

No. 25-5849

IN THE
SUPREME COURT OF THE UNITED STATES

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

VS.

Carrie Bridges, warden — RESPONDENT(S)

MOTION

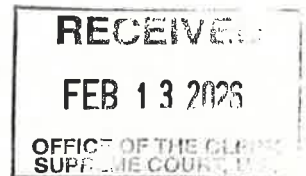
Rule 44, FOR REHEARING

Darvin W. Gray

James Crabtree Correctional Center
216 W. Murray St. Helena Okla.

Helena Oklahoma, 73741

(572) 568-6000



IN THE
SUPREME COURT OF THE UNITED STATES

Darvin W. Gray
v. Carrie Bridges
Petitioner
warden

Case No. 25-5849

INSTRUCTIONS: A PARTY DESIRING TO APPEAR WITHOUT COUNSEL SHALL NOTIFY THE CLERK BY COMPLETING AND SIGNING THIS FORM. THE FEDERAL RULES OF APPELLATE PROCEDURE AND ~~SUPREME COURT~~ RULES REQUIRE THAT ALL PAPERS SUBMITTED TO THE COURT FOR FILING BE SIGNED BY THE FILING PARTY AND THAT COPIES BE SERVED ON OPPOSING PARTIES OR THEIR COUNSEL, IF REPRESENTED BY COUNSEL. THE ORIGINAL OF EVERY PAPER SUBMITTED FOR FILING MUST CONTAIN PROOF OF SERVICE IN A FORM SIMILAR TO THAT ON THE REVERSE OF THIS FORM. ANY PAPER THAT DOES NOT CONTAIN THE REQUIRED PROOF OF SERVICE MAY BE DISREGARDED BY THE COURT OR RETURNED.

I hereby notify the clerk that I am appearing pro se as the

Petitioner

in

(Appellant, Petitioner, Appellee or Respondent)

this case. All notices regarding the case should be sent to me at the address below. If my mailing address changes, I will promptly notify the clerk in writing of my new address.

- Further, in accordance with ~~Supreme Court~~ I certify: (Check one.)
- All parties to this litigation, including parties who are now or have been interested in this litigation, are revealed by the caption for this appeal, or
- There are parties interested in this litigation that do not appear in the caption for this appeal, and they are listed on the back of this form.

Darvin W. Gray
Signature

Darvin W. Gray # 175710
Name

3000 N. 216th Murray Street
Mailing Address

Helena Okahoma 73741
City State Zip Code

Comes now, Darwin W. Gray, Pro se, A member of Muscogee (Creek) Nation, A Federally recognized Indian tribe. Asking this honorable Court for a rehearing on, to other substantial grounds not previously presented.

Ground one; ■ McGirt is not a new Procedural Rule;

And the Grounds are limited to intervening circumstance of substantial or controlling effect. SEE: McGirt v. Oklahoma Supreme Court of the United States July 9, 2020 591 U.S. 894 140 S.Ct. 2452 207 L.Ed. 2d 985 Set Precedent for Jurisdiction in Indian Country (reservation), in the state of Oklahoma on Muscogee (Creek) Nation Indian tribe. Also see: The Supreme Court recently reiterated that although a state generally has jurisdiction over on its territory, its jurisdiction in Indian Country may be preempted by "Federal law under ordinary principle of federal preemption;" Oklahoma v. Castro-Huerta US 142 S.Ct. 2486, 2494 (2022) Both cases are substantial intervening circumstances and controlling effect. Also see; supremacy clause Art. 6 cl. 2.

I, Darwin Wayne Gray, Certify and declare under penalty of perjury that the foregoing is true and correct. 28 U.S.C.A. § 1746

Respectfully Submitted

Darwin W. Gray

Darwin W. Gray 171710

JCCC Unit 6

216 N Murray St

Helena Okla. 73741

UNITED STATES SUPREME COURT
CERTIFICATE

I, Darwin W. Gray, certify and Declare under Penalty of Perjury that the petition for rehearing is done in good faith and not to delay any proceedings, for any reason. 28 U.S.C. § 1746

Respectfully Submitted
Darwin W. Gray
Darwin W. Gray 17710
JCC Unit 6
216 N. Murray St.
Helena Oklahoma 73747

STATEMENT ON GROUNDS ONE

Comes now, Darwin W. Gray, a pro se litigant, asking this honorable supreme court of the United States for a rehearing. Using these other cases and Reasoning which will come to the same conclusion as to the relief Petitioner is asking for, to set aside, vacate state conviction and to have Petitioner's claim transferred to the proper jurisdiction, Department of Federal Justice.

According to this court's ruling on *McGirt v. Oklahoma*, Supreme Court of the United States July 9, 2020 591 U.S., 894 140 S. Ct. 2452 207 L. Ed. 2d 985 that Muscogee (Creek) Nation Reservation still exist and the Major Crimes Act § 1153 (M.C.A.) is still the controlling law in the Eastern part of Oklahoma. Petitioner is in custody of the state of Oklahoma Department of Corrections illegally, in violation of the Constitution, and laws, and treaties of the United States. The state of Oklahoma is infringing on Muscogee (Creek) Nation sovereignty to self-govern their own people, as the Muscogee (Creek) Nation Treaty of 1866 reflects, Petitioner should have the same relief as McGirt, Murphys and others did according to due process of law that the Indian Civil Rights Act (ICRA) guarantees. In addition to other enumerated protection, ICRA guarantees "due process of law" see: *U.S. v. Bryant* Supreme Court of the United States June 13, 2016 579 U.S. 140 136 S. Ct. 1954, and pursuant to stare decisis that the precedent, under which a court must follow earlier judicial decision when the same point arise again in litigation.

Most states lack jurisdiction over crimes committed in Indian country against Indians victims and other people. Mississippi appears to concede, Brief for appellee in no. 77-575, P. 44 that is § 1153 provides a basis for the prosecution of Smith John for the offense charged, The state has no similar jurisdiction. This concession, based on the assumption that § 1153 ordinarily is pre-emptive of state jurisdiction when it applies seems to us be correct it was a necessary premise of at least one of our earlier

decision; SEE: United states ^{v. John}, 437 U.S. 634, 651, 98 S. Ct. 2541, 57 L. Ed. 2d 489 (1978) also see: Seymour v. Superintendent, 368 U.S. 351, 82 S. Ct. 424, 7 L. Ed. 2d 346 (1962) SEE: also; William v. Lee 358, U.S. 271, 220 and n. 5, 79 S. Ct. 269, 270 3 L. Ed. 2d 251 (1959).

The United States Supreme Court confirmed that Muscogee (Creek) Nation was (never) disestablished which means there (never) was a break in the law from the time that state of Oklahoma became a state in 1907 and also this Court Reaffirmed Pre-existing law of the Major Crimes Act of 1885 that was enacted by Congress, that is the controlling law McGirt v. Oklahoma can't be a new Procedural Rule since the law has always existed and McGirt can't be Retro Active since it was (never) disestablished; as the state claim in Mattloff v. Wallace, which is a law that is contrary to and contradicts well established federal law according to Supreme Court Precedent and Tribal Self-Governance of Muscogee (Creek) Nation and its Members, and infringes on Tribal Sovereignty as the Muscogee (Creek) Nation Treaties reflect in McGirt v. Oklahoma. The state of Oklahoma never used Salomon v. Barrett Test or the 1832 Treaty, 7 Stat. 306 Art. 14 decide Mattloff v. Wallace, which would be contrary to Federal law. The state of Oklahoma should not be able to regulate federal law or Indian law. Congress has complete Plenary Power to regulate Indian law and only Congress can, Petitioner is (exclusive) federal Jurisdiction pursuant to 18 U.S.C.A. § 1153 Major Crimes Act. The state of Oklahoma conceded to Petitioner's writ-of-habeas corpus when the state of Oklahoma didn't object to Petitioner's Petition. Petitioner prays and begs this Court to correct the state of Oklahoma abuse of discretion and erroneous miscarriage of Justice and to set aside, vacate Judgment and Sentence and to have Petitioner's claim transfer to the Proper Jurisdiction of Authority, The Department of Federal Justice since Petitioner's crime falls within the Major Crimes Act of 1885 Petitioner is "within the Exclusive" federal jurisdiction of Department of Federal Justice and can't be tried or adjudicated by a state court for "Total want of Jurisdiction" - This Court is the only Court that can fix that.

IN *McGirt v. Oklahoma* Supreme Court of The United States July 9, 2020
591 U.S. 894 140 S.Ct. 2452 207 L.Ed. 2d 985 has set Precedent.

18 U.S.C.A. § 1153 is the controlling law, Congress enacted it in 1885,
It Preempts state of Oklahoma constitution and Oklahoma state laws,
only Congress can preempt state laws and constitution, Supremacy clause Art. 6. cl. 2.

McGirt can't be and isn't a new procedure rule since it has always
existed; see *Murphy v. Royal* United States Tenth Circuit November 9,
2017 895 F.3d 896 2017 WL 581761 footnote 36 it reads as follows:

Independent of the AEDPA, The Supreme Court Teague
Doctrine, *Teague v. Lane*, 489 U.S. 288, 109 S.Ct. 1060,
103 L.Ed. 2d 334 (1989), imposes another limitation on
habeas relief in certain circumstances. See *Brown*, 391
F.3d at 1225-26; see also *Horn*, 536 U.S. at 272, 122 S.Ct.
2147 ("[T]he AEDPA and *Teague* inquiries are distinct.")

Teague does not pose a barrier to Mr. Murphy.

For one thing, the state does not argue that *Teague*
should preclude relief. In such circumstances, "a federal
court may... decline to apply *Teague*." *Caspari v. Bohlen*,
570 U.S. 383, 389, 114 S.Ct. 948, 127 L.Ed. 2d 236 (1994). Even
if we were to raise *Teague* on the states behalf, it would
not affect our analysis.

Teague provides that "new constitutional rules of criminal
procedure will not be applicable to those cases which have
become final before the rules are announced." 489 U.S. at 310
109 S.Ct. 1060 (plurality opinion) see also *Danforth v. Minnesota*,
552 U.S. 264, 266 n.1, 128 S.Ct. 1029 169 L.Ed. 2d 859 (2007)
Explaining that "although *Teague* was a plurality opinion
... the *Teague* rule was affirmed and applied by a

Majority of the Court shortly thereafter): "Finally occurs when state direct appeals have been exhausted and petition for writ of certiorari from [the supreme court] has been time barred or has been disposed of." *Green*, 505 U.S. at 39, 132 S.Ct. 38.

Teague has two exceptions: "First, the bar does not apply to rules forbidding punishment of certain primary conduct or to rules prohibiting a certain category of punishment for a class of defendants because of their status or offense."

Beards v Banks, 542 U.S. 406, 416, 124 S.Ct. 2504, 159 L.

Ed. 494 (2004) (brackets and quotations omitted). "The second

exception is for watershed rules of criminal procedure implicating the fundamental fairness and accuracy of the criminal proceeding." *Id.* at 417, 124 S.Ct. 2504 (quotation omitted)

Mr. Murphy's conviction became "final" on April 21, 2003—the date the Supreme Court denied his petition for certiorari following his direct appeal to the O.C.A. (see 538 U.S. 985, 123 S.Ct. 1795. (This is before the O.C.A. adjudicated his jurisdictional claim on post-conviction review in 2005.) Mr. Murphy has

no need for *Teague*'s exceptions because he does not seek the benefit of a rule that falls within *Teague*'s retroactivity bar. The post-2003 cases we discuss in our *de novo* analysis are "application of the solemn framework. We need not

decide whether these cases qualify as "constitutional" and "procedural" under *Teague* because, even if they do, they are not

"new." A case does not announce a new rule under *Teague* "when it is merely an application of the principle that governed a prior decision to a different set of facts," *Chaidez v. United States*, 568 U.S. 342, 133 S.Ct.

1103, 1107, 185 L.Ed. 2d 149 (2013) (brackets and quotations omitted).

"(A) rule of general application," that is, "a rule designed for the specific purpose of evaluating a myriad of factual contexts," will only infrequently . . . yield a result so novel that it forges a new rule, one not dictated by precedent." Id. (quotations) omitted. When a court applies a general standard to the kind of factual circumstances it was meant to address, (the resulting decision) will rarely state a new rule for Teague purposes." Id.; see also Id. at 1107-08 (explaining "garden-variety applications" of Strickland framework, "do not produce new rules") The post-finality cases we discuss apply to Solem framework to factual scenarios for which the Test was developed; none of the cases created a new rule, moreover, even if Teague required us to limit our analysis to pre-finality law, we would still reach the same results.

McGirt is founded on the same Premises as Murphy, that the Reservation existed and the Major Crime Act is still the controlling law and was always the law, Pre-existing law, McGirt changed nothing as the state of Oklahoma argues in *Mattloff v. Wallace*. McGirt is no new procedure rule of law, it's just Pre-existing law that has been brought to light; and *Teague v. Lane* had jurisdiction and the Authority to make such a law, when the state of Oklahoma had no Jurisdiction or Authority without infringing on Tribal sovereignty / Tribal self-governance of its own people members.

Petitioner deserves the same relief that McGirt, Murphy and others got as Tribal members of a Federally Recognized tribe, statute 18 U.S.C. § 1153 preempts state law and constitution and by Petitioner being in state of Oklahoma custody is violating Petitioners 14, 6, and 5th amendment due process of law, under the U.S. constitution.

REQUEST FOR RELIEF

Petitioner begs this honorable court for a re hearing and asks this court to appoint an attorney for Petitioner to help Petitioner articulate the words needed to navigate this court. Petitioner feels inadequate in this court without the education and law experience that it takes. Petitioner has a valid argument and his merits are in good faith. Petitioner prays for the same relief as all the other Indians with the same issues, to rehear, set aside Judgment And sentence and to transfer Petitioners claim to the proper Authority, Department of Federal Justice. Oklahoma Court of criminal appeals Ruling is contrary and contradicts federal law according to supreme court precedent, *In McGirt*.

Respectfully Submitted

Darwin W. Gray

Darwin W. Gray #111110

Jccc unite

216 W. Murray St.

Helena Oklahoma

73741-1617

Further, I hereby Invoke the prison mailbox rule 28 U.S.C. § 1746 see Fed. R. APP 4(c)(a); *United States v. Ceballos-Mattinez*, 358 F.3d 732; *Houston v. Lack*, 487 U.S. 266, 276 (1988), 18 U.S.C. A. § 1621

CERTIFICATE OF MAILING

I affirm under penalty of perjury that, in compliance with Title U.S.C. 1746,
I placed this Motion for Rehearing
with first-class prepaid postage in the Prison Mail System and in the United States
Mail, addressed to the Clerk of the U.S. Supreme Court, United States Courthouse,
at 1 1st street NE Washington, D.C. 20543-0001.

In addition, I hereby certify that a copy of this form was placed with first-
class prepaid postage in the Prison Mail System and in the United States Mail,
addressed to the Oklahoma State Attorney General's Office, Appellate
Division, 313 N.E. 21st, Oklahoma City, Oklahoma 73105.

December 30, 2025
Date

Darvin W. Gray 171710
(Name) (DOC #)
Darvin W. Gray
James Crabtree Correctional Center
216 North Murray Street
Helena, Oklahoma 73741

CERTIFICATE OF SERVICE

I hereby certify that on December 30, I served a copy of the
[date]

Motion for Rehearing
[name of document]

to: Oklahoma state Attorney Generals office, Appellate
[opposing party or attorney] Division

at 313 N.E. 21st
[mailing address]

Oklahoma city, Oklahoma, 73105
[city] [state] [zip code]

from James Crabtree Correctional Center, 216 North Murray Street, Helena, Oklahoma 73741,
via the United States Postal Service.

December 30 20 25
Date

Darvin W. Gray
Signature

Darvin W. Gray, # 171710
(Print Name and DOC number)
James Crabtree Correctional Center Unit 6
216 North Murray Street
Helena, Oklahoma 73741

Pro Se Litigant's Certificate of Service

I hereby certify that on (date) February 2, I filed the attached document with the Clerk of Court. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the Electronic Case Filing System.

I hereby certify that on (date) _____, I filed the attached document with the Clerk of Court and served the attached document by (service method) _____ on the following, who are not registered participants of the Electronic Case Filing System: (insert names and addresses)

Darwin W. Gray
Signature