I’m honored to be starting my second year as Chair of the Native Peoples Law Caucus. For those of you who don’t know me, I’m the Director of the National Indian Law Library at the Native American Rights Fund in Boulder, CO. I believe that the NPLC serves an important role within AALL by ensuring that tribal laws and tribal nations are represented within the association. Our members have also contributed Indian law publications to various law reviews, magazines, newspapers and blogs and have presented at local, regional, and national conferences. I’m proud to see the work you all have done and I hope we can highlight some of it in this newsletter.

After a year off, I’m pleased to have the NPLC newsletter back in 2023 and I appreciate each of you who took time to submit a tidbit or a full-fledged article this year. If you are looking for a way to contribute to NPLC, please consider submitting an item for the newsletter next year. You can write a short summary of an event you attended or an article you read and send it to me anytime.

I’d like to say a special thank you to our officers for contributing their time and talents to NPLC. Amber Madole is our Secretary and took detailed minutes of our last two annual meetings. You can find those minutes on our My Communities page which is diligently updated by our Webmaster Marty Witt. Thank you, also, to Scott Stevens for his excellent work editing the 2020 and 2021 newsletters.

Finally, I want to thank our former Chair, Darla Jackson, for the work she’s done in raising NPLC’s profile at AALL and working to get our programs accepted at the annual conference. Darla has left big shoes to fill and I will do my best to live up to the high bar she has set.

I’ve enjoyed serving as Chair of the NPLC for the last year and I look forward to working with you all this coming year. Please don’t hesitate to contact me with ideas and suggestions for projects and new initiatives for the Native Peoples Law Caucus.

Anne Lucke
Chair, NPLC
The aim of the Native Peoples Law Caucus (NPLC) is to provide a forum in which Native law and other issues that impact Indigenous Peoples worldwide can be discussed, ideas shared, information exchanged, and education offered. The Caucus encourages and facilitates the analysis, cataloging, collection, dissemination, management, organization, and preservation of Native law in accordance with cultural tradition.

2023 OFFICERS

Chair: Anne Lucke
Secretary: Amber Kennedy Madole
Webmaster: R. Martin Witt
Newsletter Editor: Anne Lucke

MISSION & VISION

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JOIN THE NATIVE PEOPLES LAW CAUCUS!

Are you interested in federal Indian and tribal law? Please join the Native Peoples Law Caucus!

Already a member? Please invite your colleagues! AALL Members can join our community by going to bit.ly/aallnplc, signing in, and clicking on the “Join Community” button.

All AALL members are welcome!
Items of Interest

Recent Articles

Librarians for Indigenous-Inclusive Citation: Promoting the Importance of Including Tribal Law and Government in The Bluebook by Amber Kennedy Madole (NPLC Member)
AALL Spectrum / January/February 2023 / Volume 27, Number 3

A Transition to Retirement: It’s Never Too Early to Start Thinking About and Planning for Your Retirement by Mary Whisner (NPLC Member)
AALL Spectrum / May/June 2023 / Volume 27, Number 5

New Indian Law Publications

Landmark Indian Law Cases (second edition) presents 54 ground-breaking federal Indian law decisions made by the U.S. Supreme Court. Each case now includes a summary that explains why it is a landmark Indian law case and the key holding(s) of the decision. The book was edited by Joel West Williams and is published by William S. Hein & Co., Inc. The book is available for purchase on the publisher’s website: https://www.wshein.com/

Labor and Employment Law in Indian Country (2022 edition) by Kaighn Smith, Jr. with Joel West Williams as executive editor was published in 2022. This guide is especially useful to tribal government elected officials; managers and officers of tribal enterprises; human resources staff; attorneys representing Indian tribes and their enterprises; attorneys representing non-Indian interests doing business in Indian Country; and judges in tribal, state, and federal courts. Ten years after the first edition of this book, labor and employment law in Indian Country remains a critical battle ground for tribal sovereignty. For more information or to purchase a copy of the book, see the Drummond Woodsum website: https://dwmlaw.com/labor-and-employment-law-in-indian-country/

Restatement of the Law, The Law of American Indians was also published in 2022. This Restatement cements the foundational principles of American Indian law. Topics include tribal authority, federal/tribal relations, state/tribal relations, tribal economic development, criminal jurisdiction in Indian Country and natural resources. More information can be found on the American Law Institute’s website: https://www.ali.org/publications/show/law-american-indians/

Digital Publication of Tribal Laws Pilot Project Wins 2023 AALL Public Access to Government Information Award

By Bonnie Shucha, Associate Dean and Library Director, University of Wisconsin Law School

American Association of Law Libraries has awarded the 2023 Public Access to Government Information Award to the Digital Publication of Tribal Laws Pilot Project. The project was developed jointly by the University of Wisconsin Law Library, the National Indian Law Library, the Open Law Library, the UW Great Lakes Indigenous Law Center, and the Stockbridge-Munsee Community Band of Mohican Indians.

The right to know the laws by which we are governed is a fundamental right in a democratic society. Access to our laws is essential to protect and promote due process and equal protection, access to justice, and tribal self-governance. However, for a majority of the 574 federally recognized American Indian tribes, no laws have been published. Where it is available, tribal law is scattered across databases, websites, and print publications, often incomplete and outdated. This lack of access to tribal law negatively impacts Native Nations and their members, hinders non-member partnerships with tribes, and limits general understanding of tribal sovereignty and perspectives. The Digital Publication of Tribal Laws Pilot Project addresses this critical need for improved public access to tribal laws.

In this pilot project, funded by the Institute of Museum and Library Services, developers worked with Native Nations to make their laws publicly available using a customizable publishing platform that offers tribes full ownership and control over their content. Several tribes, including Wisconsin’s Stockbridge-Munsee and Lac Courte Oreilles, have already openly published their laws using this platform and several others are in development.

This platform also enables libraries to partner with tribes in providing public access to current, authentic copies of these laws through free digital collections. These collections, which automatically incorporate laws as they are updated by tribes, will enable library users to simultaneously search the current laws of multiple participating tribes. Using metadata standards and code developed by and for the National Indian Law Library’s Tribal Law Gateway and the University of Wisconsin Law School Digital Repository (tribal law collection coming soon), other libraries will soon be able to curate their own federated tribal law collections with tribal partners at no cost using the library platform developed by the Digital Publication of Tribal Laws Pilot Project.

Project partners are reaching out to tribal leaders, legal professionals, and librarians to share information about and encourage participation in the project. We have presented at meetings of the American Association of Law Libraries, WestPac, National American Indian Court Judges Association, Wisconsin Tribal Judges Association, and Oklahoma Bar Association. In June, we presented at the Tribal College Librarians Professional Development Institute in Bozeman, MT. And we’ll also discuss the project in a deep dive session entitled, “Recognizing the Third Sovereign: Promoting Awareness of, Respect for, and Access to Native American Tribal Law” at the AALL Annual Meeting in Boston in July.
Too often, tribal law is excluded from our collective understanding of “American law,” leading to the marginalization of Native communities and the invisibility of their governance structures. As law librarians, we recognize the imperative need to expand our conception of American law to encompass the work and experiences of tribal nations. We believe that the Digital Publication of Tribal Laws Pilot Project will help tribes enhance the power and visibility of their law and empower libraries to provide public access to these important sources of law. For more information about the project, contact Bonnie Shucha, Associate Dean and Director of the UW Law Library.

National Native American Law Students Association (NNALSA) Moot Court Competition

By Darla Jackson, Director, Mabee Legal Information Center, University of Tulsa College of Law

On February 25-26, 2023, the 31st annual National Native American Law Students Association (NNALSA) Moot Court Competition was hosted by The University of Oklahoma College of Law. OU College of Law Dean Kathleen Guzman noted, “... this year marks the 200th anniversary of a foundational case for federal Indian law and policy [Johnson v. M’Intosh], as well as the 50th anniversary of our own American Indian Law Review – the first of its kind in the nation – we are especially honored that NNALSA selected OU Law to host this year, and proud of the work that our NALSA chapter members engaged to secure this singular opportunity and will expend on running a first-rate event.”

It was indeed a first-rate event highlighted by a drum circle, Indian tacos, t-shirts, and of course great competition by the next generation litigators of Native American issues. OU Law professors M. Alexander Pearl and Taiawagi Helton co-authored the moot court problem, which involved questions regarding whether an individual has Indian status sufficient to render him subject to a tribal eminent domain action and whether a tribe retains inherent authority to protect resources on non-member fee lands within its reservation.

The 2024 competition will be hosted by the Alexander Blewett III School of Law at the University of Montana. It was a pleasure to serve as a volunteer oral argument judge. I encourage you to get involved with NALSA chapters near you.
Sovereignty Continues To Be Topic of Oklahoma Symposia

By Darla Jackson, Director, Mabee Legal Information Center, University of Tulsa College of Law

**Work of Sovereignty Symposium**

March 30 through April 1, 2023, the University of Tulsa held the Work of Sovereignty Symposium, hosted by TU’s College of Law and the Oklahoma Center for the Humanities. The Symposium hosted lectures and panel discussions on a wide range of sovereignty related topics including "governance, inter-institutional cooperation, theories of sovereignty and native futures." Thought leaders in the fields of law, history, art, and culture discussed complex issues and history focusing on the future of Native sovereignty in and beyond Oklahoma.

Professor Amanda Cobb-Greetham (Chickasaw), Chair of the Native American Studies Department at the University of Oklahoma, using the concept of a "bright golden haze" from the lyrics of a song in the musical *Oklahoma*, discussed the work of sovereignty as a means of embracing complexity and encouraged us not to allow the fear of the haze to divide us but to place our faith in the bright light of the morning to clarify our complexities and guide us into an indigenous future. Lauren van Schilfgaarde, UCLA Assistant Professor of Law, further defined the concepts encompassed by sovereignty and explained the ebbs and flows of sovereignty in U.S. history.

The panel discussion regarding tribal governance was such a delight with each of the speakers speaking about their research. Joe Kalt, Ford Foundation Professor Emeritus of International Political Economy, Kennedy School of Government, Harvard University; and Co-Director, Harvard Project on American Indian Economic Development, provided...
empirical evidence that when tribes exercised sovereignty in economic operation and management as well as in education and healthcare, positive improvements occurred. Angela Riley, UCLA Professor of Law and Director of Native Nations Law and Policy Center, shared her research on Indigenous cultural property law. Surveying tribal codes, primarily by reviewing tribal websites, Professor Riley found an increasing effort to preserve cultural property, including data. Professor Riley’s scholarship is documented in “The Ascension of Indigenous Cultural Property Law” in the Michigan Law Review. She writes,

... tribal laws today, as tribes assert greater control over whether and how research can be conducted in tribal communities. This includes laws that deal with securing permits prior to conducting research, who can own the intellectual property that is produced, benefit-sharing requirements, and other research protocols that must be followed. Exercising “data sovereignty” aligns with tribal rights of self-determination and with a growing emphasis on protection for Indigenous knowledge as evidenced in international human rights law, including in the U.N. Declaration on the Rights of Indigenous Peoples. Moreover, because tribes are empowered through these laws to ensure that researchers consent to tribal jurisdiction, tribes are well-positioned to enforce their own laws with regard to their Indigenous knowledge and offer greater protections to their communities for the advancement of tribal cultures.

The last day of the symposium did not seem like an end but included an invitation to continue to consider the future for the concept of sovereignty. In a panel discussion entitled “Representing Sovereignty,” Brettlyn Bevenue, an Outreach Specialist for the Cherokee Nation Film Office, continued the discussion of tribal cultural sovereignty as represented in film and the performing arts. And Carly D. Griffith Hotvedt (Cherokee), the Associate Director of the Indigenous Food and Agriculture Initiative (IFAI), spoke about promoting tribally driven solutions to revitalize and advance traditional food systems and diversified economic development throughout Indian Country. She detailed the work of the IFAI to provide tribal governments, producers, and food businesses with educational resources, policy research, and strategic analysis as a basis for building food economies. The resources and publications of the IFAI, including the Model Tribal Food and Agriculture Code, are available on its website.

Finally, Sara Hill, Attorney General of the Cherokee Nation, inspired us all with her vision of a cooperative environment in which the diversity of perspectives resulted in positive outcomes for native and local communities.

Continued on Page 8
The Thirty-Fifth Sovereignty Symposium was held at the Skirvin Hotel in Oklahoma City on June 2023 with treaties as the theme for implementing sovereignty. Although the theme was treaties, the focus was wider with discussions including treaties, intergovernmental agreements, and compacts. The keynote speaker, Baroness Emma Nicholson of Winterbourne, spoke of her research into the United Kingdom’s dealings with the Chickasaw Nation. Additionally, sessions on water law, the Indian Child Welfare Act (ICWA), education, gaming, and criminal law were offered.

The Sovereignty Symposium was established to provide a forum in which "ideas concerning common legal issues among those in the legal professions, federal and state officials, and the state’s Native American tribes can be exchanged in a scholarly, non-adversarial environment." Although established by the Oklahoma Supreme Court, the court made it clear that it did not endorse the positions taken by the participants. Notwithstanding, given the nature of controversies before the court, in 2023, the court stepped back from the Sovereignty Symposium and began the process of transferring responsibility for the forum to Oklahoma City University, emphasizing OCU School of Law’s "long history ... of teaching and working in Oklahoma Indian Country."

Although the theme of the symposium was not ICWA related, because the Sovereignty Symposium proceeded the U.S. Supreme Court’s Brackeen opinion by only a few days, an emphasis on the arguments in that case permeated other sessions. For instance, Lauren van Schilfgaarde, UCLA Law School Tribal Legal Development Clinic Director, who also participated in the Work of Sovereignty Symposium, spoke of it in the juvenile law and children’s issues session. And Jonodev Chaudhuri, Former Chairman of the National Indian Gaming Commission and current ambassador of the Muscogee (Creek) Nation, in both the gaming and criminal law sessions, discussed the potential impact of a negative ruling in the Brackeen case.

In the water law session Sara Hill, Attorney General for the Cherokee Nation, discussed the status of the State of Oklahoma v. Tyson Foods case. This case, which involves pollution of Oklahoma waters by the Arkansas based poultry producer, has been an ongoing concern for over eighteen years. In January 2023, the judge entered a 214 page findings of fact and conclusions of law, which found in favor of the state and against defendants "on the State's claims of statutory public nuisance, federal common law nuisance, trespass, for violation of 27A Okla. Stat. § 2-6-105, and for violation of 2 Okla. Stat. § 2-18.1." The parties were directed to meet and attempt to reach an agreement with regard to remedies to be imposed.
As in previous years, the opening ceremony included a tribal processional led by an honor guard and continuing with a presentation of tribal nation flags. Scholarships were available to law students and others in the legal community to attend the Sovereignty Symposium. I attended on the Ed Edmondson Scholarship. Ed Edmondson served in the United States Congress representing Oklahoma for twenty years. He was a longtime supporter of both Native American concerns and education.

I thoroughly enjoyed the experience and was glad for the opportunity to hear about different perspectives on the issues. Despite the contentious nature of the relationship in Oklahoma between the tribes and the governor’s office, it was encouraging to hear tribal, state, and international leaders express enthusiasm about cooperative efforts to address continuing issues regarding sovereignty and resolution of practical concerns.

**Endnotes:**

4. Report presented by Baroness Nicholson of Winterbourne to Governor Anoatubby on the occasion of The Sovereignty Symposium June 2023, available for download at https://drive.google.com/drive/folders/1LbJzEsSRMSaVEDKlHTu3YLZ3P0REh3gB.
6. Id.
Going to the Annual Meeting in Boston? Please join us for the following events!

**AALL Marketplace at The Conference of Newer Law Librarians (CONELL)**
**Date:** Saturday, July 15th  
**Time:** 11:15am - 12:00pm  
**Location:** Marriott - Salon G

NPLC will be hosting a table. Stop by to say hello and welcome new AALL Members!

**NPLC Meet-up**
**Date:** Sunday, July 16th  
**Time:** 10:15am  
**Location:** TBD — look for a message in My Communities for details once a location is chosen  

An informal gathering for NPLC members to catch up in person while in Boston.

**Recognizing the Third Sovereign: Promoting Awareness of, Respect for, and Access to Native American Tribal Law (Deep Dive)**
**Date:** Monday, July 17th  
**Time:** 9:30am - 12:00pm  
**Location:** Hynes-306  

**Speakers:** Bonnie Shucha, Amber Kennedy Madole, Rachel Nelson, Rebecca Plevel and David Greisen

Within the U.S., the Constitution recognizes three types of sovereigns: federal, state, and tribal. However, under the mainstream conception of American law, the laws of the 574 federally recognized tribal governments are often overlooked. This program will explore sources and principles of federal Indian and tribal law, including sovereignty, governance, jurisdiction, and government-to-government relationships, enabling librarians to better support attorneys, court personnel, students, scholars, and pro se patrons researching in this area. It will also present opportunities for law libraries to promote awareness of, respect for, and access to tribal law. Presenters will suggest ways to integrate tribal law in legal education programs and describe advocacy efforts to include Indigenous sources in the Bluebook. They will also introduce the Digital Publication of Tribal Laws Pilot Project in which librarians and developers partnered with Native Nations to publish their laws open access and incorporate them into two federated digital library collections. Attendees will discover how they can seamlessly incorporate the laws of participating tribes into their own digital collections at no cost, providing additional access to these important sources of American law.
2022-2023 Sovereignty in Oklahoma Indian Country
by Darla Jackson

It has been almost three years since the U.S. Supreme Court’s decision in McGirt v. Oklahoma, and yet significant questions regarding the impact of the case remain. Many consign blame for this on the continued unwillingness to accept the McGirt decision by Oklahoma, and specifically Oklahoma Governor Stitt. As a result, the schism between tribes and the Oklahoma Governor has worsened.

Elections and Representation

The elections of November 2022 included a gubernatorial race. Given the continuing disputes with Governor Stitt, the Five Tribes, which have not historically jointly recorded an endorsement, announced their support for Stitt’s opponent, Joy Hofmeister. Seminole Nation Chief Lewis Johnson commented that Hofmeister “values the contributions the tribes have made to Oklahoma” and has “shown respect for tribal sovereignty, a willingness to come to the table to work with tribes on public safety and a commitment to education …”

Despite the endorsement, Stitt was successful in his re-election bid. However, post-election analysis noted that Stitt received lower voter support than other Republican candidates in Oklahoma and indicated that a significant reason for the more limited support was the tribal endorsement of Hofmeister. Further, Stitt’s “hand-picked attorney general,” John O’Connor, failed to advance from the primary election for that position. And Gentner Drummond, the current Oklahoma Attorney General, solicited support in the election based on his relationship with tribal nations.

Further, in regard to tribal voting and tribal "representation", the Cherokee Nation continued to assert its claim for a delegate in the House of Representatives. In November 2022, Cherokee Nation Principal Chief Chuck Hoskin, Jr testified before the House of Representative Committee on Rules regarding the obligation to seat a Cherokee Nation delegate. In his Submitted Testimony, Chief Hoskins provided additional historical context for the 1835 Treaty of New Echota provision and acknowledged that a delegate would be a non-voting position.

Gaming and Compacts

Of course, the Oklahoma gaming compact dispute was the initial signal of the rocky relationship Governor Stitt would have with the tribal nations. However, the tribal victory in federal court and successful challenges to Governor Stitt’s authority to enter compacts with several tribes in the Oklahoma Supreme Court, led many to think that the gaming issues had somewhat faded into the past. But news stories hinted that both sides were still mindful of the dispute. For instance, in October 2022, the Eastern Shawnee Tribe of Oklahoma and the Anadarko-based Wichita and Affiliated Tribes, announced that they were partnering with PlaySqor to launch an app that uses the “first of its kind Class II sports-themed gaming technology.” The app was described as allowing “casual fan betting on … favorite athletes on a fast, fun fixed-odds betting platform, strategically developed with a bingo engine.” The "geo-fenced" game allows play "only on property where gaming is licensed." In comments by Justin Barrett, the treasurer for the Eastern Shawnee Tribe, it was noted that “… the sustainability of Class Two has been a topic … for a while. And so … being able to bring a new class two product to market … is important.” Further, noting the Indian Gaming Regulatory Act conditions on tribal state compacts and the permissible provisions included in such compacts, Barrett commented, "… Class II gaming does not
require a compact with the state -- Class III, however, does. This model will allow tribes to retain more of the revenue."¹⁷

Then in late October 2022, it was reported that Stitt had hired a new outside law firm with the idea of "resurrect[ing] the gaming compact fight with tribes."¹⁸ The recently retained counsel asserted that the compacts made by Stitt with a few tribes are valid, despite rejection of such claims in Oklahoma Courts.¹⁹ Further, the new counsel communicated with the United States District Court for the District of Columbia regarding an intention to file a motion to dismiss the case that had been brought regarding compacts signed by Governor Stitt with the Otoe-Missouria Tribe, Comanche Nation, United Keetoowah Band of the Cherokees and Kialegee Tribal Town after the majority of tribes in Oklahoma asserted that the Model Gaming Compact between the state of Oklahoma and the tribes had automatically renewed.²⁰ The Notice of Substitute Counsel and Intent to File Rule 12(C) Motion stated:

On June 29, 2022, the Supreme Court issued its decision in Oklahoma v. Castro-Huerta, 142 S. Ct. 2486 (2022), holding that Oklahoma has jurisdiction to prosecute crimes committed by non-Indians against Indians in Indian country. In the wake of that groundbreaking decision, the Governor has conducted a review of pending litigation involving Oklahoma Tribes and the State ... As a result of that review, Governor Stitt has retained the undersigned and now intends to assert the defense that Plaintiffs' Second Amended Complaint fails to state a claim upon which relief can be granted. ²¹

In November 2022, Judge Kelly dismissed the case against the United Keetoowah Band of Cherokee Indians and Kialegee Tribal Town because neither tribe currently operates gaming. However, the request to dismiss the suit against the Comanche Nation and Otoe-Missouria Tribe was denied.²² Further, the Order declined to dismiss counts alleged by the Tribal Nations that the U.S. Department of the Interior had the obligation to determine the validity of the contested agreements and to disapprove the compacts if the compacts violated any provision of the Indian Gaming Regulatory Act.²³

The Castro-Huerta case will be discussed below, but the success of Oklahoma in that case appears to have influenced Governor Stitt’s additional action in the gaming arena. It has been reported that Stitt did not consult with the legislature before retaining counsel to work on the lawsuit.²⁴ While the Legislature created a fund for lawsuits between Oklahoma and Tribal Nations, Oklahoma Speaker of the House Charles McCall and other lawmakers have noted that Stitt circumvented the Legislature in hiring outside counsel. As a result, "they don’t know where Stitt is getting the funds to pursue the validity of the compacts."²⁵ Additionally, Speaker McCall has suggested that legislators may consider revoking the Governor’s authority to negotiate gaming matters.²⁶ McCall is quoted as saying, "The legislature-only the legislature ultimately holds the authority. And we can grant authority to the executive branch, and we can revoke authority to the executive branch through our lawmaking process ..."²⁷

During the 2023 Oklahoma Legislative Session, a bill that would allow sports betting was also introduced.²⁸ House Bill 1027²⁹ was introduced by Representative Ken Luttrell, who is of Cherokee ancestry and has served on the Executive Committee of the National Caucus of Native American State Legislators and as co-chair of the Oklahoma House of Representatives Native American Caucus.³⁰ While Luttrell expressed disappointment in that the bill did not pass the Senate, he commented that the "66-26 vote in the House demonstrates that legislators fully understand the economic impact, the need for improved regulation of the betting industry, the desire our citizens have for this and the importance of ensuring a level, competitive playing field for tribes."³¹

Education

There was a continuing battle between the Oklahoma Legislature and Governor Stitt regarding education funding during the 2023 Regular Legislative Session. As a result, it was widely acknowledged that Stitt vetoed over twenty bills, including Senate Bill 429, which would have codified the right of Native students to wear tribal regalia at their graduation ceremonies.³² While Governor Stitt, in his veto message, cited an Oklahoma Constitutional provision necessitating such decisions to be made
by local school districts, the leaders of five tribes making up an inter-tribal council issued a joint statement reacting to the veto and asking the Oklahoma Legislature to override the veto of several measures. Ultimately, the Oklahoma Legislature voted to override the veto of the tribal regalia bill.

Civil Issues

Environmental Concerns

In his 2021 State of the State Address, Stitt noted that the most pressing issues for Oklahoma's future include questions arising from the McGirt decision. While he prioritized criminal jurisdiction issues, he added that there are other issues beyond the criminal cases. On July 16, 2021, the State of Oklahoma, Governor Kevin Stitt, the Oklahoma Department of Mines, and the Oklahoma Conservation Commission filed suit in the U.S. District Court for the Western District of Oklahoma seeking relief from the Department of the Interior's Notice of Decision through which Federal entities "purport[s] to unlawfully strip Oklahoma of its jurisdiction to regulate surface coal mining and reclamation operations under Titles IV and V of the Surface Mining Control and Reclamation Act … and to impose a Federal program in its place within the historic lands of the Muscogee (Creek) Nation." In a statement regarding the suit, Stitt commented, "The Department of the Interior and other defendants in this case are dead wrong about their decision… They are attempting to unlawfully federalize mines that have been regulated by Oklahoma … by ignoring the clear limitations in the McGirt decision."

In December 2021, the District Court, noting that Oklahoma had "not shown a likelihood of success on the merits of its claims," denied Oklahoma's Motion for a Preliminary Injunction, seeking to enjoin the Department of the Interior from enforcing its decision to terminate Oklahoma's regulatory authority over surface mining on the Creek Reservation. Then in November 2022, the Court issued an order denying Oklahoma’s Motion for Summary Judgment and granting Federal Defendants' Cross-Motion for Summary Judgment.

The Order stated, "Oklahoma seeks to continue regulating surface coal mining and reclamation operations on land within the exterior boundaries of the Creek Reservation,Choctaw Reservation and Cherokee Reservation, as it has done for several decades. However, State regulation of these activities on Indian land is now precluded by SMCRA [Surface Mining Control and Reclamation Act]."

Despite the on-going troubled relations, Cherokee Nation Attorney General Sara Hill released a statement noting, the "case wasn’t brought by any of the tribes, and we weren’t parties to the litigation … We do have a long history of working cooperatively with state, local and federal officials to reclaim abandoned mines within our jurisdiction and remain committed to doing so."

Taxation and Compacts

In September 2020, the Executive Director for the Oklahoma Tax Commission released a Report of Potential Impact of McGirt v. Oklahoma. The Report was addressed to the Governor’s Commission on Cooperative Sovereignty and while focusing on the Muscogee Reservation also included analysis of the potential effects if the McGirt rationale was extended to the Reservations for other Nations. The Report summarized that there was "a potential per-year revenue impact of $72.7 million, with an additional $218.1 million estimated impact for potential refund claims for the 2017–2019 tax years …" and suggested that the potential impacts could be mitigated by negotiating compacts with tribal authorities, such as those for tobacco, motor fuel, and motor vehicle licensing.

Consistent with predictions, Alicia Stroble, a member and employee of the Muscogee Nation, submitted an exemption
to the Oklahoma Tax Commission for the previous three years of Oklahoma taxes. Stroble cited the OTC Report, which had also been cited in its Oklahoma’s efforts to have McGirt overturned.\footnote{47} Despite the circumstances, Stroble was denied the exemption and she filed a protest. The Administrative Law Judge found that she did meet the criteria for the exemption.\footnote{48} However, in October 2022, the Oklahoma Tax Commission sitting en banc vacated the Findings of Fact, Conclusions of Law and Recommendation issued by the Administrative Law Judge and found "... the Protestant does not qualify for the Exempt Tribal Income Exclusion because the requirements set forth in Okla. Admin Code §710:50-15-2 have not been met. Protestant did not provide evidence to establish residence within Indian country ... as a result, the protest is DENIED.\footnote{49} The Commission further found that "absent a decision by a court of competent jurisdiction holding that all lands within the McGirt defined boundaries of the Muskogee Creek nation reservation are exempt from taxation the Commission does not have authority to allow tribal members to claim the exempt tribal income exclusion because they live and work within the McGirt defined boundaries"\footnote{50}

Muscogee Nation Chief David Hill issued a statement casting doubt on the Tax Commission ruling. "It is not surprising that a commission appointed by the governor ignored 50 years of established law and rendered a decision aligned with the governor’s misguided political campaign against tribal nations ... Tribal sovereignty benefits all Oklahomans. Tribal nations contribute billions to the state’s economy. These issues are a long way from being over and settled. We look forward to challenging any threat to our inherent sovereignty every step of the way."\footnote{51} Additionally, the Muscogee National Council authorized the expenditure of up to $500,000 in support of filing a federal lawsuit "seeking relief on behalf of the Nation and Muscogee Citizens against unlawful state taxation within the boundaries of the Muscogee (Creek) Nation Reservation."\footnote{52}

Choctaw Nation Chief Gary Batton also asserted that the tax exemption applies to Choctaw citizens who live and work within the Choctaw Nation Reservation boundaries. Notwithstanding, Chief Batton acknowledged the complexity of the issues and the impact on tribal and non-natives in Oklahoma. As a result, Batton said he would be open to discussions about state-tribal compacts on income taxes with the "right governor" ... leading such discussions [emphasis added].\footnote{53}

While the legislature did not, as discussed above, act to revoke Stitt’s authority on compacts, near the end of the session, lawmakers, at the urging of tribes, took action on bills that would have extended other tribal compacts for five years, until after Stitt leaves office.\footnote{54} Cherokee Nation Principal Chief Chuck Hoskin Jr. said legislation to extend tribal-state compacts is necessary because Governor Stitt "has shown no interest in working with tribes, even when it benefits the entire state."\footnote{55} Hoskins further noted that Governor Stitt has "already allowed numerous tribal-state compacts to expire on his watch, forfeiting millions of dollars and setting back tribal relations ... in similar fashion to when Stitt allowed hunting and fishing compacts to expire in December 2021, tribes would likely respond by exerting sovereignty without intergovernmental cooperation."\footnote{56}

Although the five-year extensions were later limited to shorter extensions of tobacco and vehicle registration and licensing compacts, some acknowledged concerns that the action might weaken the governor’s negotiating power.\footnote{57} Governor Stitt, as anticipated, vetoed the tobacco and motor vehicle licensing compact extension legislation. While a veto override was initially unsuccessful, subsequent attempts may result in a different outcome.\footnote{58} Governor Stitt provided a Veto Message for House Bill 1005\footnote{59} and Senate Bill 26x. In the Veto Message for House Bill 26X, Stitt indicated,

> Senate Bill 26x would rubberstamp pre-McGirt compacts containing the very language five of the State’s 38 federally recognized tribes have relied upon to challenge, in Stroble v. Oklahoma Tax Commission, the State’s right to collect income tax within its territory. Although I believe the tribes’ arguments in Stroble are without merit, to legislate as though at least those few tribes are not prepared to lodge the same argument in the tobacco tax context (and likely elsewhere) is at best unwise.\footnote{60}

> Additionally, Strobel is not the only taxation claim. From August 2020 to September 2022, it has been reported that 9261 taxpayers have claimed the tribal income exclusion and 642 have filed protest.\footnote{61} In February 2022, a Choctaw couple, Harold...
and Nellie Meashintubby, filed suit in the U.S. District Court of the Eastern District of Oklahoma seeking a declaratory judgment holding: "(1) That the Choctaw Reservation is Indian country within the meaning and application of Federal law prohibiting Defendants from assessing, levying, and collecting taxes, including penalties and interest, upon the income of Plaintiffs, and;(2) That Plaintiffs are not subject to or required to pay taxes, including any applicable interest or penalties, to the State of Oklahoma, through the Defendants, upon the income earned by Plaintiffs from sources within the exterior boundaries of the Choctaw Reservation." In July 2022, members of the Oklahoma Tax Commission named as defendants filed a motion to dismiss for lack of subject-matter jurisdiction, citing the Tax Injunction Act, 28 U.S.C. 1341 as support. Although activity in the case continued, in August, the assigned judge entered a minute order noting that the Court had "a significant number of criminal cases awaiting trial due to the COVID-19 pandemic and the decision of the Supreme Court in McGirt … Criminal cases must be tried before civil cases, and civil cases will most likely not be tried before a district judge in the foreseeable future. The Court will address pending motions in civil cases as its schedule permits, however, the Courts ability to do so will be subject to the demands of its criminal docket." In November 2022, the Meashintubby case was reassigned to a judge from Kansas and further action was not taken until January 30, 2023, when the motion to dismiss for lack of jurisdiction was granted on the basis that the Tax Injunction Act deprives the federal district court of subject matter jurisdiction "so long as the state courts offer a ‘plain, speedy, and efficient remedy.’"

Consistent with the ruling in the Meashintubby case, the plaintiff in the Strobel case is availing herself of the state court proceedings. A Petition in Error was filed in the Oklahoma Supreme Court on October 28, 2022. The Muscogee (Creek), Seminole Nation of Oklahoma, as well as the Cherokee Nation, Chickasaw Nation, and Choctaw Nation have filed amicus briefs in the case and oral argument has been requested.

Indian Child Welfare

While the U.S. Supreme Court considered the Brackeen case, the Oklahoma Supreme Court has also been considering ICWA issues in the case of In the Matter of SWJ. The case involves a child born in March 2020 within the Chickasaw reservation. The child was eligible for membership in the Muscogee Nation based on the ancestry of at least one of his parents. The state took custody of the child after receiving reports of domestic violence between the parents. The couple appealed the state’s involvement, arguing in 2021 that the State did not have jurisdiction. The Chickasaw and Cherokee Nations filed an amicus curiae brief in the case.

Kate Fort, a noted practitioner and scholar who started the Indian Child Welfare Act Appellate Project and authored American Indian Children and the Law, has been critical of the opinion in In the Matter of SWJ as a "… truly unfortunate opinion with absurdly weak analysis that extends the reasoning in Castro-Huerta to reservations in Oklahoma for ICWA cases involving non-member Indian children residing on reservation." The ruling "caught tribal governments off guard" because ICWA has not been applied before to distinguish between member and non-member native children. It was also a surprise because the state "did not raise any challenges to tribes’ exclusive powers … [Instead] Carter County Assistant District Attorney argued Oklahoma courts could handle the child’s case because the state had a working agreement with the Chickasaw Nation." The Oklahoma Supreme Court went beyond that argument and ruled that the ICWA exclusivity, pursuant to 25 U.S.C. §1911(b), does not cover children who belong to one tribal nation but live on the reservation of another tribal nation.

Tribes throughout Oklahoma Indian Country are reportedly "evaluating their legal options in response to the ruling…" and it was reported that the Muscogee Nations statement left it "unclear .. whether the MCN plans to challenge the ruling …" Further, a Carter County prosecutor who handled the trial at the center of the appeal has commented that her office would continue to work with tribes with whom they have established strong relationships and would "involve tribal leaders to address
Civil Forfeitures

In the case of State of Oklahoma v. Savage Arms MSR-15 Caliber, Jimmy Ward, a member of the Osage Nation, received a hunting violation when he shot at a decoy deer during a sting operation to catch out-of-season hunters inside the Chickasaw Nation Reservation. Ward was able to get the criminal charges dismissed in Carter County District Court because the Court lacked jurisdiction. But after the criminal charges were dismissed, the case was refiled in Chickasaw Nation Court and a civil case was filed against Jimmy Ward seeking to seize the weapon and other instruments used to hunt the deer.

Ward and his attorney objected to the seizure of his property and the civil forfeiture based on the claim that the Carter County District Court lacked criminal jurisdiction because of his citizenship status in the Osage Nation and the fact that the criminal conduct occurred within the Chickasaw Nation boundaries. When the Chickasaw Nation filed a motion for leave to file an amicus brief, both Counsel for the State of Oklahoma and for Jimmy Ward indicated they had no objection. However, subsequently, Governor Stitt’s Counsel objected to the filing of the amicus brief noting,

In Oklahoma, “[u]pon timely application anyone may be permitted to intervene in an action.” 12 O.S. § 2024. The Chickasaw Nation may make application to intervene in this action. The State, likewise, has a right to object. There are reasons for this procedure. For instance, it prevents non-parties like the Chickasaw Nation from flooding trial courts with filings while avoiding courts’ jurisdiction over them. Should such parties desire to participate in litigation, they must comply with this State’s procedural rules and submit to its jurisdiction.

Ultimately, regarding the criminal charges Ward entered a guilty plea in Chickasaw Nation Court and received a one-year suspended sentence and was ordered to pay a $500 fine. In the civil forfeitures action, an agreed journal entry was filed reflecting, “Third-Party Claimant Jimmy Ward no longer contests entry of an order and degree forfeiting the Defendants to the State of Oklahoma.” Nonetheless, it was reported that officials from the Chickasaw Nation found “it offensive that the Governor’s general counsel objected to their ability to get involved.” And Nathan Clark, Jimmy Ward’s attorney in the civil forfeiture case, said “the case was a very purposeful intrusion by Oklahoma on the jurisdiction of tribal lands.” as suggested, an “... obscure case of illegal hunting in south-central Oklahoma could point to new ways the state is trying to assert jurisdiction inside newly affirmed tribal reservation boundaries.”

Criminal Issues

Castro-Huerta

While civil issues arising out of the McGirt case continue, criminal jurisdiction continues to be a primary focus. After filing over 30 separate petitions requesting the court to overrule McGirt, in Castro-Huerta, the State of Oklahoma presented two issues: 1. Whether a State has authority to prosecute nonIndians who commit crimes against Indians in Indian country. 2. Whether McGirt v. Oklahoma, 140 S. Ct. 2452 (2020), should be overruled. The Court agreed to consider only the first question relating to the application of McGirt to bar state prosecutions of non-Native defendants who commit crimes against Native Americans in Indian Country.

Castro-Huerta had been convicted in state court of neglecting his five-year-old stepdaughter, who has cerebral palsy, is legally blind, and is a member of the Eastern Band of Cherokee Indians. Castro-Huerta was convicted and sentenced to 35 years of imprisonment, with the possibility of parole.
The Oklahoma Court of Criminal Appeals (OCCA) vacated Castro-Huerta’s conviction because the crime occurred in Indian country. The OCCA’s decision was based on its conclusion that McGirt applied not only to major crimes committed by Native Americans but also, under the federal General Crimes Act, to crimes committed by non-Indians against Indians in Indian country.90

In a 5-4 decision, the Court reasoned:

Because Indian country is part of a State, not separate from a State, …—the question regarding the State’s jurisdiction to prosecute Castro Huerta—is also straightforward. Under the Constitution, States have jurisdiction to prosecute crimes within their territory except when preempted (in a manner consistent with the Constitution) by federal law or by principles of tribal self-government. As we have explained, no federal law preempts the State’s exercise of jurisdiction over crimes committed by non-Indians against Indians in Indian country. And principles of tribal self-government likewise do not preempt state jurisdiction here. 91

The dissent, authored by Justice Gorsuch, who, in part due to his previous service on the Tenth Circuit Court of Appeals, is noted as the Justice most familiar with Federal Indian Law, explains:

Today the Court rules for Oklahoma. In doing so, the Court announces that, when it comes to crimes by non-Indians against tribal members within tribal reservations, Oklahoma may “exercise jurisdiction.” …. But this declaration comes as if by oracle, without any sense of the history recounted above and unattached to any colorable legal authority. Truly, a more ahistorical and mistaken statement of Indian law would be hard to fathom.92

Although Sara Hill, Attorney General for the Cherokee Nation, noted that the U.S. Supreme Court’s departure from "well-established law… represents a real threat to tribal sovereignty"93, she also concluded:

The day-to-day work of enforcing criminal laws on the Cherokee Nation’s Reservation is the same before Castro-Huerta as it is today. The Cherokee Nation has been making extraordinary efforts post-McGirt to ensure public safety…Under the leadership of our Principal Chief, Chuck Hoskin, Jr., and our Tribal Council, the Nation has increased spending on public safety by $40 million. With the increased jurisdiction over non-Indians increasing due to recent amendments to the Violence Against Women Act in 2022, we are preparing for another increase in our caseload. Cherokee Nation had the highest number of charges filed under the expanded authority included in VAWA 2013, and we expect a similar jump in cases this time around.94

Indian Status

"Indian status" has also been an issue in several cases involving criminal law jurisdiction. In October 2022, the U.S. Supreme Court denied cert in the case of Oklahoma v. Wadkins.95 In Wadkins, Oklahoma asked the Supreme Court to clarify the requirements that a criminal defendant must satisfy to qualify as an “Indian” under the Major Crimes Act. Wadkins, had been convicted, by a jury in state court, of first-degree rape and kidnapping. Although the trial court had determined that Wadkins was not an Indian, the Oklahoma Court of Criminal Appeals reversed, on the ground that Wadkins had, after his conviction, enrolled as a member of the Choctaw Nation, had a Certificate of Degree of Indian Blood card, and had received health services based on the CDIB card.96 Oklahoma sought a bright-line rule that one must be enrolled with a tribe at the time of a crime.97

Because of a New York Times article about it,98 an additional Oklahoma criminal law case initiated in October 2020 and set for August 9, 2023,99 has gained increased attention. Oklahoma v. Hill involves an enrolled Cherokee Freedman descendant, who has no blood quantum and has been charged with major crimes allegedly committed within the historical boundaries of the Muscogee Nation.100

Oklahoma v. Hill is not the first case addressing a status question involving a Cherokee Freedman descendant. In Parker v. State, a 2021 case, the Oklahoma Court of Criminal Appeals affirmed the District Court’s ruling that Parker failed to show that he was recognized by a federally recognized Indian tribe. The court further found that Parker’s failure to present prima facie
evidence of his Indian recognition rendered litigation on the issue of his blood quantum moot.101

Ottawa County

Ottawa County

Oklahoma, with the perceived progress as a result of the Castro Heurta case, continued to assert its jurisdiction within Indian Country. Gunter Drummond, the Oklahoma Attorney General, instructed that district attorneys around the state continued to prosecute Native Americans after the McGirt ruling until the Oklahoma Court of Criminal Appeals (OCCA) formally recognized each reservation.102 Because tribal nations perceived that Drummond desired to pursue a more cooperative relationship with the tribes, it was supposed by some that Drummond was forced to take this action because the U.S. Attorney failed to act in a manner to assist the tribes with protection of public safety and prosecution. Six tribes in Ottawa County had formed a consortium and obtained U.S. Department of Justice permission to hire a federal prosecutor with authority to pursue criminal cases arising on tribal lands. But the Office of the U.S. Attorney for the Northern District delayed action while waiting for the Oklahoma Court of Criminal Appeals to review the jurisdictional issues.103

The tribes in Ottawa County were hesitant to have the OCCA determine the status of their reservations in criminal appeals to which they were not a party. As a result, four tribal nations filed suit in federal court requesting declaratory relief regarding the continued existence of tribal reservations and enjoining the state from “prosecuting Indians for alleged criminal conduct”104 on the various reservations. Meanwhile, citing a “newly developing jurisdictional and public safety crisis within Ottawa County” as well as the potential for “duplicitous litigation” resulting from the tribal suits in federal court, Attorney General Drummond filed a Notice to the Court (OCCA) of Necessity For An Expedited Ruling.105

Before action could be taken in the federal cases, in early May 2023, the OCCA issued its opinion in State v. Brester.106 In its ruling, the OCCA recognized the Ottawa and Peoria Reservations were established as Indian Country by Congress and while that status has been potentially revoked, it was restored in 1978. Ethel Cook, the Ottawa Tribe’s chief, commented that the Tribe was pleased with the OCCA decision “so we can continue our efforts to ensure public safety and quality of life in Ottawa County.”107 And Doug Lankford, chief of the Miami Tribe of Oklahoma commented that the decision would allow the U.S. Attorney to “begin fulfilling his federal trust responsibility to Indian Country and prosecute major crimes in Ottawa County.”108

The Oklahoma Court of Criminal Appeals, despite siding with the lower court in recognizing the tribal reservations, reversed the prior decision by reinstating Brester’s June 2019 conviction because McGirt is not retroactively applied to criminal matters resolved before the 2020 decision. The OCCA also affirmed the decision to dismiss felony charges of first-degree burglary and first-degree robbery as well as a charge of assaulting a police officer because those charges are under federal and tribal jurisdiction. But the OCCA remanded for more consideration a felony charge also alleged to have happened on tribal land, because “the misconduct — as a general crime, not a major crime — might fall under Oklahoma’s jurisdiction ...”109 While the majority accepted this, Justice Lewis, who wrote an opinion concurring in part and dissenting in part, concluded:

I respectfully dissent to the portion of the opinion remanding for the trial court’s consideration of the State’s claim to concurrent jurisdiction to prosecute Indians for General Crimes Act offenses committed in Indian Country by virtue of Castro-Huerta .... The Court’s invitation to the State to advance this novel theory of concurrent jurisdiction over Indians in Indian Country is injurious to foundational and longstanding principles of tribal sovereignty. The Court’s indulgence for such arguments on remand is both unnecessary and unwise.110

Of course, Governor Stitt expressed disappointment in the OCCA opinion, but noted that he was ”motivated by the court’s acknowledgment and recognition’ that state authorities may still have jurisdiction over certain crimes on tribal land. Indeed, the OCCA’s remand of a single felony charge against Brester might become the next battleground in a war over tribal sovereignty.”111
Hooper & Curtis Act

On another front the Tenth Circuit Court of Appeals heard oral arguments in Hooper v. City of Tulsa, although designated as one of the Native American Cases to Watch in 2023 may not be as familiar to many outside Oklahoma. Justin Hooper, a member of the Choctaw Tribe, received a speeding ticket in 2018 from the City of Tulsa while within the boundaries of the Muscogee (Creek) Reservation. He was found guilty and paid the fine; however, in 2020, he filed for postconviction relief, claiming the City of Tulsa did not have subject matter jurisdiction of the speeding violation of a tribal citizens while on the Reservation. The U.S. District Court for the Northern District of Oklahoma granted the City of Tulsa’s motion to dismiss Hooper’s request for a declaratory judgment opining that the Curtis act grants the municipalities in its scope jurisdiction over violations of municipal ordinances by any inhabitant of those municipalities, including Indians.

After hearing arguments, the Tenth Circuit Court of Appeals entered an order directing the parties to file supplemental briefs on the standing issue because questions remain concerning "whether Mr. Hooper has met his burden of proof at the pleading stage to demonstrate he has standing to bring his declaratory judgment claim?" However, in its supplemental brief the City of Tulsa did not contest the issue of standing and concluded as follows: "the City respectfully requests this Court conclude that the Appellant has met his burden to establish standing and then determine based on the merits of the arguments present that the District Court accurately granted the City’s Motion To Dismiss."

On June 28, 2023, the Tenth Circuit issued its decision in the Hooper case. Noting the "dire warnings" of unintended consequences put forward by the parties, the Court, citing McGirt, stated "ultimately, we are limited to interpreting the law Congress enacted and not the parties' 'dire warnings'" In reaction to the decision, Governor Stitt nonetheless offered additional warnings. I am extremely disappointed and disheartened by the decision made by the Tenth Circuit to undermine the City of Tulsa and the impact it would have on their ability to enforce laws within their municipality. However, I am not surprised as this is exactly what I have been warning Oklahomans about for the past three years. Citizens of Tulsa, if your city government cannot enforce something as simple as a traffic violation, there will be no rule of law in eastern Oklahoma.

But John Dunn, Hooper's attorney, indicated that concerns that Tulsa police can no longer enforce the traffic code when they involve tribal citizens are "imagined" because Tulsa police officers can still issue citations to tribal citizens since the Tulsa Police are cross-deputized with the Cherokee and Muscogee Nations, which have very similar traffic codes to the current traffic code of Tulsa. Notwithstanding, the Tulsa Mayor, G.T. Bynum, announced his authorization of an appeal of the Tenth Circuit’s decision.

Concluding

2022 and 2023 have continued to be a period of dispute regarding the sovereign authority of tribes. While there have been cooperative efforts between the Tribal Nations and some state and local officials, such as the cross-deputization agreements mentioned by John Dunn, there are continuing efforts by others, including Governor Stitt, to characterize Oklahoma Indian Country as a lawless area under tribal governments that are unconcerned about the safety and well-being of native citizens as well as non-natives. However, a significant section of the Oklahoma population does not concur with such a characterization. Instead, tribal investment in development of tribal courts and policing systems, as well as efforts to support education, improve infrastructure throughout the state, provide protection of water and other environmental resources all evidence the commitment of tribal nations to fulfill their sovereign responsibility.
Darla Jackson is the Director of the Mabee Legal Information Center at the University of Tulsa College of Law. She earned a MLIS, J.D. and an LL.M. in Indigenous Peoples Law from the University of Oklahoma. She is a member of the Oklahoma Bar Association and the Cherokee and Chickasaw Nation Bar Associations. She has previously served as the Chair of the AALL Native Peoples Caucus. Any views expressed in this piece are her own and do not express the views of the University of Tulsa or the University of Tulsa College of Law.

Darla Jackson would also like to acknowledge that several of the images contained in this work were generated with the use of AI tools.

9. I am aware that questions have been raised regarding whether seating the delegate would provide dual representation. These concerns over dual representation are unwarranted. It is well settled since the founding era that the term “Representative” is a unique position in our constitutional system of government. To represent in the constitutional sense requires that the representative has a vote on the House floor for final passage of legislation. Since it is contemplated that the Cherokee Nation delegate – like other delegates – would not be able to vote for final passage of a bill on the House floor, the delegate would not enjoy this critical ingredient to “represent” any constituency. Submitted Testimony of Cherokee Nation Principal Chief Chuck Hoskin, Jr., House Committee on Rules hearing on “Legal and Procedural Factors Related to Seating a Cherokee Nation Delegate in the U.S. House of Representatives”, https://docs.house.gov/meetings/RU/RU00/20221116/115188/HHRG-117-RU00-Wstate-HoskinC-20221116.pdf.
13. Id.
15. Id.
17 Id.
19 Id.
20 Id.
23 Memorandum Opinion and Order, supra note 22, at 38.
25 Id.
26 Id.
27 Id.
30 Representative Ken Luttrell, https://www.okhouse.gov/representatives/Ken-luttrell


Id. at 29.


Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 20-21.


Id. at 2.

Id. at 20-21.


Id. at 2.
68 In the Matter of S.W.J., 2023 OK 49 (2023).
70 Kate Fort, ICWA Jurisdiction Case out of the Oklahoma Supreme Court, TURTLE TALK (April 26, 2023), https://turtletalk.blog/tag/in-re-s-j-w/.
71 Molly Young, Oklahoma Can Place Some Tribal Children In Foster Care Without Tribal Sign-Off, Court Rules The Oklahoma Supreme Court Ruled This Week the State Can Take Custody of Some Native American Children on Tribal Lands Without Tribal Consent, OKLAHOMAN (Apr. 29, 2023), 2023 WLNR 15231271.
72 Id.
73 In the Matter of S.W.J., 2023 OK 49, ¶18-23 (2023).
74 Molly Young, supra note 71.
75 Id.
79 Id.
82 Herrera, supra note 76.
84 Herrera, supra note 76.
85 Adolfo Flores, Deer Hunting Violation Leads to Legal Skirmish Between Oklahoma, Native Tribes; The State Asserts Civil Authority After U.S. Supreme Court Decisions on Criminal Jurisdiction, WALL STREET J. ONLINE (Jan 14, 2023), https://plus.lexis.com/api/permalink/29e6d786-20fc-458b-8e63-a28a03a6c9cb/?context=1530671.
86 Herrera, supra note 76.
89 Oklahoma v. Castro-Huerta, 142 S. Ct. 2486, 2491 (2022)
90 Id. at 2492.
91 Id. at 2502-2503.
92 Oklahoma v. Castro-Huerta, supra note 89, 142 S. Ct. 2486, 2511 (Gorsuch, J., dissenting).
94 Id. at 2.
103 Id.
108 Curtis Killman, Ottawa, Peoria and Miami Reservations Still Exist, Oklahoma Appeals Court Says, 2023 WLNR 16687452, https://www.westlaw.com/Document/Id1fa44e0f0b511ed8aeed4b2ff49117b/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0
109 Symons, supra note 107.
110 State v. Brester, supra note 105, ¶ 4-9 (Lewis, J., concurring in part and dissenting in part).
111 Symons, supra note 107.


119 Curtis Killman, Court Sides with Choctaw Man in McGirt Fight Over City of Tulsa Traffic Ticket, TULSA WORLD (June 28, 2023), 2023 WLNR 22491067.