

**In the Supreme Court of the United States**



STATE OF OKLAHOMA,

*Petitioner,*

v.

LAURIE JEAN MARTIN,

*Respondent.*

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**On Petition for a Writ of Certiorari to the  
Oklahoma Court of Criminal Appeals**

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**PETITION FOR A WRIT OF CERTIORARI**

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**QUESTION PRESENTED**

Whether *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020), should be overruled.

**LIST OF PROCEEDINGS**

Oklahoma Court of Criminal Appeals

No. F-2017-991

*Laurie Jean Martin*, Appellant v.

*The State of Oklahoma*, Appellee

Date of Final Opinion: May 27, 2021



Oklahoma District Court (Carter County)

No. CF-2016-782A

*The State of Oklahoma*, Plaintiff v.

*Laurie Jean Martin*, Defendant

Date of Judgment and Sentence: September 13, 2017

**TABLE OF CONTENTS**

	Page
QUESTION PRESENTED .....	i
LIST OF PROCEEDINGS.....	ii
TABLE OF AUTHORITIES .....	v
OPINIONS BELOW .....	1
JURISDICTION.....	2
STATUTORY PROVISIONS INVOLVED.....	2
STATEMENT OF THE CASE.....	3
REASONS FOR GRANTING THE PETITION.....	6
CONCLUSION.....	8

**TABLE OF CONTENTS – Continued**

Page

**APPENDIX TABLE OF CONTENTS**

Opinion of the Court of Criminal Appeals,  
State of Oklahoma (May 27, 2021)..... 1a

District Court of Carter County, State of  
Oklahoma, Findings of Fact and Conclusions of  
Law (November 12, 2020)..... 16a

Order of the Court of Criminal Appeals,  
State of Oklahoma, Remanding for Evidentiary  
Hearing (August 14, 2020) ..... 25a

## TABLE OF AUTHORITIES

Page

### CASES

<i>Bosse v. State</i> , 2021 OK CR 23, ___ P.3d ___ .....	5
<i>Bosse v. State</i> , 484 P.3d 286 (Okla. Crim. App. 2021) .....	5
<i>Hogner v. State</i> , 2021 OK CR 4, ___ P.3d ___ .....	5
<i>McGirt v. Oklahoma</i> , 140 S.Ct. 2452 (2020) .....	passim
<i>Oklahoma v. Castro-Huerta</i> , No. 21-429, (Okla. Crim. App. Sept. 21, 2021) .....	3, 6, 7, 8

### STATUTES

18 U.S.C. § 1151 .....	2
18 U.S.C. § 1153(a) .....	2
28 U.S.C. § 1257(a) .....	2

### JUDICIAL RULES

Sup. Ct. R. 12.7 .....	3
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**OPINIONS BELOW**

The opinion of the Oklahoma Court of Criminal Appeals, dated May 27, 2021, is included in the Appendix at App.1a-15a. The order of the Oklahoma Court of Criminal Appeals, dated August 14, 2020, remanding the case for an evidentiary hearing is included below at App.25a-29a. The Findings of Fact and Conclusions of Law of the District Court in and for Carter County, State of Oklahoma, dated November 12, 2020, is included below at App.16a-24a. These opinions and orders were not designated for publication.



## JURISDICTION

The judgment of the Oklahoma Court of Criminal Appeals was entered on May 27, 2021. App.1a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).



## STATUTORY PROVISIONS INVOLVED

### **18 U.S.C. § 1151 (in relevant part)** **Indian country defined**

[T]he term ‘Indian country’, as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation.

### **18 U.S.C. § 1153(a)** **Offenses committed within Indian country**

Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, a felony assault under section 113, an assault against an individual who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and



penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.



## STATEMENT OF THE CASE

Thousands of state criminal prosecutions have been called into question by this Court’s decision in *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020). Like the pending petition in *Oklahoma v. Castro-Huerta*, No. 21-429, this case presents the question whether *McGirt* should be overruled. For the same reasons given in the *Castro-Huerta* petition, review is warranted to examine that question. The petition for a writ of certiorari in this case should be held pending consideration of the *Castro-Huerta* petition or, in the alternative, granted.

1. Angry over her deteriorating relationship with on-again, off-again boyfriend Chivas Piggee, respondent gathered a mob of family and friends, including her own eighteen-year-old daughter, who stabbed and beat Piggee to death in the middle of a residential street on the night of November 20, 2016. Tr. I 140-72; Tr. II 293-96, 360-61, 425-35, 525.\* Respondent incited the mob by falsely claiming Piggee had physically assaulted her, texting around a “selfie” that featured a self-inflicted wound, and calling for an “ass whoop[ing].” Tr. I 279; Tr. II 293-329, 435-36, 447, 465-66, 494-95. In fact, it was respondent who had

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\* All fact citations are to the transcript of respondent’s trial (Tr.), which is available below. See Sup. Ct. R. 12.7.

recently physically assaulted Piggee. Tr. II 428, 430, 525.

On the night of the killing, respondent lured Piggee to her house on false pretenses. Tr. II 308-14, 320, 438. When he arrived and exited his car, respondent and four others immediately approached him; realizing he had been “set up,” Piggee attempted to escape on foot. Tr. II 399. The group caught up with Piggee, however, and brutally attacked him, beating his body, face, and head and stabbing him six times in his lower body. Tr. I 143-44, 147, 166, 220-24; Tr. II 371-75, 399-402. During the attack, respondent screamed, “Beat that [expletive]’s ass.” Tr. I 142-44, 146.

Respondent was convicted of first-degree manslaughter and sentenced to forty years imprisonment. She then appealed to the Court of Criminal Appeals.

2. After this Court issued its decision in *McGirt*, the Court of Criminal Appeals remanded the case to the trial court for an evidentiary hearing. On remand, the court accepted the parties’ stipulations and found that respondent is a member of the federally recognized Choctaw Nation with 1/32 Indian blood quantum and the crime occurred within the reservation of the Chickasaw Nation. App.18a-19a, 23a.

The Court of Criminal Appeals reversed the conviction, holding that “the District Court appropriately applied *McGirt* to determine that Congress did establish a Chickasaw Reservation” and that the same had never been disestablished. App.8a. The opinion’s author, Judge Lumpkin, wrote in a footnote that he “continue[s] 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.” App.2a.

The four other Court of Criminal Appeals judges all wrote separate opinions. Presiding Judge Kuehn concurred in the result to express disagreement with some aspects of the majority’s opinion, but agreed that the “case must be dismissed.” App.11a.

Vice Presiding Judge Rowland concurred for the reasons stated in his separate writing in another case, in which he disagreed with certain aspects of Judge Lumpkin’s majority opinion. App.13a; *see Hogner v. State*, 2021 OK CR 4, ¶¶ 1-5, \_\_\_ P.3d \_\_\_ (Rowland, V.P.J., concurring in results).

Judge Lewis also concurred in the result based on previous concurrences in which he—in relevant part—explained that *McGirt* required reversal. App.14a; *see Hogner v. State*, 2021 OK CR 4, ¶¶ 1-5, \_\_\_ P.3d \_\_\_ (Lewis, J., concurring in results); *Bosse v. State*, 484 P.3d 286, 299 (Okla. Crim. App. 2021) (Lewis, J., specially concurring), *withdrawn by Bosse v. State*, 2021 OK CR 23, \_\_\_ P.3d \_\_\_.

Finally, Judge Hudson concurred in the result “as a matter of *stare decisis*,” reiterating his “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.” App.15a.



## REASONS FOR GRANTING THE PETITION

In the decision below, the Oklahoma Court of Criminal Appeals applied *McGirt* to free yet another criminal from state custody, exacerbating the crisis in the criminal-justice system in Oklahoma. As the State of Oklahoma explains in its petition in *Castro-Huerta*, reconsideration of *McGirt* is the only realistic avenue for ending the ongoing chaos affecting every corner of daily life in Oklahoma. *See* Pet. at 17-29, *Oklahoma v. Castro-Huerta*, No. 21-429. This case presents yet another opportunity to end the damage caused by *McGirt*. If the petition in *Castro-Huerta* is granted, this petition should be held pending a decision in *Castro-Huerta* and then disposed of as is appropriate, or this petition should be granted.

As explained more fully in *Castro-Huerta*, *McGirt* was wrongly decided, and the Court's review is urgently needed because no recent decision has had a more immediate and disruptive effect on life in an American State. *McGirt* contravened longstanding precedent on the disestablishment of Indian reservations. 140 S.Ct. at 2485 (Roberts, C.J., dissenting). It did so by wrongly reasoning that historical materials showing the original public meaning of statutes may be considered in the disestablishment inquiry "only" to "clear up" statutory ambiguity. *See id.* at 2467-2468, 2469-2470 (majority opinion). But consideration of history is necessary precisely because it is unclear whether Congress's alienation of Indian lands at the turn of the century changed the Indian country status of the land. *See id.* at 2488 (Roberts, C.J., dissenting). Under the correct framework prescribed by this Court's precedent, it is

clear that Congress disestablished the Creek territory in Oklahoma, as well as the territories of the four other Oklahoma tribes. And with that conclusion, it is clear the decision below is incorrect and warrants reversal.

Overruling *McGirt* and restoring the state jurisdiction it stripped is important not only for this case and the victim of the terrible crime at issue. As the Chief Justice correctly predicted, the “burdens” of the *McGirt* decision on the State of Oklahoma have been “extraordinary.” 140 S.Ct. at 2500. The challenges from that seismic shift in jurisdiction have rippled through every aspect of life in Oklahoma. Most immediately, *McGirt* has jeopardized the State’s jurisdiction over thousands of criminal cases—this case being just one of them.

The question presented in this case is materially identical to the second question presented in *Castro-Huerta*. For the compelling reasons explained in the petition in *Castro-Huerta*, review on this question is warranted. Accordingly, the Court should either hold the petition pending the resolution of the second question presented in *Castro-Huerta* or grant review in this case.



## CONCLUSION

The petition for a writ of certiorari in *Castro-Huerta* should be granted, and the petition in this case should be held pending a decision there and then disposed of as is appropriate. In the alternative, this petition should be granted.

Respectfully submitted,

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