE OFFICER TO ATTEST AND BRING THE PERSON NAME IN THE WARRANT BEFORE THE COURT, PROBABLE CAUSE AS ESTABLISH USU. BY A SWORN AFFIDAVIT. "HERE" THERE IS NOT A SINGLE EVIDENCE OF A ATTEST WARRANT AFFIDAVIT, "FAIL TO PRESENT THE AFFIDAVIT" UPON ATTEST AND AT THE BOOKING OFFICER STATION DETENTION CENTER. SEE UNITED STATES V. HOTAL 143 F.3D. 1223, 1226 (CA. 9 1998) FAIL TO PRESENT THE WARRANT AFFIDAVIT THESE ATTESTING OFFICERS VIOLATED PETITIONERS LEGAL RIGHTS, VIOLATED FOURTH AMENDMENT THE OFFICERS WITHOUT WARRANT OF LAW, AND THE ADMISSION OF THE SAME CONSTITUTES A VIOLATION OF THE CONSTITUTIONAL AND STATUTORY RIGHTS OF THE DEFENDANT, SEE LEATY V. STATE, 61 OKL. CT. 298 APRIL 30, 1937, WALLACE V. STATE 49 OKL. CT. 281, 294 P. 198,

NEWLY DISCOVERED EVIDENCE

CHAPTER 358

H.B. NO. 1853

MARY RIPPY VIOLENT CRIME OFFENDERS REGISTRATION ACT.

POTTAWATOMI COUNTY TRIAL COURT DID NOT ADVISE THE PETITIONER OF THE MARY RIPPY VIOLENT CRIME OFFENDERS REGISTRATION ACT. BECAUSE PETITIONER WAS SENTENCE OCT. 31, 2018. FOR ASSAULT AND BATTERY WITH A DEADLY WEAPON AND FOUR COUNTS OF ASSAULT WITH DANGEROUS WEAPON.

NEW LAW A NEW SECTION OF LAW TO BE —
CODIFIED IN THE OKLAHOMA STATUTES AS
SECTION 592 OF TITLE 57.

IT APPLIES TO ANY PERSON RESIDING,
WORKING OR ATTENDING SCHOOL IN THE
STATE OF OKLAHOMA.

Who After November 1st, 2004.
it Requires Judges to Notify Offenders
of their duty to Register Violent Crime
Offenders and Trial Judges would be -
Required to Notify defendants of Registra-
tion Requirements at Sentencing.

Notice is a Basic Requirement of
Due Process U.S. Const. Amend. 14
See Butts v. State of Oklahoma 453
P.3d 1244 file Nov. 7, 2019.

Wolf v. State 2012 OK. Ct. 16, 17, 292
P.3d 512, 517-18. We held Due Process
Requirement that Person Subject to
the Methamphetamine Registry must be
Notified of that Status under the Act.
AN OFFENDER must After Conviction
is Subject to Registration under the
Act.

Judgment and Sentence is Void.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Roy Hays

Date: 8-16-2024