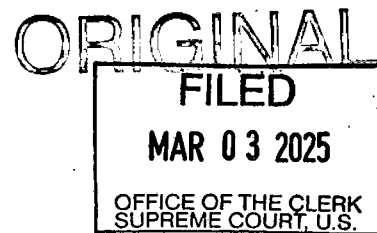


No. 24-6955



IN THE
SUPREME COURT OF THE UNITED STATES

In re Dexter Leemon Johnson

"No court has ruled on merits of issues presented"
(Name of court that last ruled on merits)

ON PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO SUPREME COURT
RULE 20(1)(2)&(4)

Dexter Johnson # 244661, PRO SE
129 Conner Rd
Hominy, Oklahoma 74035
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QUESTION(S) PRESENTED

1. ALL OKLAHOMA LAWS ARE VOID DUE TO ITS ADMISSION INTO THE UNION BEING REPUGNANT TO ART. IV, § 3 of U.S. CONSTITUTION
2. PURSUANT TO SUPREME COURT PRECEDENT THIS COURT HAS ART. III & ART. VI DUTY TO EXAMINE AS JUSTICIABLE ISSUE PETITIONER'S CHALLENGE TO OKLAHOMA'S LEGAL EXISTENCE
3. PURSUANT TO SUPREME COURT PRECEDENT CONVICTION UNDER A VOID LAW CANNOT BE LEGAL CAUSE OF IMPRISONMENT
4. CONVICTION IS VOID AS DENIAL OF DUE PROCESS IN THAT ART. 1, § 3 OF OK CONST. AND SECTION 3 OF OK. ENABLING ACT PROHIBITS OKLAHOMA FROM EXERCISING JURISDICTION ON INDIAN LAND

QUESTION(S) PRESENTED

5. PURSUANT TO SUPREME COURT PRECEDENT AND 14th AMENDMENT NO COURT CAN ACT WITHOUT JURISDICTION
6. PURSUANT SUPREME COURT PRECEDENT JURISDICTIONAL DEFECTS MUST BE ADDRESSED AND CORRECTED
7. AEDPA IS UNCONSTITUTIONAL AS APPLIED TO VOID JUDGMENT PETITIONER SUFFERED
8. STATE AND FEDERAL COURTS HAVE DENIED PETITIONER HIS 14th AMENDMENT RIGHT OF ACCESS TO COURT ON HIS NON-FRIVOLOUS CHALLENGE TO OKLAHOMA'S LEGAL EXISTENCE
9. McGirt+ CONSTITUTES RULE OF CONSTITUTIONAL LAW THAT OFFICIALLY CONFIRMED THAT OKLAHOMA IS LESS THAN A STATE DUE TO NOT BEING A SEPARATE INDEPENDENT BODY POLITIC

QUESTION(S) PRESENTED

10. PURSUANT TO ART. III AND ART. VI,
CL. 3 OF U.S. CONST. PETITIONER'S
CHALLENGE TO OKLAHOMA'S LEGAL
EXISTENCE REQUIRES THIS COURT
TO INTERPRET AND APPLY ART. IV, § 3
OF U.S. CONSTITUTION

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

State of Oklahoma,
represented by Attorney General
of Oklahoma

RELATED CASES

There are no cases wherein a judicial challenge has been made to the legal existence of a state. However, McGirt does confirm beyond doubt that Oklahoma is less than a state due to be governed by at least 6 different governments: State of Oklahoma and the FIVE distinct governments of FIVE CIVILIZED TRIBES. See McGirt v. Oklahoma, 140 S.Ct. 2452 (2020).

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OPINIONS BELOW

All relevant or related opinions are presented or listed in the attachment titled "EXHIBITS." To the best of Petitioner's knowledge, none of said opinions have been published in the Federal Reporter or elsewhere.

JURISDICTION

The jurisdiction of this Court is invoked under Supreme Court Rule 20(1)(2)&(4) and under 28 U.S.C. §§ 1651(a), 2241, 2242, & 2254(a)

Since a state (Oklahoma) is a party and Petitioner has made a prima facie showing that he is imprisoned in violation of the U.S. Constitution, this Court has original and appellate jurisdiction. See U.S. CONST. Art. III, § 2, cl. 2 & cl. 1.

Pursuant to S. Ct. Rule 29(4)(b) Petitioner certifies: due to the fact he is challenging as void Oklahoma's admission into the Union, 28 U.S.C. § 2403(a) may apply.

COMPLIANCE WITH SUPREME COURT
RULE 20(4)(a) AND 28 U.S.C. §§ 2241,
2242 AND 2254(a)(b)

Petitioner was prosecuted under the void laws of void State of Oklahoma, which is denial of due process in violation of 14th Amendment. Hence he is in compliance with the requirements of 28 U.S.C. §§ 2241(c)(3) and 2254(a).

With the exception of Questions ONE and FOUR, all grounds presented herein did not exist or become ripe for adjudication until after state court proceedings. As it regards exhaustion of Questions ONE and FOUR, Petitioner certifies that he has presented said questions of law to the state trial and appellate court(s). See Exhibit B and Exhibit C. Both state courts denied relief on the clearly erroneous claim that Petitioner failed to serve Respondent or adverse party. See Exhibits B, C. But

12 O.S.A. §1336 specifically charges the sheriff with duty of service on any person other than the sheriff, see 12 O.S.A. §1336 (If the writ be directed to any other person, it shall be delivered to the sheriff and shall be by him served by delivering to such person without delay). The fact that both state courts failed or refused to adjudicate merits of Questions ONE and FOUR herein does not change the fact both courts were given a full opportunity to resolve the constitutional violations raised. Accordingly, Petitioner has satisfied requirements of §2254(b).

As it regards making application to the district court and/or reasons for not making such application, Petitioner certifies that he did make application in the district court where he is held. See: Johnson v. Harding, Case No. 24-CV-97-GKF-MTS (N.D. of OK 2024). The N.D. dismissed Petitioner's 2254 petition as a time-barred, unauthorized

successive 2254 petition. See Exhibit 12. Pursuant to the last paragraph of § 2242 and S. Ct. Rule 20(4)(a), Petitioner has provided the Court with reason(s) for not presenting this habeas writ to the district court again.

Finally, Petitioner declares that adequate relief cannot be obtained in any other form or from any other court. Vertical stare decisis requires Supreme Court precedent to be followed by lower federal courts no matter how misguided judges of those courts may think it to be. U.S. v. Maloïd, 71 F.4th 795, 808 (10th Cir. 2023). Under Supreme Court precedent Petitioner has Art. III standing to challenge Oklahoma's legal existence and federal courts have Art. III and Art. VI DUTY to examine as a justiciable

issue Petitioner's challenge to the legal existence. See *Pacific States Telephone & Telegraph Co. v. State of Oregon*, 223 U.S. 118, 141-142, 32 S. Ct. 224 (1912) (every citizen of such state, or person subject to taxation therein, or owing any duty to the established government, may be heard for the purpose of assailing in a court of justice the rightful existence of the state. As a result, it becomes the duty of the courts of the United States, where such a claim is made, to examine as a justiciable issue the contention as to the illegal existence of a state). By way of FRCP 60(b)(4) Motion, successive 2254 Petition, Writ of Certiorari, and Motion For Authorization, Petitioner has presented his challenge to Oklahoma's legal existence to three Art. III courts: N.D. of OK, U.S. Supreme Court, and U.S. Court of Appeals for the Tenth Circuit. See Exhibit 12: Order from N.D. of OK.

in Case No. 24-CV-97-6KF-MTS
(Johnson v. Harding); Exhibit 13: Order
from Tenth Circuit denying COA in No. 24-
5048 (Johnson v. Harding); Exhibit E:
Order from Supreme Court denying
Certiorari in No. 23-5463 (Johnson v.
Oklahoma); and Exhibit F: Order from
Tenth Circuit denying 2244 Authorization
in No. 25-5001 (In re Dexter Johnson).

Despite having an Art. III duty to
interpret and apply the law, an Art. VI
duty to support the Constitution, and
a duty under Supreme Court precedent
to examine as a justiciable issue
Petitioner's challenge to Oklahoma's legal
existence, all of said Art. III courts
have denied him access to the courts
by refusing to adjudicate the merits of
his non-frivolous challenge to the legal
existence of Oklahoma. All of said
Art. III courts have in effect

imposed a de facto suspension of the
privilege of the writ of habeas corpus

with regard to Petitioner's well-founded challenge to Oklahoma's legal existence, which violates Art. 1, §9, cl. 2 of U.S. Constitution. Accordingly, adequate relief cannot be obtained in any other form or from any other court.

This case involves exceptional circumstances because no person has ever made a judicial challenge to the legal existence of a state nor has this Court or any other court ever adjudicated a challenge to a state's legal existence.

As demonstrated by the procedural history cited herein, this habeas writ is in compliance with Supreme Court Rule 20(4)(a) as well as in compliance with 28 U.S.C. §§ 2241, 2242, and 2254(a) (b).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST. Art. III, cl. 1 & 2

U.S. CONST. Art. IV, § 3

U.S. CONST. Art. VI, cl. 3

U.S. CONST. 14th Amendment

28 U.S.C. § 2241

28 U.S.C. § 2242

28 U.S.C. § 2254(a)(b)

U.S. CONST. Art. I, § 9

SUPREME COURT RULE 20

OK Enabling Act, § 3

OK CONST. Art. I, § 3

OK ST T. 12, § 1336

FRCP 60(b)(4)

OK ST T. 12, § 1331

STATEMENT OF THE CASE

On May 12, 2022, pursuant to 12 O.S.A. § 1331, Petitioner filed a writ of habeas corpus challenging the legal existence of Oklahoma. See Case No. WH-2022-03 (IN RE Habeas Corpus of Dexter Leemon Johnson). Said challenge is based on the fact that Oklahoma is governed by multiple governments and is hence less than a state (Oklahoma did not officially or judicially become less than a state until after the Supreme Court established clearly defined governmental and jurisdictional boundaries in *McGirt v. Oklahoma*). Case No. WH-2022-03 was filed in Osage County District Court in Pawhuska, Oklahoma. Relief was denied on April 19, 2023. See Exhibit B.

Petitioner appealed said denial to Ok. Ct. Crim. App., Case No. HC-2023-445. OCCA declined jurisdiction. See Exhibit C.

Both state courts held that

Petitioner failed to serve Respondent.
But 12 O.S.A. § 1336 specifically charges the sheriff with the duty to serve adverse parties. See 12 O.S.A. § 1336.

While waiting on a ruling from OCCA Petitioner filed a writ of mandamus in U.S. Court of Appeals for the Tenth Circuit, No. 23-7030. The Tenth Circuit denied relief on June 1, 2023. See Exhibit D.

After the OCCA declined jurisdiction on a clearly erroneous procedural ruling, Petitioner filed a writ of certiorari in U.S. Supreme Court on August 15, 2023, No. 23-5463. Relief was denied on October 30, 2023. See Exhibit E.

Petitioner's challenge to Oklahoma's legal existence was next presented to U.S. District Court ~~for~~ N.D. of OK, Case No. 24-CV-97-GKF-MTS. After ordering Petitioner to convert his

FRCP 60(b)(4) Motion into a 2254 petition, the N.D. dismissed, without prejudice, said 60(b)(4) motion as an unauthorized successive 2254 petition. See Exhibit 12. Petitioner appealed to the Tenth Circuit, where again another court denied him access to the courts on his challenge to the legal existence of Oklahoma. See Exhibit 13.

Next, Petitioner filed a motion for authorization in Tenth Circuit, No. 25-5001. Therein he again raised his nonfrivolous challenge to Oklahoma's legal existence. Again he was denied relief. See Exhibit F.

As it stands, state and federal courts have in effect held that "the courts are closed to Petitioner on his challenge to Oklahoma's legal existence." That is to say: he is not entitled to DUE PROCESS and equal protection of the law.

QUESTION ONE

In *McBirt v. Oklahoma* the U.S. Supreme Court established clearly defined governmental and jurisdictional boundaries in Oklahoma. See *McBirt v. Oklahoma*, 140 S.Ct. 2452 (2020). *McBirt* in effect confirmed that Oklahoma is governed by at least six different governments: State of Oklahoma and five separate governments of Five Civilized Tribes. As such, it is less than a state due to lack^{of} statewide jurisdiction. See 72 AM. JUR. 2d States, Etc. § 1 (The ordinary meaning of the term "state" envisions an entity having statewide jurisdiction rather than one having local or limited jurisdiction).

The "equal footing" requirement means Congress cannot admit an entity that is considered less than a currently existing state. See 72 AM. JUR. 2d States, Etc. § 17;

also see *Skiriotes v. Florida*, 313 U.S. 69, 77, 61 S.Ct. 924 (1941) (the power given to Congress by Section 3 of Art. IV of the Constitution to admit new states relates to only ~~the~~ such states as are equal to each other in power, dignity, and authority); *State v. L'Abbe*, 2014 Idaho Ct. App., 324 P.3d 1016, 1020 (For a state to be admitted, it must already exist as a separate political body); *Admission of West Virginia*, 10 U.S. Atty. Gen. 426, 427 (1862) (Congress cannot admit into this Union any territory, district, or other political entity, less than a state. And such State must exist, as a separate independent body politic, BEFORE it can be admitted under that clause of the Constitution, and there is no other clause).

Accordingly, Congress exceeded the power granted to it by Art. IV, § 3 of U.S. Constitution when it admitted

Oklahoma into the Union as a political entity less than a state.

In addition to exceeding its power under Art. IV, § 3 of U.S. Constitution, Congress invaded the province of the PEOPLE by forming and creating the State of Oklahoma. See *Murphy v. Royal*, 875 F.3d 896, 933-934, 936 (10th Cir. 2017) (In 1890, Congress carved the Territory of Oklahoma out of the western half of the Indian Territory; the enabling act provided that the laws in force in the Territory of Oklahoma shall extend over and apply to said new State. Oklahoma entered the Union in 1907). "Congress, by Art. IV, § 3, of the Constitution, has power to ADMIT new States into the Union, but cannot make, form, or create new States. A free, American State can be made ONLY BY its component members — THE PEOPLE,"

Admission of West Virginia, *supra*, 10 U.S. Op. Atty. Gen. 426, 426 (1862). Also see *Virginia v. West Virginia*, 78 U.S. 39 (1870) (explaining that a city or state can only be made by

the people through popular vote in a valid election to be certified by the governor).

Since Congress invaded the province of the PEOPLE by forming and creating the State of Oklahoma and exceeded its jurisdiction by admitting Oklahoma into the Union as a political entity less than a STATE, its creation and admission of Oklahoma into the Union ARE VOID as being repugnant to Art. IV, § 3 and Art. VI, cl. 3 of U.S. Constitution (when Congress violated Art. IV, § 3 it automatically violated its Art. VI, cl. 3 duty to support the U.S. Constitution). See, e.g., Marbury v. Madison, 5 U.S. 137, 177 (1803) (any act of the legislature repugnant to the Constitution is void); McCulloch v. Maryland, 17 U.S. 316, 437 (1819) (same); Moore v. Harper, 600 U.S. 1, 20, 143 S. Ct. 2065 (2023) (same). It follows that all laws made under the authority of "ILLEGAL" State of Oklahoma are void ab initio. See 16A AM. JUR. 2d CONST. LAW § 194.

QUESTION TWO

In Question ONE Petitioner made a well-founded challenge to Oklahoma's legal existence.

The U.S. Supreme Court has determined to be clearly established Federal law that: Federal courts have Art. III duty to examine as a justiciable issue a person's challenge to the legal existence of a state. See *Pacific States Telephone & Telegraph Co. v. State of Oregon*, 223 U.S. 118, 142-143, 32 S. Ct. 224 (1912) (every citizen of a state, or person subject to taxation therein, or owing any duty to the established government, may be heard for the purpose of assailing in a court of justice the rightful existence of the state. As a result, it becomes the duty of the courts

of the United States, where such a claim is made, to examine as a justiciable issue the contention as to the illegal existence of a state).

Accordingly, pursuant to Supreme Court precedent this tribunal has an Art. III and Art. VI, cl. 3 duty to examine as a justiciable issue Petitioner's non-frivolous challenge to the legal existence of Oklahoma. That is to say, this Court has a constitutional duty to rule on merits of Petitioner's challenge to Oklahoma's legal existence. Failure to do so will constitute or demonstrate an excess of jurisdiction, see 20 AM. JUR. 2d Courts § 41.

QUESTION THREE

In Question ONE Petitioner challenged as void ALL Oklahoma laws due to its admission into the Union being contrary to Art. IV, § 3 of U.S. Constitution.

The U.S. Supreme Court has determined to be clearly established Federal law that: conviction under a void law cannot be a legal cause of imprisonment. See *Ex parte Siebold*, 100 U.S. 371, 376-377 (1879) (An unconstitutional law is void, and as no law. An offence created by it is not a crime. A conviction under it is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment); *Montgomery v. Louisiana*, 577 U.S. 190, 203, 136 S.Ct. 718 (2016) (same).

Since all Oklahoma laws are void,
Petitioner is entitled by the 14th
Amendment to be discharged from
his conviction thereunder.

QUESTION FOUR

The enabling act for a state is the fundamental law of that state and is superior to that state's constitution, and its terms may not be altered or disregarded without an act of Congress. See 72 AM. JUR. 2d States, Etc. § 16.

Section 3 of the Oklahoma Enabling Act provides in part: "That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, tribe, or nation." Art. 1, § 3 of OK CONST. states the same.

Disclaim, as that term is interpreted by the U.S. Supreme Court, means the person or entity is excluded from exercising jurisdiction on or over the thing disclaimed. See Pollard v. Hagan, 44 U.S. 212, 234 (1845) (disclaimer

means Alabama is excluded from any interest in the land or property disclaimed). A criminal defendant, for example, disclaims his right to a jury trial by entering a proper plea of guilty.

Muskogee, Oklahoma is where Petitioner was convicted. In *McGirt* the U.S. Supreme Court held that Muskogee is part of an Indian Reservation (Muscogee Creek Nation). See *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020). Oklahoma "forever disclaimed" right to all Indian owned or held land(s) within its boundaries. see OK ENABLING ACT, §3 & OK CONST. Art. 1, §3. Hence Oklahoma lacked jurisdiction to prosecute Petitioner on Indian owned land of Muskogee, Oklahoma. Which renders void his judgment of conviction.

QUESTION FIVE

In Questions ONE and FOUR Petitioner challenged Oklahoma's jurisdiction based on Oklahoma having a void legal existence and based on the fact the OK CONST (Art. 1, § 3) and OK Enabling Act (Section 3) prohibits Oklahoma from exercising jurisdiction on Indian owned or held land within the boundaries of Oklahoma.

The U.S. Supreme Court has determined to be clearly established Federal^{law} that, "No court can do any act in any case without jurisdiction. It makes no difference at what point in the cause the jurisdiction ceases. After it has ceased, no judicial act can be performed," Ex parte McCordle, 74 U.S. 506, 511-512 (1868).

Since Oklahoma lacked jurisdiction, Petitioner's judgment is void.

QUESTION SIX

Oklahoma is less than a State due to being governed by several governments. Hence its admission into the Union is void as being repugnant to Art. IV, § 3 of U.S. Constitution. Its void admission renders void ALL Oklahoma laws. See QUESTION ONE.

Accordingly, Oklahoma lacked personal and subject matter jurisdiction to prosecute Petitioner under void laws of void State of Oklahoma.

The U.S. Supreme Court has determined to be clearly established Federal law that: Defects in subject matter jurisdiction can never be forfeited or waived, and require correction, regardless of whether error was raised in district court. U.S. v. Cotton, 535 U.S. 625, 630,

122 S.Ct. 1781 (2002); Caterpillar Inc. v. Lewis, 519 U.S. 61, 76-77, 117 S.Ct. 467 (1996) (If, at the end of the day and case, a jurisdictional defect remains uncured, the judgment must be vacated).

Accordingly, this Court has duty under Art. III, § 2, Art. VI, cl. 3, and a duty under 14th Amendment to rectify the jurisdictional defect Petitioner suffered by being prosecuted under void law of void state of Oklahoma.

QUESTION SEVEN

Petitioner's conviction is void due to him being prosecuted under void laws of void State of Oklahoma. It's also void because the OK Enabling Act (Section 3) and OK CONST (Art. 1, §3) prohibits Oklahoma from exercising jurisdiction on Indian owned or held land. See QUESTIONS ONE, FOUR.

Due to its status as a legal nullity the 14th Amendment prohibits (1) enforcement of a void judgment and (2) prohibits time limitations from being placed on challenge(s) to void judgment. See, e.g., *Hurtado v. California*, 110 U.S. 516, 518, 4 S.Ct. 111 (1884) (enforcement or execution of void judgment deprives plaintiff in error of his life, liberty,

or property without due process of law); U.S. v. One Toshiba Color Television, 213 F.3d 147, 157 (3d Cir. 2001) (Nearly overwhelming authority exists for the proposition that there are no time limits with regards to a challenge to a void judgment because of its status as a nullity).

Since no passage of time can transmute a nullity into a binding judgment and since 14th Amendment ~~inherently~~ prohibits enforcement of a void judgment, AEDPA's one-year limitation's period is unconstitutional as applied to void judgment Petitioner suffered. And since constitutional mandates supersede contrary common-law rules ^{and} statutes, AEDPA's one-year limitation(s) period must yield to the 14th Amendment's prohibition

against enforcement, execution, or affirmation of a void judgment. See, e.g., 16 AM. JUR. 2d CONSTITUTIONAL LAW § 2 (the people's constitutional standards must always prevail over the legislature's statutory standards. And where a statute or other rule and a constitutional provision are in conflict, the constitutional provision must prevail).

QUESTION EIGHT

Central meaning of procedural due process "is that parties whose rights are to be affected are entitled to be heard. *Fuentes v. Shevin*, 407 U.S. 67, 80, 92 S.Ct. 1983 (1972). Prisoners have 14th Amendment right of access to the courts. See *Johnson v. Avery*, 392 U.S. 483, 485, 89 S.Ct. 747 (1969) (it is fundamental that access of prisoners to the courts for the purpose of presenting their complaints may not be denied or obstructed); *Lewis v. Casey*, 518 U.S. 343, 349, 116 S.Ct. 2174 (1996) (It is the role of courts to provide relief to claimants, in individual or class actions, who have suffered, or will imminently suffer, actual harm).

In State and Federal court
Petitioner has presented his

non-frivolous, well-founded challenge to Oklahoma's legal existence. See: In re Habeas Corpus of Dexter Leemon Johnson, Case No. WH-2022-03; Johnson v. Oklahoma, Case No. HC-2023-445; Johnson v. Harding, Case No. 24-CV-97-GKF-MTS; Johnson v. Oklahoma, No. 23-5463.

Neither court ruled on the merits nor applied a valid procedural bar (AEDPA cannot prevent a challenge to a void judgment and Petitioner's challenge to Oklahoma legal existence ~~does~~ not qualify as a successive habeas claim). Accordingly, State and Federal courts have literally denied Petitioner his 14th Amendment right to be heard and his right of access to the courts on his challenge to Oklahoma's legal existence. This

egregious denial of Petitioner's fundamental constitutional right to be heard is accentuated and aggravated by the fact ALL Art. III courts have Art. III and Art. VI, cl. 3 duty to rule on merits of his challenge to legal existence of Oklahoma. See Pacific States, supra, 223 U.S. at 142 (courts of the United States have a duty to examine as a justiciable issue the contention as to the illegal existence of a state wherever such a claim is made).

QUESTION NINE

In *McGirt v. Oklahoma* the U.S. Supreme Court established clearly defined governmental and jurisdictional boundaries within Oklahoma. See *McGirt v. Oklahoma*, 591 U.S. 894, 140 S. Ct. 2452 (2020).

Moreover, the *McGirt* decision conclusively confirmed that Oklahoma is governed by multiple governmental entities: State of Oklahoma and the five separate governments of **FIVE** Civilized Tribes. **As** such, it is less than a state due to lack of statewide jurisdiction. See 72 AM. JUR. 2d States, Etc. § 1 (The ordinary meaning of the term "state" envisions an entity having statewide jurisdiction rather than one having local or limited jurisdiction). Under Art. IV, § 3 of

U.S. Constitution no political entity less than a state can be admitted into the Union by Congress. See Act For The Admission of West Virginia Into The Union, 10 U.S. Op. Atty. Gen. 426, 426-427 (1862); also see L'Abbe, *supra*, 324 P.3d at 1020 (For a state to be admitted, it must already exist as a separate political body); Skiriotes, *supra*, 313 U.S. at 77 (same).

McGirt was decided in 2020, which was over 20 years after petitioner's conviction became final in 1997. Accordingly, McGirt constitutes a new rule of constitutional law. And since it is a substantive rule, McGirt is retroactive to even cases that became final before McGirt. See *Montgomery*, *supra*, 577 U.S. at

203(a court has no authority to leave in place a conviction or sentence that violates a substantive rule, regardless of whether the conviction or sentence became final before the rule was announced).

Furthermore, petitioner could not have discovered McGirt through the exercise of due diligence because it did not become available until over 20 years after his conviction became final in 1997.

QUESTION TEN

In Question ONE Petitioner challenges the legal existence of Oklahoma. The **challenge** is based on the contention that Oklahoma's admission into the Union is void. A state can only be admitted into the **Union** under Art. IV, § 3 of the U.S. Constitution. See Admission of West Virginia, *supra*, 10 U.S. Op. Atty. Gen. 426 at 426-427. Hence this Court has a duty under Art. III, § 2 and under Art. VI, cl. 3 of U.S. Constitution to interpret Art. IV, § 3 and then apply that interpretation to Petitioner's challenge to Oklahoma's legal existence. See *Marbury, supra*, 5 U.S. at 177 (It is emphatically

the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each); also see 20 AM. JUR. 2d Courts § 39 (Courts are created to ascertain the facts in a controversy and to determine the rights of parties according to justice).

REASONS FOR GRANTING THE PETITION

Habeas should be granted to address the fact that Congress invaded the province of the PEOPLE by forming, making, and/or creating the illegal State of Oklahoma. Only the component members of a territory—THE PEOPLE—can make a free American ~~state~~, through popular vote at a valid election to be certified by the governor or president of a state's constitutional convention. To hold otherwise would be to determine that Congress is higher than and un-obligated to the PEOPLE and Constitution that created it, which demonstrates a dictatorship, or a government above the law.

Accordingly, Habeas should be granted because this case will show America and the rest of the world,

Once and for all, whether the United States is a democracy merely in name or a dictatorship in effect and operation. Not to mention the fact this case will inevitably affect the day to day life of EVERYBODY inhabiting Oklahoma (not just prisoners). It will also affect other states governed and constituted like Oklahoma (Wash & Montana & South Dakota to name a few). Thus, it is a matter of national importance.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Dexter L. Johnson

Date: February 13, 2025