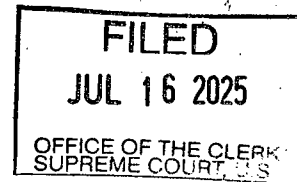


ORIGINAL

25-5594

• Case number



UNITED STATES SUPREME COURT

**IN RE :BRIAN D. DUBUC,
dba Histories Antiques & Collectables**

**ON
PETITION for MANDAMUS**

TO United States Court Of Appeals FOR THE Tenth Circuit

RE:

US District Court Northern Eastern District Oklahoma

6:24-CV-390-391-392 JFH/GLJ/DES

OKLAHOMA SUPREME COURT MANDATE #118,448

**DISTRICT COURT OF OKMULGEE COUNTY OKLAHOMA WITHIN THE
CREEK-CHEROKEE NATION RESERVATIONIN CAUSE NUMBERS**

SC-19-609 CJ-21-129

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Respondents

NOTICE THAT UNITED STATES INTREST MAY APPLY

QUESTION PRESENTED

1) Whether the Non Discretionary mandate of the state supreme court Can be refused execution by the state trial court or restrict removal to tribal or US District Court where "No Paper " Is Received from Plaintiff that Triggers removal time to prevent tribal and US court jurisdiction.

2) Whether in reservation lands lost in Allotment period recovered by lawful title by a registered member is preempted and trusted by law from State Action under treaty (Aug. 6, 1846. 9 Stat., 871. Ratified Aug. 8. 1846. Proclaimed Aug. 17, 1846).federal statue (S. Doc. No. 33, 55th Cong., 3rd Sess. (1898)) 25 C.F.R. 151.2(d), 25 CFR § 151.11(a)(2)(b).

3) Whether Registered members of Cherokee Nation in Indian Territory were Deprived of lands, business, rights , and equity's without due process, equal protection, by Impartial courts of Oklahoma and the United states secured under the Treaties 1833-1846 Oklahoma Constitution Article1 § 3 US Const Art. I, § 8, Art. VI, cl. 2 , Contrary to Haines VS Kerner 404 U.S. 519, 520 (1972)

PARTIES TO THE PROCEEDING

SC-19-609 Rev. Vac. #118,448 CV-21-129

**Brian D. Dubuc dba
HISTORIES ANTIQUES & COLLECTABLES**

Defendant / Appellant

**HORACE SAMUEL PARKER jr REV. TRUST
David A. Parker Individually and as Trustee
Crosby Realestate Inc. Janice & Sherri Crosby
Gaither Law LLC. Luke Gaither individually officially**

Plaintiff /Appellee

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PRELIMINARY STATEMENT

Applicant believes the tenth circuit court of Appeals Clerks failure to open on receipt The. Otherwise timely appeal in accordance with the FRAP 4 & 5. when within the time prescribed, Received In forma Pauperis , Pro se Docketing Statement , Notice of Appeal , Request for Stay and evidence. Applicant was denied said right of Appeal at no fault of his own. App. Vol. II -III

The Trial Clerk was / is under restraint order of Judge to refuse receipt or filing as required by the FRAP **Obstructing a direct Appeal by minute order denial of a Request for Injunction ,writ of assistance**, and to Remove for trial of Federal and State Claims forced to suffer Inordinate Delays ,denials of Hearings where relief has been commanded by state supreme court and is Usurped by trial and US Court. APP. @ A-1, App. G @ 1,2-3-17 and App. Vol. 1 @ A-1

Because the Crux of the Issue Lawful Acquired Commercial property and land in original reservation previously lost from tribe to non-members re-Acquired by Registered Member of the Cherokee Nation in Creek-Cherokee reservation engaged in commerce 11 years in good standing when action Arose. EX A to petition.

JUDICIAL ORDER BELOW:

August 6th,2021 Oklahoma Supreme Court Vacated Trial courts Entry and Detainer granted without jurisdiction or valid cause of action #118,448 the mandate verified , received by the trial Court June 13th,2022. Appealed is the **Application for Injunction and writ of assistance *denied by minute order of self recused magistrate*** , and a Second Magistrate, removed sue sponte by chief administrative judge from Random re-assigned to Northern district from Eastern District of Oklahoma . Chief Judge *In Camera Granted Motion to remand* and Ordered clerk to refuse acceptance of any materials in any form resulting in rejection of notice of appeal, request to stay, and for post trial relief all timely received. App. App. I @ Pg 16-29

However per minute order stamped received refused and returned to the Petitioner thereafter lodged pro se with clerk of the Tenth Circuit who have in no manner responded to the Signed received documents to date. ID. App. II & III

A. JURISDICTION

This Court has jurisdiction to grant a writ of Mandamus. See 28 U.S.C. § 1651(a). FRAP 4(a)(1)(A) and 5 , 28 U.S.C. §1453(c)(1) , Treaty of New Echota , US Const Art. I, § 8

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. art. I, § 4. a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction. 28 U.S.C. § 1651(a) Art. I, § 8, 25 CFR 151.11(a)(2)(b)1-8

STATEMENT OF THE CASE

This Matter comes before the court upon an Remand order ,rejecting US Jurisdiction Apply's ,ordering federal court closed by clerks to Applicant to prevent his appeal which was timely under Federal Rules of Appellate Procedure ("FRAP") 4(a)(1)(A) and 5, and 28 U.S.C. §1453(c)(1). See Froud v. Anadarko E & P Company Limited, 607 F.3d 520, 522 (8th Cir. 2010) (per curiam) (appeals under 28 U.S.C. §1453(c)(1) follow the procedure for permissive appeals under FRAP 5). DuBuc's appeal is from the remand order. App. A @ 2-4

Seeking Injunction Writ of Assistance to enforce order reversing and remanding by the Oklahoma Supreme Court. A Trial Courts Grant of Entry and Detainer **on behalf of the Plaintiff David Parker as Individual non owner or contracting party with interest in Okmulgee County District Court No SC-19-609. APP. C @ 30-35**

The Oklahoma Supreme Court in Decision NO: 118,448 Reversed Trial Courts Grant of Entry and Detainer of possession Against Brian D. DuBuc dba Histories Antiques & Collectables location of Business **124 East Main Street , Henryetta ,Okla. 74437.**

This Business Under Mortgage in good standing in creek-Cherokee Reservation owned Interest of Member with heirs taken by non member or owner. EX A & **App C 30-35**

This Resulted in David Parker Taking Possession without Bond or Sheriff Execution as shown upon the Record Silent herein Against the Non Moving Party Business ,owner , Defendant Dubuc dba histories antiques & Collectables. The Oklahoma Supreme Court Found that there were no traditional grounds upon which detainer could have laid in favor of plaintiff Parker and Against Defendant DuBuc. **APP. B @ 28-29 and C @ 30-35**

The claims David A. Parker presented were a challenge to title not lawful peaceable possession in the defendant and is governed by the principals of LYONS v. LYONS 1939 OK 164 90 P.2d 391 185 Okla. 70 (Case Number: 28614 **Decided: 03/21/1939 Supreme Court of Oklahoma**). **APP. B @ 20-29** The Oklahoma supreme court has issued mandate that process be issued by trial court in further proceedings and has been refused since 2021..

I.THE OKLAHOMA STATE COURT ACTION

The Institution and entertainment of the Action absent all jurisdiction in a matter preempted and subject to federal ,tribal, and congressional domain as Venue and jurisdiction and is foreclosed by state constitution was Usurpation.

A. The Commencement of the Oklahoma Action:

The Parker action in the district court relates only to Possession, Not damages.

Defendant Dubucs Counterclaim sought Repossession and damages for common law conversion ,wrongful eviction, Tortorous Interference ,breach of contract Okmulgee County District Court. SC-19-609 #118,448 Reclaimed Served No CJ-21-129 . However Applicant believes Jurisdiction of both parties claims Belonged in the Eastern District of Oklahoma as a tribal right , complete diversity and Congressional preemption in the Specific Topic as a result of parties , Cherokee Nation registered members in reservation owned business and permanent resident of Arkansas by Citizenship in original Allotment lands of Arkansas. Article 1 § 3

Trial Court lacks Jurisdiction under the facts presented to transfer the case to the District court Wagoner v. Bennett 1991 OK 70, 814 P.2d 476 (OK S CT) , Likewise to Certify the Action to the District Court. Reversed on deficient petition to confer cause of action ,venue ,or Jurisdiction. Article 1 § 3 , US Const Art. I, § 8

Applicant believes this Demonstrates the Clear Legal right to Relief , the Necessary findings by the Highest state Court to support the factual basis triggering mandatory remedies under states own laws. Moreover , one which requires States to Invoke federal law and treaties Under the U.S. Const. VIV But has Refused.

Oklahoma Constitution Article1 § 3 Provides The people inhabiting the 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; and that until the title to any such public land shall have been extinguished by the United States, the same shall be and remain subject to the jurisdiction, disposal, and control of the United States. Land belonging to citizens of the United States residing without the limits of the State shall never be taxed at a higher rate than the land belonging to residents thereof. No taxes shall be imposed by the State on lands or property belonging to or which may hereafter be purchased by the United States or reserved for its use. See also, US Const Art. I, § 8, Art. VI, cl. 2

B. The Court Refusal of Stays Proceedings impose bonds

A normal removal where an actual plaintiff paper is served. Would be thirty days. From Commencement of *this void action to conclusion invoking appeal mandate or waiver is five days* to seizure. Thirty days to waive or Appeal this Decision to The Supreme court. Applicant is the successful defendant Appellant. #118448

Applicant sought stay from trial court and statutory mandate required bond twice the amount as a matter of law. This process was bypassed favorably to the non-tribal party non party or owner without standing from Onset. The Claim Conferred no jurisdiction as filed and found by the Oklahoma Supreme Court. #118,448 App. II

This refusal to apply the law, act without authority, and on a baseless foundation, to deceives the actual nature of the claim *as the intent is to seize open commercial business operation of a registered member in reservation land*. Ordered process to issue but is Usurped by its state trial Court Vacated. The Renewal on Direct Appeal for stay as the trial court duty and in its supervisory role not acted on.

II. THE FEDERAL ACTION

A. Plaintiffs failed to identify to the court or defendant but deceived to hide the true nature of federal crux denying such a paper as would indicate the grounds on which venue and jurisdiction failed

Parker has never "served a paper" *admitting or indicating* the wrongful federal nature of the cause of action. Though the Unlawful Taking and conversion of a registered member with Heirs of the Cherokee Nation in Reservation land by a non-member invokes Federal Jurisdiction for which the state is Preempted and should transfer but will not though asked. 25 C F R § 151.11(a)(2)(b) 1-8.

When Applicant sought Injunction, writ of execution, and to remove his federal

and any state claims by new action. which by my own research as a pro se indicated The Eastern District of Oklahoma. Honorable John F Heil III Chief presiding judge Northern Oklahoma district Court Intervened *ordering remand and the clerks to reject any mailings submissions of all federal courts in the District Closed for acceptance of any document submitted for filing by Applicant in the district by any Form or clerk. Just when the Federal R. Appellate Procedure Became Applicable ordering a default to be forced on applicant. App. A1*

Honorable J F Heil III Unlike D. Edward Snow Magistrate Self Recused as former reversed prosecutor of Applicant in a high profile Public matter along with 50 plus Other cases. Honorable JF Heil is the trial prep and D. Snow presenting Attorney the improper conducts Occurred Under Their Tenor widely Reversed as Knowing prosecutorial Misconduct by Edward Randolph Turnball co-worker . APP. I Ex. I & J.

Applicant Submitted Pro se with The Tenth Circuit Court of Appeals ,his Docketing Statement ,Notice of Appeal , ordered Refused by Eastern DC Oklahoma clerks, with motion for rule on clerk. Applicant has received no notification of the Status of the Submissions since **December 2024. APP. III.** This Petition is in aide of the Original Supreme Court Jurisdiction of all matters arising under treaty's with the Cherokee and Oklahoma Indian Territory.

B. The Mandate on District Court vacation of default obtained in complete absence of jurisdiction

The Oklahoma constitution denies State courts venue or jurisdiction of Reservation Affairs. Art. I, § 3 Ok. Const. , 34 Stat. 270. Here the Oklahoma Supreme Court Found that the petition on its face as a matter of purely state law failed to

confer venue or Jurisdiction by its own force and Vacated the Entry and Detainer.

The Detainer as presented alleged a residence ,when in fact it was a place of commerce and public resort in good standing lawful peaceable possession and operation. Remains Seized to this Day Since October 19th, 2019. despite being vacated and Ordered issued Process. The US Constitution , treaty of 1866 and Federal law venue and Jurisdiction *has been Usurped by state action.*

The Oklahoma US Courts Deny have Jurisdiction and Obstruct the Appeal as the Circuit Precedent do not Support these Findings. United States v. Tsosie, 92 F.3d 1037, 1041 (10th Cir. 1996). Kerr-McGee Corp. v. Farley, 115 F.3d 1498, 1502 (10th Cir. 1997). App. I A 2-4 , and APP. II Appeal Record @ 5-38. App. III Part two.

STANDARD OF REVIEW

The Supreme Court has the power to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a).

To obtain a writ of mandamus, the applicant must demonstrate that he has "no other adequate means to attain the relief he desires." Cheney v. United States Dist. Court, 542 U.S. 367, 380 (2004).

The applicant must then demonstrate that the applicant's right to the writ is "clear and indisputable." Id. at 381. Finally, the applicant must demonstrate that the writ is otherwise appropriate under the circumstances. See id.

A writ is appropriate in matters where the applicant can demonstrate a "judicial usurpation of power" or a clear abuse of discretion. See id. At 380 (citations and quotations omitted); see also Roche v. Evaporated Milk Ass'n, 319 U.S. 21, 26 (1943) ("The traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so."). This Court has issued writs to restrain federal district courts from intruding into areas involving delicate federal-state relations. Id. At 381; see also

Maryland v. Soper, 270 U.S. 9 (1926).

However its most earliest cases arise as here in context of title and where it has found that Jurisdiction rests in the tribal courts as sought here.

ARGUMENT

The US and Okla. Const, Treaty 1866, as federal and state law REQUIRED THE State DISTRICT COURT TO STAY OR ABSTAIN FROM STATE PROCEEDING AND TRANSFER AS FEDERAL ACTION under THE state and federal constitution

A. DuBuc is a Registered member of the Cherokee Nation and owns the Equitable Title to the Commercial Building and land in question within former Indian allotment, *federal* courts must decide whether tribal sovereignty mandates that Cherokee courts, not Oklahoma's, have jurisdiction over this dispute.

Specifically, the federal question is whether the exclusive ability of Indian tribes to regulate certain "arrangements" between non-members and members on fee simple lands within a reservation due to tribal sovereignty, as the Supreme Court recognized in Montana v. United States, 450 U.S. 544, 565 (1981), extends to the adjudication by tribal courts of non-member activity on member-owned land within former tribal allotments.

That question creates federal jurisdiction because it is (1) necessarily raised, (2) actually disputed between the parties, (3) substantial, and (4) one that federal courts can decide the issue without upsetting the congressionally approved federal-state judicial balance. Grable, 545 U.S. at 314.

B. Federal jurisdiction also exists over DuBuc's counterclaims. DuBuc's pro se removal as motion to Dismiss and counterclaim should be construed liberally as Asserting Federal right of Authority Protected by the US Constitution.

Opposing Counsel made a large point accepted by the trial court granting Remand. Asserts plaintiff parker has filed no counterclaim, new action, or engaged the proceedings. (see Motion for Remand.). True They Have confessed everything to avoid Operation of the Removal statues.

The Plaintiff Parker Non Member , having Sued obtained entry and detainer ,that was vacated. Was sued personal and officially during pendency of the appeal with summons . Plaintiff parker chose that 5 day process. To Evade Tribal / federal court by the strategic choice Interposed Abstention Doctrines to exclude and insulate *his conduct in a small claims act from tribal and federal court. hiding his true intent.*

Federal jurisdiction exists over this counterclaim if there is "a basis of jurisdiction independent from that supporting the main claim." Shelter Mutual Insurance Company v. Public Water Supply District No. 7, 747 F.2d 1195, 1197 (8th Cir. 1984).

DuBuc's removal was timely. Under a Eighth Circuit precedent, §1446(b)'s thirty-day deadlines run only when a defendant receives a "paper" from a plaintiff that "explicitly discloses" the factual predicates to federal jurisdiction such that the defendant can "unambiguously ascertain that ... jurisdictional requirements have been satisfied." Willis, 228 F.3d at 897; Gibson, 840 F.3d at 519-520.

These deadlines never start if instead a defendant "file[s] a notice of removal based on the result of [his] own ... investigation." Pirozzi, 938 F.3d at 985.

Parker has failed to issue a paper to unambiguously ascertain federal-question jurisdiction from, . Dubuc instead ascertained federal-question jurisdiction through his own investigation, researching the history of his land and case law regarding tribal sovereignty. None of the issues in removal are within the Venue or Jurisdiction of the state court to Abstain from.

Under these Court's precedents, that means §1446(b)'s deadlines never began to run, rendering DuBuc's removal timely. The district court's untimeliness ruling stemmed from its error in not applying the "unambiguously ascertain" standard, instead seeming to assume—wrongly—that any paper that "created" a (commencement of action in state court) Invoked federal jurisdiction started the 30-day clock.

This would be Allowing Oklahoma state and federal courts by fiat to Establish New law that Preempts Congress , the supreme Court , Constitutions, Treaty's , even sovereign Authority's of the Tribal and US Governments.

Where here the initial filing failed to even state a claim under state law, let

alone Identify the laws, disclosed the federal issues implicated by his claims, or even the relevant factors of DuBuc's tribal membership and the location of DuBuc's land. That would deny the result gained here. Usurping the US Constitution, 1866 treaty of New Echota, and the Mandates of history of this court. In a state where its Own constitution and State Hood Gave it No more Power than gained outside the Oklahoma Territory, by its own Constitution.

"When the federal court has original subject-matter jurisdiction over a claim, that jurisdiction is 'not discretionary with the district court' and 'can neither be conferred nor destroyed by the parties' waiver or agreement.'" Adair, 587 F.3d at 241 (quoting Buchner, 981 F.2d at 820-21). If the district court only has supplemental jurisdiction over the claim, Congress has granted authority to the district court to adjudicate the claim or remand the claim based on the court's discretion. *Id.* (citing 28 U.S.C §§ 1367(c), 1441(c))

III THIS COURT'S PRECEDENTS

**REQUIRED THE State DISTRICT COURT TO STAY OR ABSTAIN
FROM STATE PROCEEDING AND TRANSFER AS FEDERAL
ACTION under THE state and federal constitution**

In the decades following statehood, many settlers engaged in schemes to seize Indian lands and mineral rights by subterfuge. See *A. Debo, And Still the Waters Run* 92-125 (1940) (*Debo*).

These schemes resulted in "the bulk of the landed wealth of the Indians" ending up in the hands of the new settlers. See *ibid.*; see also *id.*, at 181-202. State officials and courts were sometimes complicit in the process. See *id.*, at 182-183, 185, 195-196. For years, too, Oklahoma courts asserted the power to hear criminal cases involving Native Americans on lands allotted to and owned by tribal members despite the contrary commands of the Oklahoma Enabling Act and the State's own constitution.

The State only disavowed that practice in 1991, after defeats in state and federal court. See *Haney*, 1991 WL 567868, *1-*3; see also *State v. Klindt*, 782 P. 2d 401, 404 (Okla. Crim. App. 1989); *Ross v. Neff*, 905 F. 2d 1349, 1353 (CA10 1990).

Oklahoma has demonstrated over time since before its statehood that the treaty's and laws made pursuant to the constitution whether there own or the United States are of

little to no Protection of the wards of the United States there Lands and tenements are not treated with Equal Administration but by every means to eviscerate those Commands and defeat there Jurisdictional Venue as Established by Congress ,The Treaty's , and Constitution under which the same was Ratified.

DuBuc's removal Should be found therefore timely. Consistent with the liberal reading given pro se pleadings, Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam), DuBuc's notice of appeal should be construed as an application of 28 U.S.C. §1453(c)(1). As Presented Timely with Clerk of the Tenth Circuit by Certified Return Priority Mail Prior to Expiration of the Time To pursue Appeal. Together with Granted Informa Pauperis Status , Disclosures , and Docketing Statement. In his Injunction writ of Execution ,and request for Removal action Sought before the Eastern District of Oklahoma of which Okmulgee County Okla and the reservation resides..

The district court had jurisdiction under 28 U.S.C. §1331 because Parkers complaint necessarily raised issues of federal law, DuBuc raises federal counterclaims. The district court entered an order remanding the case on November 25, 2024. DuBuc filed a notice of appeal on December 6th , 2024, which was timely under Federal Rules of Appellate Procedure ("FRAP") 4(a)(1)(A) and 5, and 28 U.S.C. §1453(c)(1). See Froud 607 F.3d 520, at 522 (8th Cir. 2010) (per curiam) (appeals under 28 U.S.C. §1453(c)(1) follow the procedure for permissive appeals under FRAP 5). DuBuc's appeal was / is Sought from the remand order.

Parkers complaint necessarily raised issues of federal law Because as a Non member in Reservation Land of the Oklahoma Indian Territory Owned on Mortgage in good standing of Commercial Property Trading Post of a Registered Member with Heirs of a Recognized tribe Cherokee Nation Holding Patient to the land. Acquired on Valid Enforceable Mortgage in good standing ,when sought Divested the United States is a Party in Interest to the Transaction that Recovers Previously lost lands of tribes members not states. 25 CFR 151.11(a)(2)(b)1-8.

Applicant believes that once the lawful true owner in consideration of the 11yr good

standing lease payments and renovations from dry cleaner laundry matt to a fully equipped and stocked retail mall in 17th yr in business 11 at the location at his own expense ,maintenance over 11 yrs reviving it from vandalism and abatement and placed the final purchase price in writing and accepted and recorded with tax paid the mortgage Constituted a Sale of Realestate which no third party may interfere.

That act in Indian Territory reservation with registered member regarding lost prior lands in reservation by lawful mortgage in accordance with Okla. 16 OSA 11A Invokes the Jurisdiction of the Secretary of the Interior weather actual Application has been submitted or not *as it is a land status change of which a UNITED STATES interest Arises not within the States Jurisdiction.*

In Other words Congress Made the timely Demand by Acts and Treaty's Ratified. The Transaction Arises From a Non Member True owner then Living Trustee entering and fulfilling in good standing a binding contract in deed to land and tenements within a reservation with a member who is Registered with Heirs Invoking Federal Preemption acts of Congress and with which this court has held belongs in the tribal court. United States v. Mazurie, 419 U.S. 544, 557 (1975) ("Indian tribes are unique aggregations possessing attributes of sovereignty over both their members and *their territory*" (emphasis added)); see also, *e.g.*, S. Rep. No. 102-168, at 21 (remarks of P. Hugen).

In Strate v. A-1 Contractors, 520 U.S. 438, 453 (1997), assumed that "where tribes possess authority to regulate the activities of nonmembers, civil jurisdiction over disputes arising out of such activities presumably lies in the tribal courts," without distinguishing between nonmember plaintiffs and nonmember defendants. See also Iowa Mut. Ins. Co. v. LaPlante, 480 U.S. 9, 18 (1987).

In Montana v. United States, 450 U.S. 544, 101 S. Ct. 1245 (1981) *Montana* recognized an exception to this rule for tribal regulation of "the activities of nonmembers who enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements." 450 U.S., at 565.

That authority can only extend to land on which the Tribe exercises "absolute and

undisturbed use and occupation". Reserved lands and state jurisdiction cannot attach without act of congress or written authorization and consent of the tribes interest in eliminating checkerboarding and recovers lands previously lost by its registered members. Puyallup Tribe v. Washington Game Dept., 433 U.S. 165, 97 S.Ct. 2616, 53 L.Ed.2d 667. 25 CFR 151.11(a)(2)(b)1-8.

In *Montana*, the Supreme Court held that while Indian tribes generally cannot regulate the conduct of non-members, they "may regulate ... the activities of nonmembers who enter consensual relationships with the tribe *or its members*, through ... contracts, leases, or other arrangements" on fee simple lands within a reservation. 450 U.S. at 565 (emphasis added).

Parker petition doesn't assert even a state claim ,but achieved and has maintained its result, necessarily raises the question of whether this *Montana* exception applies not only to tribal regulations within a reservation's boundaries, but also to the power of tribal court over Commerce of its members running on off-reservation, formerly allotted lands acquired by tribal members.

Federal jurisdiction over this issue exists under Supreme Court precedent.

In *Grable & Sons Metal Products v. Darue Engineering & Manufacturing*, the Court stated that federal-question jurisdiction exists even if a complaint contains only a state-law claim when the claim "[1] necessarily raise[s] a stated federal issue, [2] actually disputed and [3] substantial, which [4] a federal forum may entertain without disturbing any congressionally approved balance of federal and state judicial responsibilities." 545 U.S. at 314. All four elements are satisfied here.

The Supreme Court has repeatedly held that an appellate court has jurisdiction under 28 U.S.C. §1651 to issue a writ of mandamus to compel an inferior court to comply with an earlier mandate.

IV. THERE ARE NO OTHER ADEQUATE MEANS TO OBTAIN THE RELIEF APPLICANTS SEEK

A. The Circuit clerk Court's Refusal to Open a timely received Case.

B. The District Court's Refusal to Act and obstructing Appeal Negatively Impact the integrity of the judiciary as a whole.

C. Petitioner have no alternative remedy as the provided remedy's have been *successfully exercised only to be Usurped*. Imposed Inordinate delay under *prejudice where action had no cause to arise upon*. But Did.

D. The state District Court's Refusal to Abstain and transfer Negatively Affect Applicants' Ability to Defend Against Plaintiffs' Claims or receive fair and Impartial protection of rights Enjoyed by others similarly situated in circumstances. In what may appear *Res Nova Arising Under the Treaty and ,Constitution, and Statues Not Here to for Decided But are Believed Warranted under the Peculiar facts and history*. 25 U.S.C. § 1322(b)

E. Failure to issue a Writ has / will result in further irreparable harm to Petitioner, his tribes , as the *United States intrest in recovered land lost in allotment in reservation Patent Territory's , as the Public Customers*.

Who have been Harmed and can only be vindicated through the Applicant having power to return or complete there work and sales delivery of products paid and seized ,before delivered or picked up. *Restored Status Quo to mitigate any further Compounding of the wrongful act found and refused remedy*.

Issuance of the writ is Enforcing this and other circuits precedents mandates as the State Supreme Courts. That no State Issue was apparent from the face of the pleading from the onset.

Where A Single Federal Court judge, who's Impartiality can reasonably be questioned. has refused UN-reasoned access to Tribal or US forum For a reservation affair raised only by the defendant in state proceedings as its Supreme Court and was refused before seeking Removal , Appeal or this petition. Pg 1-17 No. MA-122462 (Okla. S. Ct. October2024). he could no more to meet Exhaustion Requirements.

CONCLUSION

Many of this courts cases speak of state court looser's, long uninterpreted laws, long Miss-interpreted laws, being corrected ; after decades of public havoc. The overbearing cost, of ever being able to run the gauntlet. Here ,the states highest court said I cant find what you rested your Authority upon not the facts ,law,or even the procedure to Achieve the Walk in Seizure of a Fully paid long standing

17 Year Successful Business of a alleged career criminal following his previous 17 yrs in prison and discharge December 23rd.2003. Now OKDHS / ICWA Certified Kinship Guardian and registered member of the Cherokee Nation with Heirs , in business, and Community , of which was Earned, over 17 yrs . With not a discoverable complaint in any public forum from a single customer in 17 yrs , or to date.

Who though found to have done no wrong, That October 2019 in the Creek-Cherokee Reservation lands of Henryetta Okmulgee Oklahoma, **when parker pro se alleged ,with a attorney of record, according to the court.**

himself a sitting judge and Attorney, as on appeal could Change all that in a matter of five days. Ordered acted on since 2022.

The Statutory damages by any fair understanding are **not only non discretionary are defined by statue as Ipso Facto and determinable.**

The Known Fair Market Value would be between 350 and 600 thousand conservatively, but , customer property and heirlooms of customers as personal , are of a high demanded value collections of toys of near mint quilty when seized there evaluation of condition on Subpoenas has been refused and is unknown should be known this many years latter.

Following Reversal , **a unknown to any counsel setting was made and appeared of record ,after which Counsel Withdrew , no new counsel entered , no plaintiff re-entered and Absconded as shown in the record.**

The matters are " unofficially" treated as Merged depending on the Day. Rather than Grant Judgment as Ordered refuses and sue sponte has the case set on a disposition docket **against the prevailing defendant.**

When the money to hire an attorney was borrowed ,Old counsel ran back in to drive the cost to a Ethics concern according to my attorney who withdrew after obtaining removal from disposition Docket.

There have been far weaker cases have been found to be gamesmanship under removal laws. Your Applicant submits it has just **created a new means of court stifling followed by a financial vacuum cleaner that just insures it falls over time and delay.** The State Supreme Court Refused to compel Execution of its own mandate. The Plaintiffs apparent need is a dismissal no matter how long a delay it takes.

Defaulted all motions ,all amended pleadings, served, all subpoenas. On removal fails to plead over 30 days and citing the ninth circuit , **in the tenth who has a Strict rule in the compliance in Reservation Affairs , as its members as the eighth Circuit being since territorial Times.** This Occurring in business mortgage title is not likely to Occur or cause any windfall not long provided by even the maxims. Here appears to Invoke the Commerce Clause Directly.

When the trial court removed **the untimely motion to grant in chambers** and divest as here the court of first impression assigned , following a self Recusal , which should have occurred from onset with Honorable Snow as it just has the wrong Appearance. Moreover the Removal of judge GLJ and self re-assignment to a district not defined by statute is **a abuse of discretion as granting the Untimely motion ,order suspending the FRCP clerk directives as here to obstruct if not intend to foreclose any consideration warranted by existing law.**

Your Applicant submits is a complete Usurpation of all Authority by both the State and the Oklahoma Federal Court under Presiding court of the state.

RELIEF SOUGHT

Applicants respectfully request that this Court issue the requested writ of Mandamus and determining the coarse of history to the United States wards , industry, Commerce in the Indian Territory under treaty's effecting mainly Court of Appeals for the Eighth and Tenth Circuit Directing that the Original papers of Tenth Circuit be Transferred to this court.

Further that the United States District Court for the Northern - Eastern District of Oklahoma, To Produce to this Court Its Original Papers as Submitted **(not as recast by Recused Magistrate).**

Ordering The State Court to abstain from proceeding per its own Constitution and to Deliver up the Original Records of the State Supreme Court Proceedings as Before Said Court at time such findings Found of entry and detainer occurred not Authorized by law on the facts Asserted as mandated.

Retain Jurisdiction and direct the Chief Presiding Judge of the United States District Court For Northern District to show cause why the removal of the Eastern District of Oklahoma's Matter Sue Sponte From the Honorable US Magistrate Gerald L. Jackson and the Eastern US District Court of Oklahoma ,was Required **After More than 30 Days passed without challenge to District Court jurisdiction.** Following the Self Recusal of D. Edward Snow, Snow law Tulsa Oklahoma.

Whether as Prosecutor in Office in Time and Place Over the Applicant: and which John F. Heil III also served in *Proprietorial duty related to the Applicant during tenor in office with 50 or more other high profile reversals* some of as in applicants history had been sustained on officer testimony who themselves were convicted of false reporting and embezzlement of hours. Vacated on Judicial and prosecutorial Misconduct of Co -Worker latter Judge Edward Randolph Turnball. Okla. CCA F-92-850 (1992-2005).

Restrain or compel The Chief judge to disqualify rather than Usurp Authority Imposed by Federal rules Upon the Clerk in Closing Appeal right without written cause as a abuse of discretion. Which ,the general public might find unreasonable or question based on public Knowledge of the Event.

When perilous Customers of an 11 Year Establishment Detained Since 2019 in the Indian Territory reservation of the Creek-Cherokee has caused injury to them personally that can only be vindicated by the restoration whole of possession to applicant to fulfill there rights and his legal obligations to them as a licensed vendor, with sales Tax on books Due converted on seizure.

Order the Case Restored to the Docket of the United States District Court for the Eastern District of Oklahoma Magistrate Gerald L. Jackson as Assigned when No Challenge to Jurisdiction was made within 30 days Making all other issues Moot Under this courts and Circuit precedents.

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VERIFICATION AND MAILING

"I Brian D Dubuc The Applicant herein for Mandamus Appendix VOL I through III do declare certify, verify, and state, under penalty of perjury that the foregoing is true and correct. Executed on August 11th, 2025. Further that service by first class postage prepaid was made to each party or attorney who has appeared for said party pro bono officially or unofficially with regard to all matter before the courts Below as now This August 11th, 2025 and filed of record in each said court and Oklahoma S. Ct. #118,448 and SC-19-609.

Following Request for additional Corrections August 22nd 2025. Corrected Copy and Appendix I-III With Indexes were Served By Placing the Same by Mail First Class this 2nd Day of September 2025.

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Respondents**NOTICE TO:**

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