

IN THE SUPREME COURT OF THE UNITED STATES

No.

STATE OF OKLAHOMA, APPLICANT

v.

VICTOR MANUEL CASTRO-HUERTA

APPLICATION FOR LEAVE TO FILE A REPLY BRIEF
IN EXCESS OF THE WORD LIMIT

Pursuant to Rules 22 and 33.1(d) of the Rules of this Court, petitioner requests leave to file a reply brief at the certiorari stage in Oklahoma v. Castro-Huerta, No. 21-429, in excess of the word limit. Petitioner is seeking an extension of the word limit from 3,000 words to 4,500 words. Counsel for respondent has informed counsel for petitioner that respondent opposes this application.

1. The petition in this case arises in the wake of this Court's recent decision in McGirt v. Oklahoma, 140 S. Ct. 2452 (2020), holding that Congress had not disestablished the Creek reservation and thus that the historical Creek territory in Oklahoma constitutes "Indian country" for purposes of the Major Crimes Act, 18 U.S.C. 1153. Respondent, a non-Indian, was convicted of severely neglecting his five-year-old stepdaughter, an enrolled member of the Eastern Band of Cherokee Indians. In the decision below, the Oklahoma Court of Criminal Appeals vacated respondent's conviction on the ground that the crime occurred within the bounds

of the historical Cherokee reservation. In reaching that decision, the court held that McGirt extends beyond the confines of the Major Crimes Act to all crimes committed by non-Indians against Indians in Indian country. Petitioner contends that the decision of the Oklahoma Court of Criminal Appeals was erroneous and seeks this Court's review of two questions: first, whether a State has authority to prosecute non-Indians who commit crimes against Indians in Indian country, and second, whether McGirt should be overruled.

Petitioner has filed numerous other petitions for writs of certiorari on the identical questions presented, asking the Court to hold those petitions pending the disposition of this petition and referring the Court to the briefing in this case. See Oklahoma v. Brown, No. 21-251; Oklahoma v. Kepler, No. 21-252; Oklahoma v. Hathcoat, No. 21-253; Oklahoma v. Mitchell, No. 21-254; Oklahoma v. Jackson, No. 21-255; Oklahoma v. Starr, No. 21-257; Oklahoma v. Davis, No. 21-258; Oklahoma v. Howell, No. 21-259; Oklahoma v. Williams, No. 21-265; Oklahoma v. Mize, No. 21-274; Oklahoma v. Bain, No. 21-319; Oklahoma v. Perry, 21-320; Oklahoma v. Johnson, No. 21-321; Oklahoma v. Harjo, No. 21-322; Oklahoma v. Spears, No. 21-323; Oklahoma v. Grayson, No. 21-324; Oklahoma v. Janson, No. 21-325; Oklahoma v. Sizemore, No. 21-326; Oklahoma v. Ball, No. 21-327; Oklahoma v. Epperson, No. 21-369; Oklahoma v. Stewart, No. 21-370; Oklahoma v. Jones, No. 21-371; Oklahoma v. Cooper, No. 21-372; Oklahoma v. Beck, No. 21-373; Oklahoma v. Jones, No. 21-451; Oklahoma v. McCombs, No. 21-484; Oklahoma v. McDaniel, No. 21-485; Oklahoma v. Shriver, No. 21-486; Oklahoma v. Martin, No. 21-487; Oklahoma v. Fox, No. 21-488; Oklahoma v. Cottingham, No. 21-502;

Oklahoma v. Miller, No. 21-643; Oklahoma v. Ball, No. 21-644; Oklahoma v. Ned, No. 21-645; Oklahoma v. Leathers, No. 21-646; Oklahoma v. Perales, No. 21-704; Oklahoma v. Yargee, No. 21-705; Oklahoma v. Little, No. 21-734.

2. The brief in opposition in this case was filed on November 15, and amicus briefs in support of respondent are due on November 22. Unusually, and reflecting the extraordinary importance of this case, numerous amicus briefs have been filed in support of respondent even at the certiorari stage. To date, the Cherokee Nation and the Creek Nation have filed amicus briefs in support of respondent, and the Chickasaw Nation and Choctaw Nation have filed a joint amicus brief. Those briefs make a number of distinct arguments to those made by respondent in his brief in opposition. Petitioner anticipates that additional amicus briefs may be filed by the November 22 deadline, including by the United States, which previously filed an uninvited amicus brief opposing a stay of the mandate in a related case. See U.S. Br., Oklahoma v. Bosse, No. 20A161.

3. In order to ensure that petitioner can adequately respond to the many arguments raised by respondent and amici here, petitioner respectfully requests that the word limit for its certiorari-stage reply brief in this case be extended from 3,000 words to 4,500 words. The requested extension would have the added benefit of allowing petitioner to respond, in a single reply brief in this case, to arguments made in briefing in the other pending cases, including briefs in opposition filed by respondents who are

represented by different counsel than respondent here. See Oklahoma v. Perry, No. 21-320; Oklahoma v. Davis, No. 21-258. To ensure an orderly and complete presentation of the arguments, petitioner's application for leave to file a certiorari-stage reply brief in excess of the word limit should be granted.

Respectfully submitted.

KANNON K. SHANMUGAM
Counsel of Record
PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP
2001 K Street, N.W.
Washington, DC 20006
(202) 223-7300

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