

APPENDIX A

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

LYLE QUINTON BROWN,

Petitioner,

v.

STATE OF OKLAHOMA,

Respondent.

SEP 29 2021

JOHN D. HADDEN
CLERK

No. PC-2020-338

ORDER DENYING POST-CONVICTION RELIEF

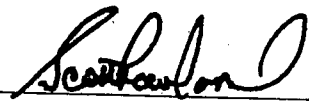
The Petitioner, pro se, appealed to this Court from an order of the District Court of Coal County in Case No. CF-2006-64 denying his request for post-conviction relief pursuant to legal issues addressed in *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020). In *State ex rel. Matloff v. Wallace*, 2021 OK CR 21, ___ P.3d ___, this Court determined that the United States Supreme Court decision in *McGirt*, because it is a new procedural rule, is not retroactive and does not void final state convictions. See *Matloff*, 2021 OK CR 21, ¶¶ 27-28, 40.

The conviction in this matter was final before the July 9, 2020 decision in *McGirt*, and the United States Supreme Court's holding in *McGirt* does not apply. Therefore, Petitioner's request for post-


conviction relief is **DENIED**. All other motions and pleadings filed in this matter are **DENIED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2021), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

IT IS SO ORDERED.

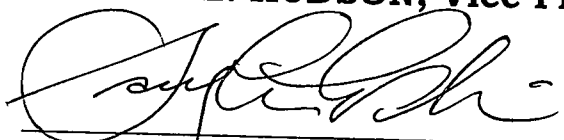
WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 29 day of September, 2021.



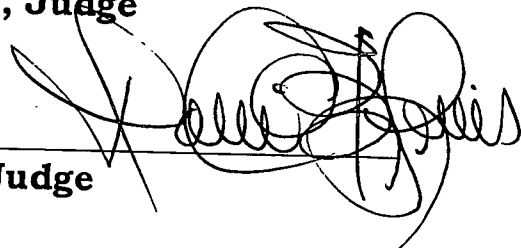
SCOTT ROWLAND, Presiding Judge



ROBERT L. HUDSON, Vice Presiding Judge



GARY L. LUMPKIN, Judge



DAVID B. LEWIS, Judge

ATTEST:



Clerk

PA

APPENDIX B

FILED
IN DISTRICT COURT
COAL COUNTY OKLAHOMA

FEB 23 2021

LADONNA FLOWERS, COURT CLERK
LJ DEPUTY

**IN THE DISTRICT COURT OF COAL COUNTY
STATE OF OKLAHOMA**

LYLE QUINTON BROWN,)
Petitioner,)
)
vs.)
)
)
STATE OF OKLAHOMA,)
Respondent.)

Case No. CF-2006-64
PC-2020-338

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On January 14, 2021, the above-captioned case came on for an evidentiary hearing pursuant to the remand order of the Oklahoma Court of Criminal Appeals issued December 2, 2020. Petitioner appeared pro se, via video, from the Oklahoma Department of Corrections, North Fork Correctional Center, Sayre, Oklahoma. Respondent appeared through Assistant District Attorney, Erik Johnson. The hearing was reported by Certified Court Reporter, Martin Delmont. The parties announced ready to proceed with the hearing.

This case was remanded to the District Court by the Oklahoma Court of Criminal Appeals to address only: (a) Petitioner's Indian status and (b) whether the crime he was convicted of occurred within the boundaries of Indian Country. To determine the Petitioner's status as an Indian the District Court must determine whether (1) Petitioner has some Indian blood, and (2) is recognized as an Indian by a tribe or the federal government.

FINDINGS OF FACT

1. On April 3, 2007, the Petitioner was found guilty by a jury to the crime of Murder in the First Degree, in violation of Title 21 O.S. § 701.7 and was sentenced to life imprisonment, without parole.
2. On March 26, 2020, Petitioner filed a third Application for Post-Conviction Relief claiming the District Court lacked jurisdiction to try him because he was a member of the Chickasaw Nation of Oklahoma and his crime was committed within the boundaries of the Choctaw Nation of Oklahoma.
3. On April 23, 2020, the District Court entered an order denying Petitioner's Application, finding his jurisdictional claim was premature and not ripe for consideration.

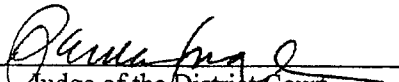
Ladonna Flowers, Court Clerk for Coal County, C
hereby certify that the foregoing is a true, correct and
complete copy of the instrument herewith set out.
appears on record in the District Court Clerk's Office
of Coal County, Oklahoma, this 23 day
February 20 21
Ladonna Flowers, Court Clerk By *LJ* Dep

3. Subsequently, the United States Supreme Court issued a decision in *McGirt v. Oklahoma*, 591 U.S. ___, 140 S.Ct. 2452 (2020), requiring fact-finding by the District Court to address the jurisdictional claim raised by the Petitioner in light of the *McGirt* decision.
4. The Petitioner has proven he has 15/32 Indian blood quantum of the Chickasaw tribe as evidenced by a Certificate of Indian Blood issue by the federal Bureau of Indian Affairs, and therefore, the District Court finds the Petitioner has "some Indian blood." See Court's Exhibit 1.
5. Petitioner has provided his Chickasaw Nation Tribal Citizenship Identification card issued on May 2, 2019, (13 years after the murder was committed), and therefore finds the Petitioner is **currently** recognized as an Indian by the Chickasaw Nation. See Court's Exhibits 1 and 2.
6. Petitioner's crime occurred in the Town of Cottonwood, Coal County, Oklahoma, which is within the boundaries of the Choctaw Nation of Oklahoma as set forth in the 1830 Treaty of Dancing Rabbit Creek between the United States and the Choctaw Nation. Article 4 of the Treaty granted the Choctaw people jurisdiction and self-governance of all persons and property within the boundaries of the Choctaw Nation.
7. The Choctaw Nation is a federally recognized Indian tribe that exercises sovereign authority under a constitution approved by the Secretary of Interior.
8. No evidence was presented that the Indian treaties have been formally nullified or modified to reduce or cede the Choctaw lands to the United States or to any other state or territory.

CONCLUSIONS OF LAW

9. Petitioner has "some Indian (Chickasaw) blood" and at least as of May 2, 2019, is recognized as a Chickasaw Nation citizen.
10. Applying the reasoning used by the United States Supreme Court in *McGirt*, the wording of the treaties demonstrate the Choctaw lands were set aside for the Choctaw people and their descendants. The Choctaws were also assured the right of self-government on lands that would lie outside both the legal jurisdiction and geographic boundaries of any state. Thus establishing a reservation for the Choctaw Nation.
11. The Supreme Court in *McGirt* held the constitutional authority to breach a Treaty belongs to Congress alone once a reservation has been established. There was no evidence presented that the Congress has disestablished the Choctaw Nation reservation.
12. The Petitioner's crime occurred within the boundaries of the Choctaw Nation of Oklahoma, i.e., Indian Country.

IT IS SO ORDERED.



Judge of the District Court

cc: State

Defendant (certified copy), Lyle Brown #556994, 1605 E. Main Street, Sayre, Oklahoma
73662.

APPENDIX C

On March 26, 2020, Petitioner filed the instant application for post-conviction relief in the District Court. Petitioner's propositions included a claim that the District Court lacked jurisdiction to try him because he is a member of the Chickasaw Nation of Oklahoma and his crime was committed within the boundaries of the Chickasaw Nation. On April 23, 2020, the District Court entered an order denying Petitioner's application finding his jurisdictional claim was premature and not ripe for consideration.

The Supreme Court has issued a decision in *McGirt v. Oklahoma*, 591 U.S. ___, 140 S.Ct. 2452 (2020). Pursuant to *McGirt*, Petitioner's claim raises two separate questions: (a) his Indian status and (b) whether the crime occurred in Indian Country. These issues require fact-finding. We therefore **REMAND** this case to the District Court of Coal County, the Honorable Paula Inge, District Judge, for an evidentiary hearing and further proceedings to address Petitioner's claims in light of the *McGirt* decision. The evidentiary hearing shall be held within sixty (60) days from the date of this order.

We request the Attorney General and District Attorney work in coordination to effect uniformity and completeness in the hearing

process. Upon Petitioner's presentation of prima facie evidence as to the Petitioner's legal status as an Indian and as to the location of the crime in Indian Country, the burden shifts to the State to prove it has subject matter jurisdiction.

The hearing shall be transcribed, and the court reporter shall file an original and two (2) certified copies of the transcript with the District Court clerk within twenty (20) days after the hearing is completed. The District Court shall make written findings of fact and conclusions of law, to be submitted to this Court within twenty (20) days after the filing of the transcripts in the District Court. The District Court shall address only the following issues:

First, Petitioner's status as an Indian. The District Court must determine whether (1) Petitioner has some Indian blood, and (2) is recognized as an Indian by a tribe or the federal government.¹

Second, whether the crime occurred within the boundaries of Indian Country. The District Court is directed to follow the analysis set

¹ See *United States v. Diaz*, 679 F.3d 1183, 1187 (10th Cir. 2012); *United States v. Prentiss*, 273 F.3d 1277, 1280-81 (10th Cir. 2001). See generally *Goforth v. State*, 1982 OK CR 48, ¶ 6, 644 P.2d 114, 116.

out in *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020). In making this determination the District Court should consider any evidence the parties provide, including but not limited to treaties, statutes, maps, and/or testimony.

The District Court Clerk shall transmit the record of the evidentiary hearing, the District Court's findings of fact and conclusions of law, and any other materials made a part of the record to the Clerk of this Court, and counsel for Petitioner, within five (5) days after the District Court has filed its findings of fact and conclusions of law in the District Court. Upon receipt thereof, the Clerk of this Court shall promptly deliver a copy of that record to the Attorney General. A supplemental brief, addressing only those issues pertinent to the evidentiary hearing and limited to twenty (20) pages in length, may be filed by either party with the Clerk of this Court within twenty (20) days after the District Court's written findings of fact and conclusions of law are filed in this Court.

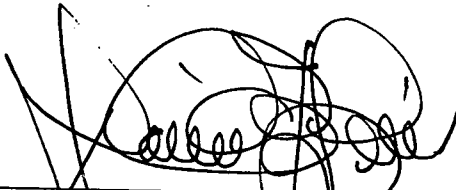
Provided however, if the parties agree what the evidence will show with regard to the questions presented, they may enter into a written stipulation setting forth those facts upon which they agree and which

answer the questions presented and provide the stipulation to the District Court. In this event, no hearing on the questions presented is necessary. Transmission of the record regarding the matter, the District Court's findings of fact and conclusions of law and supplemental briefing shall occur as set forth above.

IT IS FURTHER ORDERED that the Clerk of this Court shall transmit copies of the following, with this Order, to the District Court of Coal County: Petitioner's Petition in Error and Brief in Support filed with the Clerk of this Court on May 19, 2020.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 2nd day of December, 2020.



DAVID B. LEWIS, Presiding Judge



DANA KUEHN, Vice Presiding Judge



GARY L. LUMPKIN, Judge

Robert L. Hudson

ROBERT L. HUDSON, Judge

Scott Rowland

SCOTT ROWLAND, Judge

ATTEST:

John D. Hadden

Clerk

PB