

No. \_\_\_\_\_

IN THE  
**Supreme Court of the United States**

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STATE OF OKLAHOMA, *Petitioner,*

*v.*

ROBERT ERIC WADKINS, *Respondent.*

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To the Honorable Neil M. Gorsuch,  
Associate Justice of the United States Supreme Court and  
Circuit Justice for the Tenth Circuit

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**APPLICATION FOR EXTENSION OF TIME TO FILE A  
PETITION FOR WRIT OF CERTIORARI TO THE  
OKLAHOMA COURT OF CRIMINAL APPEALS**

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## APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioner respectfully requests a 30-day extension of time, up to and including February 25, 2022, to file a petition for writ of certiorari to the Oklahoma Court of Criminal Appeals to review the decision in *Wadkins v. State*, No. F-2018-790 (Okla. Crim. App. Oct. 28, 2021) (attached as Exhibit 1). The Court of Criminal Appeals issued its judgment and opinion on October 28, 2021.

This Court has jurisdiction to review the decision below under 28 U.S.C. § 1257(a). Unless extended, the time in which to file a petition for writ of certiorari will expire on January 26, 2022. This application is timely because it is being filed ten (10) days prior to the date on which the time for filing the petition expires. *See* Rule 13.5.

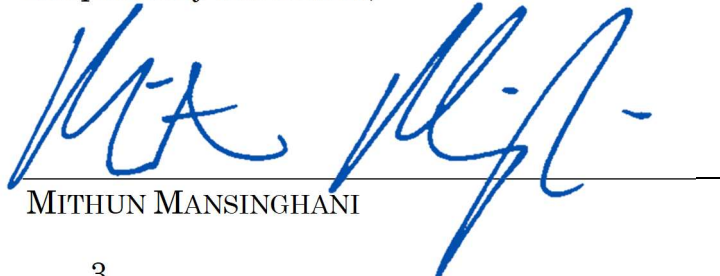
In this case, the Court of Criminal appeals reversed the conviction of an individual who was convicted of rape and kidnapping, holding that respondent was an “Indian” despite not being enrolled with any Indian tribe at the time he committed his crimes, and that therefore the state lacked jurisdiction pursuant to this Court’s decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020). *See* Exhibit 1 at 4-17. This case thus presents the same question as presented in other petitions pending before the Court and distributed for the conference of January 14, 2022, namely, whether *McGirt* should be overruled. *See, e.g., Oklahoma v. Castro-Huerta*, No. 21-429. This case also raises the additional question of who constitutes an “Indian” for purposes of jurisdiction under the Major Crimes Act, 18 U.S.C. § 1153—a question of

fundamental importance that has never been answered by this Court and that is the subject of significant disagreement among lower courts. *E.g.*, Exhibit 1 at 8 n.4.

Good cause exists for an extension. The result of this Court's January 14, 2022 conference, or any later conference in January addressing *Castro-Huerta* and other similar petitions, may materially inform or alter the content of the petition in this case. Moreover, the undersigned counsel of record, who was not counsel below, would benefit from additional time to draft a petition addressing the complex additional question raised in this case. In addition, counsel of record has several intervening deadlines in other cases including: oral argument in *Waterkeeper Alliance, Inc. v. Regan*, No. 20-5174 (D.C. Cir.); an appellate brief in *Oklahoma Call for Reproductive Justice v. O'Connor*, No. 119,918 (Okla.); and an appellate brief in *Okla. State Conf. of the NAACP v. O'Connor*, No. 21-6156 (10th Cir.). An extension of time to file a petition would meaningfully improve the ability of the undersigned counsel to file a well-written and well-researched petition for certiorari to this Court.

For the foregoing reasons, petitioner respectfully request that the time for filing a petition for writ of certiorari in this case be extended by 30 days, up to and including February 25, 2022.

Respectfully submitted,



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January 14, 2022