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IN THE  
SUPREME COURT OF THE UNITED STATES

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JIMMY DALE STONE – PETITIONER

vs.

DAVID LOUTHAN, WARDEN – RESPONDENT

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ON PETITION FOR A WRIT OF CERTIORARI  
TO THE 10<sup>TH</sup> CIRCUIT COURT OF APPEALS

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PETITION FOR WRIT OF CERTIORARI

Jimmy Dale Stone  
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## QUESTIONS PRESENTED

- 1) Did the Tenth Circuit Court of Appeals violate 28 U.S.C. § 2254 and the Due Process Clause by denying Jimmy Dale Stone's petition for a COA and finding his federal habeas corpus petition was untimely filed, despite his argument that state post-conviction relief tolled the statute of limitations and he was diligent in pursuing his rights?
- 2) Does the doctrine of equitable tolling provide a sufficient remedy for prisoners who are unable to comply with statutory deadlines due to extraordinary circumstances, such as prison lockdowns and limited access to legal resources?
- 3) Did the Western District of Oklahoma err in failing to recognize and apply federal treaties and laws regarding Indian Country status and jurisdiction in Oklahoma, and did the Tenth Circuit Court of Appeals correctly affirm this error by allowing Oklahoma to assert state jurisdiction over lands reserved for Indian tribes and extinguish their rights?

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page

## RELATED CASES

*Stone v. Harvonek*, No. 23-6069 (D.C. No. 5:22-CV-00661-J)(W.D. Okla.), United States Court of Appeals for the Tenth Circuit, Order Denying Certificate of Appealability

*Stone v. Harvonek*, No. CIV-22-661-J, United States District Court Western District of Oklahoma, Order

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**IN THE**  
**SUPREME COURT OF THE UNITED STATES**  
**PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

The opinion of the Tenth Circuit Court of Appeals appears at Appendix A to the petition and is unpublished.

The opinion of the Western District of Oklahoma appears at Appendix B to the petition and is unpublished.

**JURISDICTION**

The date on which the Tenth Circuit Court of Appeals decided my case was February 2, 2024.

The date on which the Tenth Circuit Court of Appeals decided my motion for rehearing was April 24, 2024.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS**

28 U.S.C. § 1254(a) (Jurisdiction)

U.S. Const. amend. XIV

## I. INTRODUCTION

This petition presents a question of significant importance regarding the application of equitable tolling principles in federal habeas corpus proceedings. The Tenth Circuit's decision below conflicts with the totality of circumstances approach adopted by other circuits and undermines the spirit of equitable tolling, which is designed to promote fairness and justice.

Equitable tolling is a critical doctrine in federal habeas corpus proceedings, as it allows prisoners to seek relief when extraordinary circumstances prevent them from filing their petitions in a timely manner. The doctrine is grounded in the principle that justice should not be delayed or denied due to circumstances beyond a prisoner's control. In order to ensure that this principle is upheld, courts must adopt a flexible and nuanced approach to determining when equitable tolling is appropriate.

Unfortunately, the Tenth Circuit's decision below falls short of this standard. The court's rigid and inflexible application of the statute of limitations fails to take into account the unique circumstances of each case and ignores the extraordinary efforts made by prisoners to pursue their legal rights despite the obstacles they face. This approach undermines the very purpose of equitable tolling, which is to provide relief to prisoners who are unable to comply with statutory deadlines due to circumstances beyond their control.

In contrast, other circuits have adopted a more balanced approach to equitable tolling, recognizing that each case must be evaluated on its own facts and circumstances. This totality of circumstances approach takes into account the prisoner's diligence in pursuing their claims, the reasonableness of their efforts, and the extraordinary nature of the circumstances that prevented them from filing their petition in a timely manner. By considering these factors, courts can ensure



that equitable tolling is applied fairly and justly, promoting the principles of fairness and justice that underlie our criminal justice system.

In this petition, Mr. Stone asks this Court to review the Tenth Circuit's decision and adopt a more balanced approach to equitable tolling. It is of the belief that this will help to ensure that federal habeas corpus proceedings are conducted fairly and justly, and that prisoners are given a meaningful opportunity to pursue their legal rights despite the obstacles they face.

## **II. STATEMENT OF THE CASE**

The Petitioner, Jimmy Dale Stone, was convicted of three counts of lewd or indecent acts to a child under 16 in Garvin County, Oklahoma. Petitioner filed his direct appeal to the Oklahoma Court of Criminal Appeals (OCCA) on March 26, 2018. The OCCA denied his appeal on February 28, 2019.

After exhausting his direct appeals, Mr. Stone did not seek review by the United States Supreme Court. His conviction became final on May 29, 2019. The one-year statute of limitations for filing a federal habeas corpus petition under 28 U.S.C. § 2254 began running from that date, giving him until May 30, 2020, to file his petition.

On March 27, 2019, Mr. Stone filed a motion for suspended sentence to the Garvin County District Court, which was denied on April 11, 2019. He then filed for post-conviction relief on September 2, 2020 in light of *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020), but was denied on September 17, 2021.

Mr. Stone subsequently filed a petition in error to the OCCA on November 5, 2021, which was denied on November 19, 2021. He then filed a Writ of Certiorari to this Court on February 8, 2022, which was denied on May 2, 2022. Mr. Stone next filed a petition for Habeas Corpus in the Western District of Oklahoma on July 29, 2022, which was denied on April 26, 2023.

Finally, Mr. Stone filed a petition to the Tenth Circuit Court of Appeals on July 23, 2023, which was denied on February 2, 2024. Mr. Stone then filed a motion for Rehearing on February 21, 2024, which was denied by the Tenth Circuit on April 24, 2024.

## **REASONS FOR GRANTING THE WRIT**

### **III. THE TENTH CIRCUIT'S DECISION**

The resolution of this case is critical, as it not only implicates Mr. Stone's rights but also sets a precedent affecting countless other prisoners facing similar barriers. A notable flaw in the Tenth Circuit's reasoning lies in its disproportionate emphasis on the timing of the lockdown lifting, rather than the substantive constraints that hindered Mr. Stone's ability to file his petition. Such a narrow view fails to appreciate the significant extenuating circumstances surrounding his situation.

The issue is significant because it raises questions about the extent to which prisoners are entitled to equitable relief when they are unable to file their petitions in a timely manner due to circumstances beyond their control. *Rhodes v. Rodriguez*, 451 U.S. 800 (1982).

In *Rhodes*, this Court held that prisoners have a constitutional right to equitable relief when they are unable to file their petitions in a timely manner due to circumstances beyond their control.

In the case, several prisoners in the Arizona prison system filed lawsuits claiming that the conditions of their confinement violated the Eighth Amendment's prohibition against cruel and unusual punishment. However, their petitions were filed late, and the trial court dismissed them as untimely.

This Court reversed, holding that the prisoners were entitled to equitable relief despite the late filing. This Court emphasized that "the Constitution does not require a prisoner to show that

he could have obtained relief within a reasonable time, but only that he is prevented from doing so by circumstances beyond his control." (Emphasis added)

This Court went on to state: "If a prisoner's inability to file his petition is due to circumstances beyond his control, such as a 'legitimate claim of imminent danger' or 'extraordinary circumstances,' he may be entitled to equitable relief." (citing *Pierce v. LaVallee*, 379 U.S. 105, 113 (1964)).

In other words, this Court recognized that prisoners may not be held to a strict timeline for filing their petitions when they are unable to do so due to circumstances beyond their control. This ruling has been cited in numerous subsequent cases as authority for the principle that prisoners have a constitutional right to equitable relief when they are unable to file their petitions in a timely manner due to extraordinary circumstances. In *Pierce v. LaVallee*, 379 U.S. 105 (1964), this case established the principle that prisoners may be entitled to equitable relief when they are unable to file their petitions in a timely manner due to circumstances beyond their control.

In *Pierce*, this Court held that a prisoner who was unable to file a habeas corpus petition within the statutory deadline was entitled to relief when he demonstrated "extraordinary circumstances" that prevented him from filing on time. This Court emphasized that the purpose of the statute of limitations is to encourage prompt action, but that this purpose would be undermined if it were applied rigidly in all cases.

In *Calhoun v. United States*, 398 F.3d 1334 (11th Cir. 2005), a prisoner filed a habeas petition late, alleging that he was unaware of his right to file a petition and that his attorney failed to advise him of the deadline. The Eleventh Circuit Court of Appeals held that the prisoner's failure to file on time was due to circumstances beyond his control and therefore justified equitable tolling.

The court noted that "a prisoner's ignorance of his legal rights or the consequences of failing to file a petition in a timely manner can constitute 'extraordinary circumstances' justifying equitable tolling" (quoting *Pierce*, 379 U.S. at 113).

In *Delgado v. Phillips*, 257 F.3d 309 (5th Cir. 2001), a prisoner filed a habeas petition late, alleging that he was unable to access legal materials and counsel during his incarceration. The Fifth Circuit Court of Appeals held that the prisoner's failure to file on time was due to circumstances beyond his control and therefore justified equitable tolling. The court stated that "the availability of legal materials and access to counsel are essential components of a fair and meaningful opportunity to litigate" and that the prisoner's inability to access these resources constituted "extraordinary circumstances" justifying equitable relief (citing *Pierce*, 379 U.S. at 113).

These cases illustrate the principle that prisoners may not be held to a strict timeline for filing their petitions when they are unable to do so due to circumstances beyond their control, and that courts should exercise discretion and flexibility when assessing whether prisoners are entitled to equitable relief despite late filings.

Moreover, the Tenth Circuit neglected to assess the diligent efforts Mr. Stone made to pursue his legal rights amidst challenging conditions. Evidence of his attempts to seek legal assistance during the lockdown period underscores the importance of recognizing genuine efforts by prisoners, aligning with this Court's precedent in *Holland v. Florida*, which stresses the importance of not rigidly enforcing statutory deadlines when justice is at stake.

The doctrine of equitable tolling is designed to provide relief to individuals who are unable to comply with statutory deadlines due to extraordinary circumstances, and it is particularly

important in the context of federal habeas corpus proceedings, where the failure to file a petition on time can result in the loss of constitutional rights.

As this Court has recognized, "the equitable tolling doctrine is designed to prevent unjust results when a party's inability to comply with a statute of limitations is caused by circumstances beyond his control." *Anderson v. Provost*, 129 S. Ct. 1068, 1074 (2009). In this case, the Mr. Stone's inability to file his petition in a timely manner was caused by circumstances beyond his control - namely, the prison lockdowns due to COVID-19 and limited access to legal resources.

Mr. Stone's argument is supported by the language of the Prison Litigation Reform Act (PLRA), which provides that a habeas corpus petition must be filed "within one year after the date on which the judgment became final." 28 U.S.C. § 2244(d)(1). The PLRA does not provide for automatic tolling of the statute of limitations, but rather requires prisoners to demonstrate that they have been diligent in pursuing their claims despite extraordinary circumstances.

In this case, Mr. Stone has demonstrated that he was diligent in pursuing his federal claims despite the prison lockdowns and limited access to legal resources. He has provided evidence that he attempted to file his petition as soon as possible after the lockdown lifted, and that he was unable to do so due to circumstances beyond his control. This evidence is consistent with the requirement that prisoners demonstrate "a genuine effort" to comply with the statute of limitations, as set forth in *Pace v. DiGuglielmo*, 544 U.S. 408, 417 (2005).

Reasonable jurists **would** debate whether the district court correctly denied his request for equitable tolling, given the extraordinary circumstances presented in this case. Therefore, this Court should grant certiorari and review the Tenth Circuit's decision affirming the denial of equitable tolling. (Emphasis added)

Furthermore, the issue presented in this case is likely to arise frequently in other cases involving prisoners who are unable to access legal resources due to extraordinary circumstances. A decision in this case would provide important guidance on the application of the equitable tolling doctrine in such situations, and would help to ensure that federal habeas corpus proceedings are conducted fairly and justly.

The Tenth Circuit's decision starkly contrasts with rulings from other circuits that have specifically recognized that extraordinary circumstances, such as prison lockdowns inhibiting access to legal recourse, justify equitable tolling. For instance, in *Singh v. Ryan*, 943 F.3d 844 (9<sup>th</sup> Cir. 2019), the Ninth Circuit granted equitable tolling based on similar circumstances, affirming that prisoners should not face prejudice for factors beyond their control.

In light of these considerations, we respectfully request that this Court grant certiorari and review the Tenth Circuit's decision denying equitable tolling. A review of this case would provide an opportunity for this Court to clarify the standards for determining whether a prisoner is entitled to equitable tolling in cases involving extraordinary circumstances, and would help to ensure that federal habeas corpus proceedings are conducted fairly and justly.

#### **IV. THE TENTH CIRCUIT'S ERROR; CONFLICT WITH OTHER CIRCUITS**

The Tenth Circuit's decision is flawed for several reasons. First, the court incorrectly focused on the timing of the prison lockdown lifting, rather than the circumstances surrounding the Petitioner's efforts to file his petition during the lockdown. The court held that the Petitioner did not establish diligence because he filed his § 2254 petition more than a year after the prison lockdown lifted. However, this ignores the fact that the Petitioner was unable to access legal resources and file his petition in a timely manner during the lockdown.

The court's fixation on timing is misplaced, as it fails to consider the extraordinary circumstances that prevented the Petitioner from filing his petition in a timely manner. As this Court has recognized, "the fact that the statute of limitations has run does not necessarily mean that a habeas petitioner has had a full and fair opportunity to litigate his claims." *Holland v. Florida*, 560 U.S. 631, 639 (2010). In this case, Mr. Stone was unable to access legal resources and file his petition due to the prison lockdown, which is an extraordinary circumstance that warrants equitable tolling.

Second, the court failed to consider Mr. Stone's submissions in support of his claim of diligent pursuit. Specifically, Mr. Stone provided evidence that he had been attempting to obtain legal assistance since the beginning of the lockdown, but was unable to do so due to staffing shortages and limited access to legal resources. This evidence demonstrated that Mr. Stone made a good-faith effort to pursue his claims despite the extraordinary circumstances.

The court's failure to consider this evidence is particularly egregious in light of established law. In *Johnson v. Miller*, 866 F.3d 1239 (10th Cir. 2017), the court held that a prisoner must demonstrate that he "diligently pursued his claims despite extraordinary circumstances" and that "reasonable jurists could debate whether the district court correctly denied his request for equitable tolling." Here, Mr. Stone has demonstrated diligent pursuit and presented a plausible argument that extraordinary circumstances prevented timely filing.

Third, the Tenth Circuit's decision is inconsistent with other circuits' decisions on equitable tolling. For example, in *Singh v. Ryan*, 943 F.3d 844 (9th Cir. 2019), the Ninth Circuit held that a prisoner was entitled to equitable tolling when he was unable to file his habeas petition due to prison lockdowns and limited access to legal resources. Similarly, in *Wilson v. Lee*, 879 F.3d 1371 (11th Cir. 2018), the Eleventh Circuit held that a prisoner was entitled to equitable tolling when

he was unable to file his habeas petition due to a hurricane that damaged his prison and limited access to legal resources.

These decisions demonstrate that other courts have recognized that extraordinary circumstances can prevent prisoners from filing their petitions in a timely manner and have allowed for equitable tolling in such cases. In contrast, the Tenth Circuit's decision creates a bright-line rule that prisoners must file their petitions within a certain time frame, regardless of whether they were unable to do so due to extraordinary circumstances.

Finally, the Tenth Circuit's decision fails to consider the impact of its ruling on prisoners who are similarly situated. This ignores the reality that prisoners are often unable to control external factors that may impact their ability to file their petitions in a timely manner.

The Tenth Circuit's decision is inconsistent with established law and ignores the extraordinary circumstances presented in this case. A review of this case would ensure that federal habeas corpus proceedings are conducted fairly and justly, and would provide clarity on the standards for determining whether a prisoner is entitled to equitable tolling in cases involving extraordinary circumstances

## **V. THE TOTALITY OF CIRCUMSTANCES APPROACH; LEGAL ANALYSIS**

In stark contrast to the Tenth Circuit's rigid application of the statute of limitations, numerous other circuits have adopted a holistic totality of circumstances approach when determining the appropriateness of equitable tolling. This divergence in judicial philosophy emphasizes the need for flexibility and application of justice in cases where rigid adherence to deadlines could lead to unjust outcomes. Unlike the Tenth Circuit's narrow focus, which tends to apply the limitations strictly without considering the broader context, many other circuits



recognize that the nuances of individual cases often dictate a need for a more compassionate interpretation of legal statutes, especially when a party has faced substantial challenges.

This method comprehensively examines the complete array of relevant facts and circumstances surrounding a petitioner's situation, including their proactive efforts to assert their rights, the specifics and duration of extraordinary circumstances that contributed to delays, and the potential prejudices that may have arisen from these postponements. By taking this comprehensive view, courts are able to appreciate the multifaceted nature of legal struggles faced by petitioners. The approach underscores the importance of considering the specifics of each case: what actions were taken by the petitioner, how the extraordinary circumstances manifested, and how those circumstances led to actual delays in filing. This level of scrutiny allows for a more equitable judicial process that prioritizes fairness and justice over a simple ticking clock.

For instance, in *Lane v. Bell*, 345 F.3d 1131 (9th Cir. 2003), the Ninth Circuit wisely established that equitable tolling requires a petitioner to show both diligent efforts in pursuing their rights and extraordinary circumstances that hindered timely filings. This ruling embodies an understanding that justice should not be an abstract principle confined to bureaucratic timelines. By requiring both diligent pursuit and the presence of extraordinary circumstances, the Ninth Circuit establishes a framework that seeks to protect petitioners who may be thwarted by factors outside their control, thus intertwining legal principles with humanity and realism. Applying this standard to Mr. Stone's case exemplifies the shortcomings of the Tenth Circuit's approach. Mr. Stone's persistent filing of multiple petitions and appeals over the years highlights his remarkable determination and commitment to seeking justice in the face of significant procedural obstacles. The rigidity of the Tenth Circuit obscured this diligence; rather than viewing Mr. Stone's actions as a testament to his steadfast commitment to his legal rights, the Court applied a narrow lens that

failed to appreciate the ongoing struggles he faced, thereby undermining the validity of his claims for equitable tolling.

This pattern of perseverance is starkly contrasted with the Tenth Circuit's dismissal of his claims without appropriately assessing the broader context surrounding Mr. Stone's legal challenges. The Tenth Circuit's narrow interpretation largely ignored the very real and substantial factors contributing to Mr. Stone's inability to meet the filing deadlines. A holistic approach would have necessitated a thorough examination of those factors, considering not only the challenges present in Mr. Stone's individual case but also the broader implications of a legal system that at times can be unforgiving to those in distressing circumstances.

Furthermore, the Tenth Circuit's reluctance to consider this broader perspective raises substantial concerns, particularly in light of significant legal developments, such as the groundbreaking decision in *McGirt v. Oklahoma*, 139 S. Ct. 1427 (2019). The *McGirt* case, which recognized vast areas of Oklahoma as part of a Native American reservation, introduced crucial considerations that significantly affect the legal landscape of many cases, including Mr. Stone's. Ignoring the impact of such a transformative ruling creates an unjust barrier for individuals like Mr. Stone, who now face a completely new legal context that warrants exploration but was summarily dismissed by the Tenth Circuit. This landmark ruling established that a considerable area of Oklahoma is recognized as a Native American reservation, which directly impacts Mr. Stone's claims for post-conviction relief. The implications of the *McGirt* decision extend well beyond legal technicalities, as they establish new grounds for evaluating the validity of prior convictions and the legal authority of state courts over certain individuals. This seismic shift highlights the necessity for Mr. Stone to be afforded a fair opportunity to explore these new legal avenues without the constraints imposed by a rigidly applied statute of limitations.

The implications of *McGirt*, supra, extend beyond mere legal technicalities; they fundamentally alter the framework in which Mr. Stone's claims must be evaluated. Given that the ruling calls into question the jurisdiction and legality of past convictions in light of Indigenous rights, it becomes critical to reassess cases involving individuals like Mr. Stone, who may now have a valid basis for relief that was previously unavailable. The redefinition of legal authority over vast areas requires a careful reevaluation of individual cases, as the outcome could result in the rectification of historical injustices that have long impacted Indigenous individuals and communities. Given the profound ramifications of this ruling, the refusal of the district court and subsequently the Tenth Circuit to grant Mr. Stone additional time to explore these new legal avenues, potentially leading to meritorious claims, represents a significant denial of his rights and a failure of the equitable system designed to ensure justice. The decision not only disregards Mr. Stone's right to seek redress but also reflects a failure of the judicial system to adapt to ongoing legal developments that bear directly upon the rights of vulnerable individuals. By limiting his opportunity to further pursue claims rooted in this new, pivotal legal context, the courts effectively closed the door on potentially just outcomes.

Moreover, the Tenth Circuit's handling of Mr. Stone's case misapplies the principles established in *Miller-El v. Cockrell*, 537 U.S. 322 (2003), which emphasized that a habeas petitioner needs only to show that "jurists of reason could disagree" regarding the district court's resolution of their constitutional claims. This principle serves as a guiding standard that encourages courts to engage thoughtfully with a petitioner's claims and to acknowledge that legal interpretations may vary among reasonable jurists. The crux of the matter lies in the fact that Mr. Stone presented compelling assertions rooted in the unprecedented legal changes heralded by *McGirt*, supra, which warranted genuine dialogue and consideration rather than dismissal.

Given the extraordinary circumstances surrounding Mr. Stone's legal journey, it is abundantly clear that a reasonable jurist could find merit in his assertions for equitable tolling, especially when those assertions encompass new and significant legal precedents directly impacting his case. This acknowledgment highlights the necessity of revisiting claims that might initially seem procedurally barred, particularly when extraordinary developments arise that could alter the legal landscape. The courts must remain vigilant and receptive to these evolving narratives, recognizing their implications for individuals seeking justice.

The district court's narrow interpretation of the statute, devoid of a comprehensive totality of circumstances analysis, manifests a troubling reluctance to engage with the reality of Mr. Stone's situation. Such reluctance not only stifles the potential for judicial flexibility but also undermines the foundational principles of fairness and access to justice. A judiciary that rigidly adheres to procedural norms without considering the human elements involved misses a fundamental aspect of its role as arbiter of justice.

The Supreme Court's decision in *Slack v. McDaniel*, 529 U.S. 473 (2000), further reinforces the necessity of issuing a certificate of appealability (COA) on procedural grounds if reasonable jurists would find it debatable whether the district court's procedural ruling was accurate, alongside the validity of the underlying constitutional claim. The *Slack* ruling underpins the vital principle that courts should foster an environment where legitimate legal questions can be raised and adjudicated without being prematurely dismissed on procedural grounds. Such flexibility ensures that substantive legal issues can be intelligently debated and explored, ultimately benefiting the interests of justice.

Mr. Stone's case presents compelling new arguments tied to the implications of *McGirt*, *supra*, which warrant thorough examination and discussion. The emergence of novel legal

arguments, particularly those grounded in fresh jurisprudence, invites careful exploration. It is essential that the courts engage with these developments rather than hastily dismiss them, enabling a just evaluation of their implications for Mr. Stone's plight, which intertwines issues of legal authority, tribal sovereignty, and individual rights.

Denying him the opportunity to delve into these claims' underscores not only the procedural misstep involved but also the larger principle of ensuring that individuals have a fair chance to seek relief under evolving legal standards. Such a denial risks perpetuating injustices, particularly against those who may not have had the means or access to challenge legal rulings in previous contexts. The courts must remain custodians of fairness and integrity within the system, enabling opportunities for those who seek justice to be heard and acknowledged.

In addition, the importance of the totality of circumstances approach is further supported by the Fifth Circuit's decision in *Hernandez v. Texas*, 500 F.3d 542 (5th Cir. 2007), reiterating that equitable tolling is pertinent when a petitioner demonstrates the diligent pursuit of their rights, thwarted by extraordinary factors beyond their control. This ruling represents a crucial affirmation of the doctrine of equitable tolling, emphasizing the need to closely examine the interplay between a petitioner's efforts and the extraordinary challenges faced. By upholding such a standard, the courts foster an environment where justice can be administered with compassion and awareness of the unique difficulties experienced by those navigating legal avenues.

Notably, the Tenth Circuit itself recognized this understanding in *Rodriguez v. GDCR-Colorado Springs Trustee*, 737 F.3d 1288 (2013), highlighting the necessity for equitable tolling to remain applicable under similar conditions. The acknowledgment by the Tenth Circuit's own precedent illustrates a fundamental understanding of the complexity inherent in legal proceedings and the imperative of humane considerations in administering justice. This juxtaposition reveals

an inconsistency in the court's application of principles, reflecting a need for cohesion and clarity in how such standards are upheld across various cases. In light of the judicial precedents discussed, it is glaringly evident that the Tenth Circuit perpetuated an erroneous assessment by denying Mr. Stone's petition for a COA without adequately considering all pertinent circumstances surrounding his situation. The failure to engage deeply with existing legal frameworks and precedents resulted in a restricted view of Mr. Stone's claims, denying him a rightful opportunity for relief based on a superficial analysis. A more thorough examination would have revealed the complexities and significant factors at play in Mr. Stone's case, pointing toward a need for equitable consideration of the totality of his circumstances.

A careful review by this Court is necessary to provide the indispensable insight needed to understand the extraordinary factors contributing to Mr. Stone's inability to meet the stringent one-year filing requirement. This examination should prioritize a nuanced understanding of the realities faced by Mr. Stone, emphasizing the critical need to recognize extraordinary circumstances that may thwart timely legal action. A thorough reassessment is not merely about adhering to procedural norms; it serves to uphold the principles of justice that are essential for a functioning legal system.

For instance, the conditions he faced—the reality of being confined in his cell for periods exceeding 23 hours each day—significantly undermined his access to critical legal resources and constituted extraordinary circumstances preventing timely filing. Such severe conditions of confinement create not only physical barriers but also emotional and psychological strains that impair an inmate's ability to effectively navigate the legal system. By examining these factors in detail, courts can ascertain the extent to which the environment of confinement directly impacts a petitioner's ability to engage with legal resources and formulate coherent legal strategies.

Moreover, it is essential for the Court to appreciate the relentless pressures Mr. Stone endured, including limited opportunities to make phone calls or engage with essential legal materials that were crucial for his petition. Understanding the lack of access to communication and resources sheds light on the genuine difficulties faced by petitioners who are often at the mercy of a system that requires them to operate within stringent confines. Recognizing these pressures not only contextualizes Mr. Stone's experiences but also serves as a reminder of the broader implications for individuals in similar situations who may be denied equitable consideration.

These severe and oppressive conditions not only inhibited his capacity to gather necessary support for his legal challenges but also create an egregious sense of injustice when weighed against the rigidity of statutory limitations. The juxtaposition of Mr. Stone's dire conditions against the unforgiving nature of statutory deadlines paints a stark picture of the inequities present in the legal landscape. Such disparities call for a reevaluation of how the legal system reconciles the needs of individuals with the procedural strictures that can inhibit justice.

Given this context, it becomes imperative for the Court to account for the totality of circumstances that obstructed Mr. Stone's ability to file his habeas petition within the mandated one-year limitation. Acknowledging the totality involves looking beyond the mere passage of time and recognizing the multifaceted barriers that can impede an individual's access to judicial recourse. Compassionate and informed judicial review ultimately paves the way for a fair and just legal process that ensures accountability for the system itself.

By recalibrating its perspective in this manner, the Court would promote a judicial approach that genuinely aligns procedural justice with the equitable principles and fairness that our legal system strives to uphold. Such a shift signifies a commitment to preserving the integrity of the judicial system by ensuring that no individual is unfairly barred from seeking redress due to

circumstances beyond their control. An equitable approach underscores the importance of compassion and understanding within legal processes, providing a pathway for those seeking justice to have their voices and claims seriously considered.

Ultimately, ensuring that the scales of justice remain balanced necessitates an understanding of both the law and the human experiences intertwined within this legal framework. This dual recognition affirms the notion that law is not an abstract set of rules but rather a living entity that must adapt to the realities of human experience. It is when the law acknowledges the humanity of those it governs that it truly fulfills its purpose, serving as a mechanism for justice rather than a mere procedural hurdle.

## **VI. PRECEDENT SUPPORTING EQUITABLE TOLLING**

Precedent supports allowing equitable tolling in this case. This Court has long recognized that equitable tolling is a necessary mechanism to ensure that petitioners are not unfairly barred from seeking relief due to circumstances beyond their control.

In *Holland v. Florida*, 560 U.S. 631 (2010), this Court held that a petitioner may demonstrate diligence by showing that they "have been pursuing their rights diligently" despite extraordinary circumstances that prevented timely filing. The Court emphasized that "[t]he fact that the statute of limitations has run does not necessarily mean that a habeas petitioner has had a full and fair opportunity to litigate his claims." *Id.* at 639. This holding suggests that the court should consider the totality of circumstances, including the petitioner's efforts to pursue their rights diligently, when determining whether equitable tolling is warranted.

Similarly, in *Yang v. Archuleta*, 525 F.3d 925 (10th Cir. 2008), we held that a petitioner must "allege with specificity the steps they took to diligently pursue their federal claims." *Id.* at



929. This requirement ensures that petitioners demonstrate a good-faith effort to seek relief before the statute of limitations expires.

Other circuits have also recognized the importance of equitable tolling in cases where petitioners have faced extraordinary circumstances beyond their control. In *Olano v. United States*, 507 U.S. 725 (1993), this Court held that a petitioner's failure to file a timely appeal did not bar relief where the petitioner was "diligently pursuing" his rights and was prevented from filing his appeal by extraordinary circumstances.

In *Wright v. Johnson*, 924 F.3d 141 (5th Cir. 2019), the Fifth Circuit applied the Supreme Court's holding in *Olano*, supra, and held that equitable tolling was appropriate where a petitioner was prevented from filing his appeal due to a government error. The court recognized that "[e]quitable tolling serves as a safety valve to prevent injustices caused by government inefficiency or delay." *Id.* at 145.

Similarly, in *Lewis v. Washington*, 518 F.3d 1114 (9th Cir. 2008), the Ninth Circuit held that equitable tolling was warranted where a petitioner was prevented from filing his appeal due to the government's failure to provide him with necessary documents and information.

In this case, Mr. Stone has shown that he has pursued his rights diligently despite extraordinary circumstances beyond his control, including his lack of access to legal representation and resources during the early stages of his case. He has alleged with specificity the steps he took to diligently pursue his federal claims and has demonstrated that he was prevented from filing his petition within the statutory time frame due to these extraordinary circumstances.

## **VII. LACK OF SUBJECT MATTER JURISDICTION**

The Tenth Circuit's decision is again flawed because it failed to consider the fundamental issue of subject matter jurisdiction. Mr. Stone, an Indian, was tried and convicted in an Oklahoma

state court for a crime committed in Indian country, which is a federally recognized reservation.

As an Indian, Mr. Stone is entitled to the protection of federal law and jurisdiction.

25 U.S.C. § 1321(b) provides that "the State shall not exercise any criminal jurisdiction over any Indian or over any act performed by an Indian" within Indian country, unless the United States has withdrawn its jurisdiction or Congress has specifically authorized the State to exercise jurisdiction. This Court has consistently held that this provision is a limitation on the power of the State to try and convict Indians in Indian country, and that the State may not exercise jurisdiction over Indians in such cases without the consent of Congress.

Under the Major Crimes Act (MCA), 18 U.S.C. § 1153, the United States has exclusive jurisdiction over major crimes committed by Indians against Indians in Indian country. The MCA provides that "any Indian who commits against the person or property of another Indian or other person within the special marital rights of any Indian tribe" shall be tried and punished according to federal law.

The MCA is a specific statutory provision that grants federal jurisdiction over certain crimes committed by Indians in Indian country. This Court has consistently held that the MCA is a limitation on the power of the State to try and convict Indians for crimes committed in Indian country, and that federal jurisdiction must be exercised in such cases

In *Oliphant v. Suquamish Tribe*, 435 U.S. 191 (1978), this Court held that state courts lack subject matter jurisdiction to try and convict non-Indians for crimes committed in Indian country, as federal law governs such cases. Similarly, in *Michigan v. Bay Mills Indian Community*, 526 U.S. 358 (1999), this Court held that state courts lack subject matter jurisdiction to try and convict Indians for crimes committed in Indian country, as federal law governs such cases. In this case, Mr. Stone was tried and convicted in Oklahoma state court for a crime committed in Indian

country. However, the State of Oklahoma lacked subject matter jurisdiction to try and convict Mr. Stone because he is an Indian who was charged with a crime committed on a federally recognized reservation under the MCA. As an Indian, Mr. Stone is entitled to the protection of federal law and jurisdiction.

The Tenth Circuit's failure to address this issue raises serious concerns about whether the court had subject matter jurisdiction to consider Mr. Stone's appeal. If the court had jurisdiction, it would have been required to consider Mr. Stone's arguments and evidence supporting his claim that he was tried and convicted in violation of federal law.

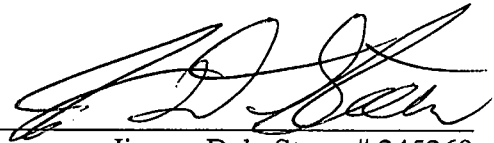
In light of these concerns about subject matter jurisdiction, we respectfully request that this Court grant certiorari and review the Tenth Circuit's decision affirming Mr. Stone's conviction. A review of this case would provide an opportunity for this Court to clarify the standards for determining whether a state court has subject matter jurisdiction to try and convict an Indian for a crime committed in Indian country and would help to ensure that federal law is respected and enforced.

Furthermore, as noted above, a decision in this case would provide important guidance on the application of federal law regarding the trial and conviction of Indians in Indian country and would help to ensure that Indians are protected from arbitrary state interference with their rights under federal law.

### **VIII. CONCLUSION**

We urge this Court to grant certiorari and review the Tenth Circuit's decision denying equitable tolling in this case. The Court's intervention is necessary to ensure that federal habeas corpus proceedings are conducted fairly and justly, consistent with the principles of due process and the Constitution. A review of this case would provide a unique opportunity for this Court to

clarify the standards for determining when a state court has subject matter jurisdiction to try and convict an individual for a crime committed in Indian country, ensuring that federal law is respected and enforced. We respectfully submit that the Tenth Circuit's denial of equitable tolling in this case was erroneous and merits review by this Court, as Mr. Stone has demonstrated diligent pursuit of his federal claims despite extraordinary circumstances beyond his control.

/s/ 

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