

No. 24-5942

ORIGINAL

FILED

OCT 24 2024

OFFICE OF THE CLERK
SUPREME COURT U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Garry Kayne Wilson PETITIONER
(Your Name)

vs.

Oklahoma — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Tenth Circuit Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

Garry Kayne Wilson
(Your Name)

216 No Murray St.
(Address)

Helena, OK 73741
(City, State, Zip Code)

572-568-6000

(Phone Number)

QUESTION(S) PRESENTED

1. Whether an enrolled freedman of Cherokee Nation Indian Tribe is considered an Indian or a non-Indian within the meaning of this Court's ruling in Oklahoma v. Castro-Huerta, 597 U.S. 629 (2022)?
2. Whether state jurisdiction over crimes committed in Indian country by enrolled freedmen is pre-empted by federal law/treaty?

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:

RELATED CASES

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 A 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 is unpublished.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 A 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 is unpublished.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 _____ 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 is unpublished.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 _____ 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 is unpublished.

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: October 15, 2024, and a copy of the order denying rehearing appears at Appendix A.

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 _____. A copy of that decision appears at Appendix _____.

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const., Amend XIV

1866 Treaty of Washington, 14 Stat 799, art. 9

U.S. Const., Amend VI

STATEMENT OF THE CASE

Garry Wayne Wilson, an enrolled freedman in the Cherokee Tribe, was found guilty of first degree murder and possession of a firearm while under supervision of the Department of Corrections, by a jury and sentenced to life imprisonment and ten years' imprisonment respectively.

Because the location of the crime occurred within the boundaries of the Cherokee Nation, Wilson sought federal habeas relief by claiming the treaties between the United States and Cherokee Nation reserves prosecution to the Tribe. However, the US District Court for Northern Oklahoma held that Wilson was a non-Indian and, pursuant to Oklahoma v. Castro-Huerta, was subject to state criminal jurisdiction. The Tenth Circuit affirmed.

REASONS FOR GRANTING THE PETITION

In modern times, This Court has not dealt with the rights of Indian freedmen, or how said freedmen are viewed under federal law. Are they "Indians" within the meaning of the Major Crimes Act (18 USC § 1153). Are they tribal members subject to the provisions of treaties between the United States and Cherokee Nation? And, perhaps, 25 USC § 1301, 1304? Or, are they "non-Indians" as discussed in Oklahoma v. Castro-Huerta?

This Court's decisions in McGirt v. Oklahoma and Oklahoma v. Castro-Huerta upended long-held ideas about Indian country and the jurisdiction for criminal purposes therein. However, there is a dearth of cases to guide lower courts as to how to adjudicate cases involving freedmen. (See, for example, Alberty v. U.S., 162 US 499 (1896); cf Cherokee Nation v. Nash, 267 F.Supp.3d 86 (2017))

As authorities enforcing law in Indian country continues to make adjustments and as courts struggle to apply this Court's decisions on who is Indian, who is a tribal member, who is neither, this Court

must provide definitive rationale and guidance how such decisions must be made.

Is a freedman part of the Indian tribal community, entitled to be treated as their fellow tribal members under law? Only this Court can say for sure.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Darry Nelson

Date: 10/23/24