

No. _____

25-5849

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

SEP 30 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Darvin W. Gray Pro Se — PETITIONER
(Your Name)

vs.

John Masquelier, warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Tenth Circuit of court of appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Darvin W. Gray
(Your Name)

James Crabtree correctional center
216 W. Murray St Helena
(Address)

Helena Oklahoma, 73741
(City, State, Zip Code)

(572) 568-6000
(Phone Number)

QUESTION(S) PRESENTED

- (1) Can the department of Oklahoma Corrections retain custody indefinitely of Petitioner when petitioner is a member of a federally recognize tribe and Petitioner's alleged crime happened on Indian Reservation and the alleged crime falls under 18 U.S.C. § 1153 major crimes act, the controlling law.
- (2) Does Petitioner's, under the same circumstances as question #1) completely Preempts state constitution and state laws, Pursuant to "Complete Preemption Doctrine," that stems from the Supremacy clause, U.S. Const. Art. VI cl. 2.
- (3) Did the state of Oklahoma have the authority to prosecute Indians when it became a state in 1907 to the present time since Congress never disestablished the Muscogee (Creek) Nation Reservation; Pursuant to the 18 U.S.C. § 1153 Major Crime Act; § 1151(a); *McGist v. Oklahoma*, 591 U.S. 894 (2020).
- (4) Is Petitioner's claim a "VOID Judgment" Pursuant to 18 U.S.C. § 1153 that the state of Oklahoma is in "~~Total~~ want of Jurisdiction".
- (5) Did the state of Oklahoma, state court of Oklahoma make a contrary ruling Pursuant to 18 U.S.C. § 1153 according to Supreme court precedent.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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:

Gray v. Bridges

RELATED CASES

Gray v. Bridges united states District Court, E.D. Oklahoma case no. 23-cv-045-JFH-GLJ Judgment entered Aug 20, 2024

Gray v. Bridges united states Court of Appeals Tenth Circuit case no. no. 25-7023 Judgment entered June 24, 2025 Rehearing and Rehearing En Banc; Judgment entered August 7, 2025.

State v. Gray Oklahoma Court of Criminal Appeals Case# PC-2022-618

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

United Student Air Funds, INC. v. Espinosa Supreme Court of
The United States March 23, 2010 559 U.S. 260 130 S.Ct. 1367

(4)

Carlsbad Technology, INC. v. HTC B20, INC. Supreme Court of The
United States May 4, 2009 556 U.S. 635 129 S.Ct. 1862

(4)

Vaden v. Discovery Bank Supreme Court of the United States
March 9, 2009 556 U.S. 49 129 S.Ct. 1262

(5)

Letler v. Cooper Supreme Court of the United States
March 21, 2012 566 U.S. 156 132 S.Ct. 1376

(4)

Perry v. Johnson Supreme Court of the United States
June 4, 2001 532 U.S. 782 121 S.Ct. 1910

(4)

STATUTES AND RULES

18 U.S.C. § 1153 Major Crimes Act

(4)

18 U.S.C. § 1151 Indian Country defined

(4)

46 Am. Jur. 2d Judgments § 25 - VOI D Judgement

(4)

32 Am. Jur. 2d Federal Courts § 853 - Well pleaded complaint Rule - Complete Preemption as basis
of federal question Jurisdiction

(5)

32A Am. Jur. 2d Federal Courts § 1297 - invalidation or preemption of state law as providing
basis for removal of Action.

(5)

39 Am. Jur. 2d Habeas Corpus § 28 - Grounds for want of Jurisdiction - Grounds for Federal
habeas Corpus to state prisoner; contrary to or unreasonable application of clearly
established federal law.

(4)

FED. R. CIV. P. 60(B) 4 VOI JUDGMENT

(4)

OTHER

Gonzalez v. Crosby Supreme Court of the United States June 23, 2005 545 U.S. 524 (5)
125 S.Ct. 2641 162 L.Ed. 2d.

VIA, INC. v. Airco Inc. 597 F.2d 220 n. 8 (10th Cir. 1979)

CASES

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Sieverding v. American Bar Ass'n United states Distric court, Distric Court of Columbia December 21, 2006 WL 3751354 (5)

IN RE marriage of Dougall Court of Appeals of Arizona, Division 2 December 18, 2013 234 AIR2.2 316 P.3d 591; (5)

Abdulhatic Vi. Erpila, LLC. Court of Appeals of Texas, Houston (14 Dist) March 12, 2015 460 S.W. 3d 685 2015 WL 1143168 (5)

FED. R. CIV. R. 60 B(6) Any other Reason that Justifies Relief (5)

McGirt v. Oklahoma 591 U.S. 594, 899-900 (2020) the ~~is~~ ^{supreme} court of the United states. (14)

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APPENDIX B	10 th Circuit Rehearing case # No. 25-7023 en banc Gray v Bridges August 7, 2025
APPENDIX C	Eastern Distric Court of Oklahoma case # 23-cv-045-JFA-ALJ Gray v. Bridges August 20, 2024
APPENDIX D	Oklahoma Criminal Court of appeals case # PC-2022-618 <u>Gray v. state</u>
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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

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix D to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 24, 2025.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: August 7, 2025, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Supremacy clause of the Constitution VI cl 2 ; Art VI Constitution
United States Constitution Art. I § 8

The 1866 Treaty between the United States and Muscogee (Creek) Indians
Fifth and Fourteenth Amendments to the United States Constitution

STATEMENT OF THE CASE

THE state of Oklahoma court of criminal appeal made a contrary and contradicting Ruling to clearly, well established federal law according to Supreme court Precedent, Pursuant to 18 U.S.C. § 1153 Major crimes act (M.C.A.) that gives exclusive federal jurisdiction to the federal department of justice; see: A decision is "Contrary" to clearly established law, for the purpose of Anti-terrorism and effective Death Penalty Act, (A.E.D.P.A.) under which a federal court may not grant a Petition for a writ of habeas Corpus unless the state courts decision on the merits was contrary to, or involved an unreasonable application of, clearly established federal law as determined by the Supreme Court of the United States, if the state courts applies a rule that contradicts the governing law set forth in Supreme. . . . See; *Lafleur v. Cooper*, Supreme Court of the United States, March 21, 2012 566 U.S. 156 132 S.Ct. 1376. Also See; *Perry v. Johnson* Supreme Court of the United States June 4, 2001 532 U.S. 782 121 S.Ct. 1910; 39 Am. Jur.2d, Habeas Corpus § 28, Grounds for federal habeas corpus to state prisoners; contrary to unreasonable application of clearly established federal law.

Supreme Court Ruled that congress (never) disestablished the Muscogee (Creek) Nation Reservation 18 U.S.C. § 1151 and at the same time Supreme court reaffirmed Pre-existing law of U.S.C. 18 § 1153 Major Crimes Act, which is the Controlling law. *McGirt v. Oklahoma*, 591 U.S. 894; 899-900 (2020) The Major Crimes Act was enacted in 1885 By congress that gave exclusive federal Jurisdiction over Indians that commits one of the Major Crimes Act on Indian country (Reservation). So since 1885 the state of Oklahoma was in "Total Want of Jurisdiction", so the trial court had no jurisdiction when it adjudicated Petitioners case in 2013, and that constitutes a VOID Judgment, a legal Nullity, Violation of the 14 Amendment due process of law. see: *United Student Air Funds, INC. v. Espinosa* Supreme Court of the United States March 23, 2010 559 U.S. 260 130 S.Ct. 1367 also see; *Carlsbad Technology, INC. v. HTC Bio, INC.* Supreme Court of the United States May 4, 2009 556 U.S. 635 129 S.Ct. 1862; 46 Am. Jur.2d Judgment § 25 "VOID JUDGMENT." Also See; FED R. CIV. P. 60 B (4) "VOID JUDGMENT", if it is found that trial court is without

subject matter jurisdiction, the judgment is "VOID"; no discretion, its Mandatory for any court to vacate, set aside judgment for "total want of Jurisdiction", which includes subject matter Jurisdiction. All circuit and District Courts have the same opinion. SEE: Judgment may be "VOID" and would warrant granting a motion for relief from a judgment if the court lacked personal or subject matter jurisdiction in the case, acted in a manner inconsistent with due process or proceeded beyond the powers grant to it by law; *Sieverding v. American Bar Ass'n United States District Court, District of Columbia* December 21, 2006 WL 3151354 Also SEE; Judgment or order is "VOID" if the court entering it lacked jurisdiction (1) over the subject matter (2) over the person involved or (3) to render the particular judgment or ordered entered, if judgment or order is VOID, Trial Court has no discretion but to vacate it SEE: *In re Marriage of Dougall* Court of Appeals of Arizona, Division 2 December 18, 2013 234 ARZ. 2 316 P. 3d 591, SEE: *Abdullatic v. Expila, LLC*. Court of Appeals of Texas, Houston (14 Dist) March 12, 2015 460 S.W. 3d 685 2015 WL 1143168.

Petitioner also used FED. R. CIV. R. 60 B(6) any other reason that justifies Relief, Pursuant to the "Complete Preemption Doctrine" see a plaintiff state cause of action may be recast as a federal claim for relief, making it removal by the defendant proper on basis federal Question Jurisdiction; *Vaden v. Discovery Bank* Supreme Court of the United States March 9, 2009 556 U.S. 49 129 S.Ct. 1262; see 32 AM. JUR. 2d Federal Courts § 853 - well pleaded complaint Rule, complete preemption as basis of federal question Jurisdiction; 32A AM. JUR. 2d Federal Courts § 1297 - invalidation or preemption of state law as providing basis for removal of action. Complete Preemption stems from the Supremacy Clause Art. 6 cl 2, that preempts any state laws that interferes with the Act OF CONGRESS.

Petitioner understands that Petitioner can use federal Rule of Procedure (F.R.C.P.) 60 B(4) and 60 B(6) Pursuant to case *Gonzalez v. Crosby* Supreme Court of the United States June 23, 2005 545 U.S. 524 125 S.Ct. 2641 162 L.Ed. 2d 70 Request Reopening of Petitioner case on "VOID JUDGMENT" and COMPLETE PREEMPTION DOCTRINE" as long as it doesn't attacked the underlying Conviction; "VOID JUDGMENT" attacks the trial courts jurisdiction and

complete Preemption Doctrine attacks the states authority to keep Petitioners claim in state courts. Each issue is a stand alone claim, each should be rule on by a court of Jurisdiction. The lower courts has ignored the petitioners merits and refused to rule on them. Petitioners merits has the rule of law, Law of, Supreme Court of the United states, law of the land, behind them. The United States Supreme Court needs to address these issues to Preserve the Judicial System Morals. This is an "Eisenhower" Mis-carrige of Justice and needs to be addressed by this Court in the "interest of Justice," By Petitioner being in custody of the state of Oklahoma Department of corrections, is in Direct violation of clearly established Federal law according to Supreme Court Precedent and 14 amendment Due Process of law, and contrary to federal law.

REASONS FOR GRANTING THE PETITION

(1) To clarify the Rule of law between the states Jurisdiction and federal Jurisdiction of The Major crimes Act 18 U.S.C. 1153, The controlling law.

(2) The 10th circuit Court has already made two favorable rulings on identical cases that Oklahoma lacked jurisdiction to prosecute Indians. Case # no. 07-7068 & 15-7041 Murphy v. Royal United States court of appeals Tenth circuit, November 9, 2017 875 F. 3d 896 see also Case # no. 11-7072 Magnum v. Trammel June 14, 2013 719 F. 3d 1159. Pursuant to stare Decisis Petitioner is a muscogee (Creek) nation member, has 1/8 Indian Blood quantum, The alleged crime happened on Muscogee (Creek) Nation Reservation, Petitioner lived on the Reservation and the alleged crime falls under 18 U.S.C. § 1153 major crimes Act.

(3) Petitioners claims are governed by clearly established Federal rule of law according to Supreme Court precedent.

(4) Petitioner is Exclusive Federal jurisdiction and petitioner is in the custody of STATE of Oklahoma Department of Corrections, contrary to;

(5) Oklahoma state appellate courts decision was contrary to clearly established Federal law Pursuant 18 § 1153.

(5) Petitioner claims Completely preempts state constitution and state laws Pursuant to the "complete preemption Doctrine".

All of this is a direct violation of the 14th amendment Due Process of law.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Darwin W. Gray

Date: September 29, 2025