

IN THE SUPREME COURT OF THE UNITED STATES

No. 21-429

STATE OF OKLAHOMA, PETITIONER

v.

VICTOR MANUEL CASTRO-HUERTA

ON WRIT OF CERTIORARI
TO THE OKLAHOMA COURT OF CRIMINAL APPEALS

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE
IN ORAL ARGUMENT AS AMICUS CURIAE, FOR DIVIDED ARGUMENT,
AND FOR ENLARGEMENT OF TIME FOR ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case as an amicus curiae supporting respondent; that the time allotted for oral argument be enlarged to 70 minutes; and that the time be allotted as follows: 35 minutes for petitioner, 20 minutes for respondent, and 15 minutes for the United States. Petitioner and respondent both consent to this motion.

This case concerns whether, absent specific statutory

authorization, a State has jurisdiction, concurrent with the United States, over crimes committed by non-Indians against Indians in Indian country. The United States has filed a brief as amicus curiae supporting respondent, arguing that absent specific congressional authorization, States lack jurisdiction over such crimes. In particular, the United States contends that the text and history of 18 U.S.C. 1152 indicate that it generally provides the United States with exclusive jurisdiction over such crimes; that Congress, this Court, and the Executive Branch have long understood that States lack concurrent jurisdiction over such crimes absent specific congressional authorization; and that no sound basis exists to disturb that longstanding allocation of criminal jurisdiction, which generally governs in Indian country throughout the Nation.

The United States has a substantial interest in the allocation of criminal jurisdiction in Indian country. This Court invited the Solicitor General to file a brief expressing the views of the United States on this same question of criminal jurisdiction in Arizona v. Flint, 492 U.S. 911 (1989).

The United States has previously presented oral argument as amicus curiae in prior cases considering the allocation of criminal and civil jurisdiction among Tribes, the States, and the United States. E.g., McGirt v. Oklahoma, 140 S. Ct. 2452 (2020); Sharp v. Murphy, 140 S. Ct. 2412 (2020); Nebraska v. Parker, 577 U.S. 481 (2016); Plains Commerce Bank v. Long Family Land & Cattle Co.,

554 U.S. 316 (2008); Nevada v. Hicks, 533 U.S. 353 (2001); South Dakota v. Yankton Sioux Tribe, 522 U.S. 329 (1998); Hagen v. Utah, 510 U.S. 399 (1994); Duro v. Reina, 495 U.S. 676 (1990). The United States' participation in oral argument is therefore likely to be of material assistance to the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

APRIL 2022