

**ORIGINAL**



**IN THE COURT OF CRIMINAL APPEALS  
OF THE STATE OF OKLAHOMA**

LAURIE JEAN MARTIN, )  
 )  
 Appellant, )  
 vs. )  
 )  
 THE STATE OF OKLAHOMA, )  
 )  
 Appellee. )

**NOT FOR PUBLICATION**

No. F-2017-991

**FILED**  
IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA

MAY 27 2021

**JOHN D. HADDEN  
CLERK**

**SUMMARY OPINION**

**LUMPKIN, JUDGE:<sup>1</sup>**

Appellant Laurie Jean Martin was tried by jury and convicted of Misdemeanor Manslaughter in the First Degree, in violation of 21 O.S.2011, § 711(1), in the District Court of Carter County, Case No. CF-2016-782A. The trial court sentenced Appellant in accordance with the jury's recommendation to forty years imprisonment. Appellant

---

<sup>1</sup> As stated in my separate writing in *Bosse v. State*, 2021 OK CR \_\_, \_\_ P.3d \_\_, (Lumpkin, J., concurring in result), I am bound by my oath and adherence to the Federal-State relationship under the U.S. Constitution to apply the edict of the majority opinion in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020). However, I continue to share the position of Chief Justice Roberts' dissent in *McGirt*, that at the time of Oklahoma Statehood in 1907, all parties accepted the fact that Indian reservations in the state had been disestablished and no longer existed.

must serve 85% of her sentence before becoming eligible for parole consideration. Appellant appeals from this conviction and sentence.

In Proposition I, Appellant contends the District Court lacked jurisdiction to try her. Appellant argues that she is a citizen of the Choctaw Nation and the crime occurred within the boundaries of the Chickasaw Reservation.

Pursuant to *McGirt v. Oklahoma*, No. 18-9526 (U.S. July 9, 2020) Appellant's claim raises two separate questions: (a) her Indian status and (b) whether the crime occurred in Indian Country. These issues require fact-finding. We therefore remanded this case to the District Court of Craig County for an evidentiary hearing.<sup>2</sup>

Recognizing the historical and specialized nature of this remand for evidentiary hearing, we requested the Attorney General and District Attorney work in coordination to effect uniformity and completeness in the hearing process. Upon Appellant's presentation of *prima facie* evidence as to Appellant's legal status as an Indian and as to the location of the crime in Indian Country, the burden shifts to the State

---

<sup>2</sup> Because we remanded the case for an evidentiary hearing and authorized supplemental briefing thereafter, Appellee's Request to File Response to Appellant's Jurisdictional Claim is moot.

to prove it has subject matter jurisdiction. The District Court was ordered to determine whether Appellant has some Indian blood and is recognized as an Indian by a tribe or the federal government. The District Court was also directed to determine whether the crime occurred in Indian Country. The District Court was directed to follow the analysis set out in *McGirt* to determine (1) whether Congress established a reservation for the Chickasaw Nation, and (2) if so, whether Congress specifically erased those boundaries and disestablished the reservation. In so doing, the District Court was directed to consider any evidence the parties provided, including but not limited to treaties, statutes, maps, and/or testimony.

We also directed the District Court that in the event the parties agreed as to what the evidence would show with regard to the questions presented, the parties may enter into a written stipulation setting forth those facts upon which they agree and which answer the questions presented and provide the stipulation to the District Court. The District Court was also ordered to file written findings of facts and conclusions of law with this Court.

An evidentiary hearing in this case was timely held before the Honorable Dennis R. Morris, District Judge, and Findings of Fact and

Conclusions of Law were timely filed with this Court. The record indicates that appearing before the District Court were attorneys from the office of the Attorney General of Oklahoma, the Carter County District Attorney's Office and appellate defense counsel.

In its Findings of Fact and Conclusions of Law, the District Court set forth that the State of Oklahoma and Appellant stipulated "(1) Appellant Martin has 1/32 Indian blood quantum; and (2) Appellant Martin was a member of the Choctaw Nation (Membership Number CN\_\_\_39) at the time of the crime; and (3) The [sic] Choctaw Nation is an Indian Tribal Entity recognized by the federal government."

Thereafter, the District Court found Appellant Martin "(1) has 'some Indian blood', specifically 1/32 blood quantum, and (2) is 'recognized as an Indian by a tribe/' specifically the Choctaw Nation, a Tribal Entity recognized by the federal government." The District Court concluded "Appellant is an Indian for purposes of criminal jurisdiction."

Regarding whether the crime occurred in Indian country, the Findings of Fact and Conclusions of Law states that based upon the parties' stipulations, the Court finds as follows: "(1) [t]he crime occurred in the city of Ardmore, Carter County, Oklahoma; (2) That

Ardmore, Oklahoma is within the historical boundaries of the Chickasaw Nation, as set forth in, and adjusted by, the 1855 and 1866 treaties between the Chickasaw and Choctaw Nations and the United States.”

In determining whether Congress established a reservation for the Chickasaw Nation, the District Court considered and found as follows:

(3) The State’s Brief on Remand for Evidentiary Hearing, by and through Attorney General for the State of Oklahoma, Mike Hunter, sets forth no fact or law contrary to the evidence presented by Appellant’s Brief, as to her Proposition I of her direct appeal, and/or the Amicus Curiae Chickasaw Nation’s Brief.

(4) The Indian Removal Act of 1830 authorized the President of the United States’ representatives to negotiate with Indian tribes for their removal to federal territory west of the Mississippi River in exchange for the land on which they historically resided.

(5) Pursuant to the Indian Removal Act of 1830, the United States and the Choctaw Nation entered into the 1830 Treaty of Dancing Rabbit Creek. In the Treaty the United States granted the Choctaw Nation specific lands “in fee simple to them (Choctaw) and their descendants, to ensure to them while they shall exist as a nation and live on it.” In exchange, the Choctaw Nation ceded their historical lands east of the Mississippi River.

(6) The Choctaw Nation and the Chickasaw Nation entered into the 1837 Treaty of Doaksville. In the Treaty the Choctaw Nation granted the Chickasaw Nation a “district

within the limits of (the territory of the 1830 Treaty of Dancing Rabbit Creek) to be held on the same terms that the Choctaws now hold it . . .” The 1837 Treaty made the provisions of the 1830 Treaty of Dancing Rabbit Creek applicable to the Chickasaw Nation.

(7) In the 1855 Treaty of Washington, Congress modified and expressly reaffirmed “the boundaries of the Choctaw and Chickasaw country.” Further, the 1855 Treaty reaffirmed the Chickasaw Nation’s right of self-government.

(8) The 1866 Treaty of Washington provided “peace and friendship [sic] between the United States and the Choctaw and Chickasaw Nations at the close of the Civil War. Further, the 1866 Treaty reaffirmed the Choctaw and Chickasaw Nations’ rights and lands granted under the previous Treaties and reaffirmed their rights to self-governance.

(9) The Chickasaw Nation is a federally recognized Indian tribe as stipulated to by the parties.

(10) Ardmore, Oklahoma, where this crime occurred, is within the boundaries of the Chickasaw Nation as established by the Treaties and stipulated to by the parties.

The District Court found that “[i]n applying the reasoning used by the United States Supreme Court in *McGirt* to the case at bar, it is abundantly clear that Congress established a ‘reservation for the Chickasaw Nation.’” [sic]

Further, regarding whether Congress specifically erased the boundaries or disestablished the Chickasaw Reservation, the District Court found “[n]o evidence has been presented to the Court to

establish that Congress has taken any action whatsoever to erase the boundaries or disestablish the Chickasaw Reservation. The State of Oklahoma, as Plaintiff/Appellee sets forth no evidence or argument as to the issue of disestablishment.” The District Court found “that Congress has not specifically or explicitly acted to disestablish the Chickasaw Nation Reservation.”

The District Court concluded, “Congress established a reservation for the Chickasaw Nation and that Congress had not disestablished the Chickasaw Nation Reservation. That Appellant Martin is an Indian for purposes of criminal jurisdiction and the crime occurred in Indian Country for the purposes of the General Crimes Act, 18 U.S.C. § 1152.”

Both Appellant and the State were given the opportunity to file response briefs addressing issues from the evidentiary hearing. Appellant argues that the District Court’s findings are “well supported.” She argues she is an Indian and the crime occurred in Indian Country; therefore, the State was without jurisdiction to prosecute her.

In its response brief, the State acknowledges the District Court accepted the parties’ stipulation to Appellant’s Indian status based on

documentation showing Appellant had 1/32 Indian blood quantum and was a member of the Choctaw Nation on the date of the crime and made those fact findings. The State also asserts the District Court applied *McGirt* and found Congress did establish a Chickasaw Reservation and that Congress has not specifically or explicitly acted to disestablish the Chickasaw Nation Reservation. The State requests that should this Court find Appellant is entitled to relief based on the District Court's findings, this Court should stay any order reversing the conviction for thirty (30) days so that the appropriate authorities can review the case and determine whether it is appropriate to file charges and take custody of Appellant. *Cf.* 22 O.S. 2011, § 846.

After thorough consideration of this proposition and the entire record before us on appeal including the original record, transcripts, and briefs of the parties, we find that under the law and the evidence relief is warranted. While the State stipulated to the Appellant's status as an Indian, the State presented no stipulation, argument or evidence regarding the existence of the Chickasaw Reservation. This acquiescence has created a legal void in this Court's ability to adjudicate properly the facts underlying Appellant's argument. This Court is left with only the trial court's Findings of Fact and



Conclusions of Law to review for an abuse of discretion. An abuse of discretion is any unreasonable or arbitrary action taken without proper consideration of the facts and law pertaining to the matter at issue. *State v. Delso*, 2013 OK CR 5, ¶ 5, 298 P.3d 1192, 1194.

Based upon the record before us, the District Court's Findings of Fact and Conclusions of Law are supported by the evidence presented at the evidentiary hearing. We therefore find Appellant has met her burden of establishing her status as an Indian, having 1/32 degree Indian blood and being a member of the Choctaw Nation on the date of the crime. We also find the District Court appropriately applied *McGirt* to determine that Congress did establish a Chickasaw Reservation and that no evidence was presented showing that Congress explicitly erased or disestablished the boundaries of the Chickasaw Reservation or that the State of Oklahoma had jurisdiction in this matter. We find the State of Oklahoma did not have jurisdiction to prosecute Appellant in this matter.<sup>3</sup> The Judgment and Sentence in

---

<sup>3</sup> While Art. 7 of the Oklahoma Constitution vests the district courts of Oklahoma with "unlimited original jurisdiction of all justiciable matters," the federal government has pre-empted the field as it relates to major crimes committed by or against Indians in Indian country.

this case is hereby reversed and the case remanded to the District Court of Carter County with instructions to dismiss the case.<sup>4</sup>

**DECISION**

The **JUDGMENT and SENTENCE is REVERSED AND REMANDED with instructions to Dismiss.** The **MANDATE** is not to be issued until **twenty (20) days** from the delivery and filing of this decision.<sup>5</sup>

AN APPEAL FROM THE DISTRICT COURT OF CARTER COUNTY  
THE HONORABLE DENNIS R. MORRIS, DISTRICT JUDGE

**APPEARANCES AT  
EVIDENTIARY HEARING**

MICHAEL D. MOREHEAD  
P.O. BOX 926  
NORMAN, OK 73070  
COUNSEL FOR APPELLANT

CRAIG LADD  
DISTRICT ATTORNEY  
107 FIRST AVENUE  
SOUTHWEST  
ARDMORE, OK 73401  
COUNSEL FOR THE STATE

TESSA HENRY  
TAYLOR LEDFORD  
ASST. ATTORNEYS GENERAL  
313 N.E. 21<sup>ST</sup> ST.

**APPEARANCES ON APPEAL**

MICHAEL D. MOREHEAD  
P.O. BOX 926  
NORMAN, OK 73070  
COUNSEL FOR APPELLANT

MIKE HUNTER  
ATTORNEY GENERAL  
OF OKLAHOMA  
TESSA HENRY  
ASST. ATTORNEY GENERAL  
313 N.E. 21<sup>ST</sup> ST.  
OKLAHOMA CITY, OK 73105  
COUNSEL FOR THE STATE

---

<sup>4</sup> This resolution renders the other six (6) propositions of error raised in Appellant's brief moot.

<sup>5</sup> By withholding the issuance of the mandate for 20 days, the State's request for time to determine further prosecution is rendered moot.

OKLAHOMA CITY, OK 73015  
COUNSEL FOR THE STATE

**OPINION BY: LUMPKIN, J.**

KUEHN, P.J.: Concur in Results

ROWLAND, V.P.J.: Specially Concur

LEWIS, J.: Concur in Results

HUDSON, J.: Specially Concur

**KUEHN, PRESIDING JUDGE, CONCURRING IN RESULT:**

I agree with the Majority that the State of Oklahoma had no jurisdiction to try Appellant, and her case must be dismissed. This Court recently found that the Chickasaw Reservation was not disestablished, and is Indian country. *Bosse v. State*, 2021 OK CR 3, ¶¶ 11-12. Oklahoma does not have jurisdiction to prosecute crimes committed by or against Indians in Indian country. *Bosse*, 2021 OK CR 3, ¶ 28; 18 U.S.C. §§ 1152, 1153. Because the issue of reservation status has already been decided, I find the Majority's discussion of it superfluous dicta. I further note that the Majority's inclusion of a blood quantum is unnecessary. This Court, like the Tenth Circuit, requires only a finding of *some* Indian blood to determine Indian status, and has explicitly rejected a specific blood quantum requirement.<sup>1</sup> *Bosse*, 2021 OK CR 3, ¶ 19.

I also disagree with the Majority's characterization of the State's position below as "acquiescence." As I have said before, the State's decision to stipulate to some issues and take no position on the issue of reservation status was an available legal strategy and conserved

---

<sup>1</sup> Inclusion of Appellant's tribal membership number is inappropriate.

judicial resources.<sup>2</sup> *Hogner v. State*, 2021 OK CR 4, ¶ 2 (Kuehn, P.J., concurring in result). And I repeat that there is no “void” in the record. Petitioner provided the trial court with law and evidence relevant to the jurisdictional issue. The State chose not to augment or contest this law and evidence. There was a full record below and a full record on appeal. The trial court’s findings and conclusions clearly set forth the details of the evidence it used to make its decisions. Often, in a criminal trial, the defendant does not offer evidence to counter the evidence of guilt presented by the State. And yet, this Court routinely finds the evidence is sufficient for our review, without complaining that the defendant’s choice leaves a void in the record. The same is true here.

---

<sup>2</sup> This position is also entirely consistent with the State’s position in civil Indian Child Welfare Act proceedings. On August 1, 2020, the Oklahoma Department of Human Services, on behalf of the State, entered into an Intergovernmental Agreement Between the State of Oklahoma and Each of the Five Tribes Regarding Jurisdiction Over Indian Children Within Each Tribe’s Reservation (filed, Oklahoma Secretary of State, Aug. 1, 2020). Throughout the Agreement the State explicitly recognizes the continued existence of the Chickasaw Reservation.

**ROWLAND, VICE PRESIDING JUDGE, SPECIALLY CONCURRING:**

I specially concur in the majority's disposition of this case for the reasons stated in my separate writing to *Hogner v. State*, 2021 OK CR 4, \_\_ P.3d \_\_.

**LEWIS, JUDGE, CONCURRING IN RESULTS:**

Based on my special writings in *Bosse v. State*, 2021 OK CR 3, \_\_\_ P.3d \_\_\_ and *Hogner v. State*, 2021 OK CR 4, \_\_\_ P.3d \_\_\_, I concur in the results of the decision to dismiss this case for the lack of state jurisdiction.

**HUDSON, J., SPECIALLY CONCURRING:**

Today's decision applies *McGirt v. Oklahoma*, 140 U.S. 2452 (2020) to the facts of this case and dismisses a first degree misdemeanor manslaughter conviction from the District Court of Carter County. I fully concur in the majority's opinion based on the stipulations below concerning Appellant's Indian status and the location of this crime within the historic boundaries of the Chickasaw Reservation. Under *McGirt*, the State has no jurisdiction to prosecute Appellant. Instead, Appellant must be prosecuted in federal court. I therefore as a matter of *stare decisis* fully concur in today's decision.

I also join Judge Rowland's observation in his special writing in *Hogner v. State*, 2021 OK CR 4, \_\_P.3d\_\_, that the Major Crimes Act does not affect the State of Oklahoma's subject matter jurisdiction in criminal cases but, rather, involves the exercise of federal criminal jurisdiction to effectively preempt the exercise of similar state authority. *Id.* at ¶ 4 (Rowland, V.P., Concurring in Result). Further, I maintain my previously expressed views on the significance of *McGirt*, its far-reaching impact on the criminal justice system in Oklahoma and the need for a practical solution by Congress. *See Bosse*, 2021 OK CR 3, \_\_P.3d\_\_ (Hudson, J., Concur in Results);



*Hogner v. State*, 2021 OK CR 4 (Hudson, J., Specially Concurs); and  
*Krafft v. State*, No. F-2018-340 (Okl.Cr., Feb. 25, 2021) (Hudson, J.,  
Specially Concurs) (unpublished).