

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

SUPREME COURT  
FILED

CITIZENSHIP BOARD OF THE )  
MUSCOGEE (CREEK) NATION, )

AUG 20 2025

Appellant, )

CONNIE DEARMAN *km*  
MUSCOGEE (CREEK) NATION  
COURT CLERK

v. )

Case No.: SC-2023-10

(District Court Case No.: CV-2020-34)

RHONDA K. GRAYSON and )  
JEFFREY D. KENNEDY, )

Respondents. )

**ORDER DENYING APPELLANT’S PETITION FOR REHEARING**

Before: ADAMS, C.J.; LERBLANCE, V.C.J.; DEER, SUPERNAW, THOMPSON, JJ.

HARJO-WARE and MCNAC, JJ, recused and not participating in the decision.

On July 23, 2025, the Muscogee (Creek) Nation Supreme Court issued its *Order and Opinion* affirming the Muscogee (Creek) Nation District Court’s September 27, 2023, *Order and Opinion on Appeal from Citizenship Board of the Muscogee (Creek) Nation Denial of Creek Freedmen Citizenship Application*. On August 4, 2025, the Appellant filed its *Petition for Rehearing* pursuant to M(C)NCA Title 27, App. 2, Rule 24, arguing (1) that the Court ignored facts and law establishing the Nation’s “retained right” to preclude freedmen descendants from citizenship in the Nation, (2) that the Court violated the Constitution by “amending” the language of Article III, Section 2, (3) that the Court has “rendered the Nation’s governmental operations...legally infirm” by determining that use of the words “by blood” in Article III, Section 2 were *void ab initio*, (4) that the Court has failed to exercise judicial restraint by determining that use of the words “by blood” in the Nation’s tribal code, or other rules, policies, or procedures, with respect to citizenship determinations is unlawful, and, (5) that the Court exceeded its power by directing that its newly established precedent be applied equally to future citizenship applicants.

M(C)NCA Title 27, App. 2, Rule 24 provides the following with respect to a petition for rehearing:

**Rule 24. Petition for rehearing**

- A. Time: A petition for a rehearing before the Supreme Court may be filed within ten (10) days after the decision of the Court has been rendered and the adverse party shall have seven (7) days thereafter in which to serve and file objections thereto.
- B. Grounds: A petition for rehearing may be presented on the following grounds and *no others*:
  - 1. That some facts, material to the decision, or some question decisive of the case submitted by counsel, was overlooked by the Court, or
  - 2. That the decision is in conflict with an express statute or controlling decision to which the attention of the Court was not directed.
- C. Procedure: The rehearing may be held with or without oral argument and will be decided only upon the petition and the objections thereto.

[Emphasis Added]

Upon review of the *Appellant's Petition for Rehearing* this Court finds that no grounds were established upon which a rehearing would be appropriate.

**ARGUMENT 1: RETAINED RIGHTS**

The Court's July 23, 2025, *Order and Opinion* provides a detailed analysis on the Appellant's "retained rights" argument, ultimately finding that the Treaty of 1866 extended citizenship rights to descendants of the Creek Freedmen; and that reference to descendants in the Treaty is the linchpin, or, as the Appellant phrases it, the "word of perpetuity" that prohibits the Nation from subsequently excluding Creek Freedmen descendants from citizenship. The fact that the Appellant disagrees with this finding is not sufficient to establish grounds for rehearing under Rule 24 (B).

## ARGUMENT 2: THE CONSTITUTION

When a case or controversy is presented to this Court for decision concerning a constitutional provision, this Court becomes the “final arbiter” of that constitutional dispute.<sup>1</sup> On September 29, 2023, this Court was presented with an active case and controversy via the Appellant’s *Notice of Appeal*. At the heart of this controversy lies the question: what should be done when a constitutional provision conflicts with a valid treaty? The Court has resolved this question; finding that the United States Congress has plenary power over Indian tribes, including the Muscogee (Creek) Nation, and that, absent abrogation,<sup>2</sup> the terms of a valid Treaty must be followed, even by the Muscogee (Creek) Nation Constitution. From this finding the Court, in its role as “final arbiter” of the Muscogee (Creek) Nation Constitution, exercising all due restraint, concluded that the “by blood” limitation language in Article III, Section 2 was inconsistent with the Treaty of 1866 and must be found *void ab initio*. Without this action, the Nation’s Constitution, as well as its system of government, would be at risk; truly exposing the Nation to the constitutional crisis that the Appellant fears. Again, the Court has fully considered the Appellant’s arguments, and this issue has been fully discussed in the Court’s July 23, 2024, *Order and Opinion*. The Appellant’s disagreement with the Court’s final decision is not sufficient to establish grounds for rehearing under Rule 24 (B).

## ARGUMENT 3: VOID AB INITIO

The Muscogee (Creek) Nation District Court’s September 27, 2023, *Order and Opinion on Appeal from Citizenship Board of the Muscogee (Creek) Nation Denial of Creek Freedmen*

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<sup>1</sup> *Vernon T. Courtwright v. Joe July, et al.*, SC-1993-01, *Opinion of the Supreme Court Sitting En Banc.*, at 7. (June 28, 1993)

<sup>2</sup> Again, as discussed in the Court’s *Order and Opinion*, the Appellant’s adamantly assert that they have never argued that the Treaty of 1866 has been abrogated, and that their sole argument is that the Nation has “retained the right” to exclude Creek Freedmen from citizenship.

*Citizenship Application* concluded that “the actions of the Board in denying [Respondents’] citizenship applications and appeals were contrary to law, specifically the Treaty of 1866 and its required inclusion of the Creek Freedmen and their lineal descendants within the citizenship of the Muscogee (Creek) Nation[,]”<sup>3</sup> and remanded the matter back to the Appellant to process the Respondents’ citizenship applications “in accordance with the clear language of Article II of the Treaty of 1866...[.]”<sup>4</sup> However, the District Court’s decision did not explain the legal mechanism that would resolve the clear conflict between Article III, Section 2 of the Muscogee (Creek) Nation Constitution and the Article II of the Treaty of 1866. Such an explanation was necessary, and, in this Court’s judgement, requires a finding that the “by blood” language in Article III, Section 2 of the Nation’s Constitution must be found *void ab initio* in order to (1) bring the Constitution into compliance with the Treaty of 1866 with as little interference from this Court as possible, and (2) to protect all that remains in the Constitution. Again, the Appellant’s disagreement with the Court’s final decision in this regard is not sufficient to establish grounds for rehearing under Rule 24 (B).

#### **ARGUMENT 4: JUSTICIABILITY**

“Only “justiciable” matters may be properly adjudicated by our Nation’s courts.”<sup>5</sup> “Justiciability” refers to a group of legal concepts used as criteria to assess whether adjudication may adequately resolve any given cause of action. These judicially-imposed criteria include ripeness, mootness, standing, and a general restriction against judicial intervention in purely political questions or requests for advisory opinions.”<sup>6</sup> This Court’s July 23, 2025, *Order and*

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<sup>3</sup> Muscogee (Creek) Nation District Court, Case Number CV-2020-34, *Order and Opinion on Appeal from Citizenship Board of the Muscogee (Creek) Nation Denial of Creek Freedmen Citizenship Application*, at 14. (September 27, 2023)

<sup>4</sup> *Id.* at 15.

<sup>5</sup> *Muscogee (Creek) Nation National Council v. George Tiger*, SC-2011-06, *Opinion and Order Granting the Parties’ Joint Stipulation to Dismiss and Request to Vacate District Court Orders*, at 8. (February 14, 2014)

<sup>6</sup> *Id.* at footnote 29.

*Opinion* is clearly limited in scope to the issue of Creek Freedmen citizenship. The Court’s *Opinion* concludes that “any reference to “by blood” **citizenship**, specifically in the 1979 Muscogee (Creek) Nation Constitution, but also in the Muscogee (Creek) Nation Code, or in any associate Mvskoke rules, regulations, policies, or procedures is unlawful and *void ab initio*.”<sup>7</sup> [Emphasis Added]. The Court went further, showing the specific words found to be *void ab initio* in Article III, Section 2.<sup>8</sup> The Court’s *Order and Opinion* clearly does not extend to issues related to blood quantum, or requirements for public office, or any other issue(s) not before this Court on appeal. Such matters are not ripe for review under the Court’s rules of justiciability. The Appellant’s misunderstanding in this regard is not sufficient to establish grounds for rehearing under Rule 24 (B).

#### ARGUMENT 5: FUTURE APPLICABILITY

It is a well-established judicial concept within this Nation’s court system,<sup>9</sup> as well as in many foreign jurisdictions, including the U.S. federal and state judicial systems, that decisions made by courts not only resolve the issue at hand; but that the underlying principles supporting that decision, or the *ratio decidendi*,<sup>10</sup> create a general legal precedent to be followed in similarly situated cases moving forward. It is entirely within reason for this Court to direct the parties to

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<sup>7</sup> *Order and Opinion*, at 22, and again referenced at 23.

<sup>8</sup> Stating that “[b]y striking “by blood” from Article III, Section 2, the Nation is left with the following citizenship provision:

Persons eligible for citizenship in the Muscogee (Creek) Nation shall consist of Muscogee (Creek) Indians ~~by blood~~ whose names appear on the final rolls as provided by the Act of April 26, 1906 (34 Stat. 137), and persons who are lineal descendants of those Muscogee (Creek) Indians ~~by blood~~ whose names appear on the final rolls as provided by the Act of April 26, 1906 (34 Stat. 137); (except that an enrolled member of another Indian tribe, nation, band, or pueblo shall not be eligible for citizenship in the Muscogee (Creek) Nation.)

<sup>9</sup> See, SC-1998-02, Brown & Williamson Tobacco Corporation, et al. v. District Court of the Muscogee (Creek) Nation, Okmulgee District, et al., Order of Dismissal, at 4. (July 21, 1998), and SC-1998-04, Muscogee (Creek) Nation Health Board, et al. v. Joann Skaggs, Order of Dismissal, at 2 (July 1, 1998).

<sup>10</sup> *Ratio Decidendi*, Black’s Law Dictionary (12<sup>th</sup> ed. 2024): The Principle or rule of law on which a court’s decision is founded.

apply the precedent set by this case to future similarly situated citizenship applicants. In any event, this is an issue that has been fully considered by the Court and is not sufficient to establish grounds for rehearing under Rule 24 (B).

**IT IS HEREBY ORDERED** that the Appellant's August 4, 2025, *Petition for Rehearing* is **DENIED** for failing to establish grounds for rehearing as required by M(C)NCA Title 27, App. 2, Rule 24 (B), as explained above.

**FILED AND ENTERED:** August 20, 2025



Andrew Adams III  
Chief Justice



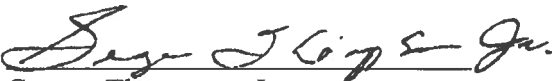
Richard C. LeBlance  
Vice-Chief Justice



Montie R. Deer  
Associate Justice



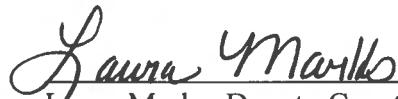
Kathleen Supernaw  
Associate Justice



George Thompson, Jr.  
Associate Justice

**CERTIFICATE OF MAILING**

I hereby certify that on August 20, 2025, I mailed a true and correct copy of the foregoing *Order Denying Appellant's Petition for Rehearing* with proper postage prepaid to each of the following: Graydon D. Luthey, Jr., R. Trent Shores, and Barrett L. Powers, GableGotwals, 110 N. Elgin Ave., Suite 200, Tulsa, OK 74120; Geri Wisner, Jeremy Pittman, and Clinton Wilson, Muscogee (Creek) Nation, Department of Justice, P.O. Box 580, Okmulgee, OK 74447; Jana L. Knott, Bass Law, 252 NW 70<sup>th</sup> St., Oklahoma City, OK 73116; Damario Solomon-Simmons, Solomon Simmons Law, 601 S. Boulder Ave., Suite 602, Tulsa, OK 74119; M. David Riggs, Riggs, Abney, Neal, Turpen, Orbison & Lewis, 502 W. 6<sup>th</sup> St., Tulsa, OK 74119. A true and correct copy was also hand-delivered to the Clerk of the Muscogee (Creek) Nation District Court.



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Laura Marks, Deputy Court Clerk