

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

MATTHEW JOSEPH DOUGLAS,

Petitioner,

v.

Case No. CIV-24-74-JFH-DES

GERALDINE WISNER, and MATTHEW
J. HALL,

Respondents.

RESPONDENTS NATION OFFICIALS' UNOPPOSED MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 12(b)(1) and (6), Respondents Geraldine Wisner, Attorney General of the Muscogee (Creek) Nation (“Nation” or “MCN”), and Matthew Hall, the Nation’s Prosecutor (collectively “Nation Officials”), respectfully file this Unopposed Motion to Dismiss the petition as moot.¹ In support of this Motion, the Nation Officials represent and state as follows:

1. On February 28, 2024, Petitioner filed a Petition for Writ of Habeas Corpus under 25 U.S.C. § 1303. Dkt. 4. The Nation Officials filed a Motion to Dismiss and Brief in Support on April 30, 2024, arguing that the Petition was premature because Petitioner had failed to first exhaust his tribal court remedies as required by 25 U.S.C. § 1304(f). Dkt. 21. On October 1, 2025, Magistrate Judge Snow issued a Report and Recommendation, recommending that the Court deny the Motion. Dkt. 34. The Nation Officials timely objected to the Report and

¹ Counsel for the Nation Officials met with Counsel for Petitioner on Monday, March 30, 2026, and has been authorized to represent Petitioner’s lack of opposition to this Motion.

Recommendation on November 14, 2025, Dkt. 39, and those objections remain pending before this Court.

2. On Wednesday, March 25, 2026, Muscogee (Creek) Nation District Court Judge Lisa Otipoby-Herbert entered an order stating that, “per agreement of the parties,” the charges against Petitioner are dismissed with prejudice. *See* Order, attached as Ex. 1 (“[T]he above and styled cause of action against said named defendant be and is hereby dismissed without prejudice.”) (strikeout in original).²

3. Section 1303 provides that “[t]he privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.” 25 U.S.C. § 1303. In order to invoke this remedy, a petitioner must be held in “detention” or “custody” by order of a Tribal court. *See Dry v. CFR Ct. of Indian Offenses for Choctaw Nation*, 168 F.3d 1207–08 & n.1 (10th Cir. 1999); *id.* at 1208 (“A petitioner must satisfy the ‘in custody’ requirement as a prerequisite to habeas corpus jurisdiction.”); *see also Valenzuela v. Silversmith*, 699 F.3d 1199, 1203 (10th Cir. 2012) (“[T]he ‘detention’ language in § 1303 is analogous to the ‘in custody’ requirement contained in the [other] federal habeas statute[s].”) (quoting *Walton v. Tesuque Pueblo*, 443 F.3d 1274, 1279 n.1 (10th Cir. 2006)).

4. Because the underlying charges against the Petitioner have been dismissed with prejudice, Petitioner is not presently in “detention” or “custody” under the authority of the Nation, nor is he in any jeopardy of the charges being reinstated in the future. The Petition should accordingly be dismissed. *See, e.g., Brisbois v. Tulalip Tribal Ct.*, 2019 WL 1522540, at

² *See also* <https://records.creekdistrictcourt.com/fullcourtweb/mvc/courtCase/70773?r=SVt> (identifying “Case status” as “Dismissed -- March 25, 2026”).

*3 (W.D. Wash. Feb. 27, 2019) (“As Petitioner is no longer in custody and there is no actual or potential ongoing collateral impact suffered by him in connection with the Tribal Court judgment, his petition is moot as it no longer represents a case-in-controversy.”); *Roblez v. Rosebud Sioux Tribe, Adult Corr. Facility*, 2022 WL 657232, at *2 (D.S.D. Mar. 4, 2022) (“This Court learned that Roblez was released from tribal custody on January 18, 2022. Thus, her claim about being wrongfully in tribal custody appears to be moot.”).

5. For the foregoing reasons, the Nation Officials respectfully request that the Court enter an Order:

- a) Denying the Nation Officials’ November 14, 2025 Objections to the Magistrate Judge’s Report and Recommendations as moot;
- b) Denying the Nation Officials’ April 30, 2024 Motion to Dismiss as moot; and
- c) Dismissing the Petition as moot.

Dated: April 1, 2026

Respectfully submitted,

/s/ Philip H. Tinker
Philip H. Tinker, OBA No. 36498
KANJI & KATZEN, P.L.L.C.
12 N. Cheyenne Ave., Ste. 220
Tulsa, OK 74103
(206) 344-8100
ptinker@kanjikatzen.com

Riyaz A. Kanji
David A. Giampetroni
KANJI & KATZEN, P.L.L.C.
P.O. Box 3971
Ann Arbor, MI 48106
(734) 769-5400
rkanji@kanjikatzen.com
dgiampetroni@kanjikatzen.com

Counsel for Respondents

CERTIFICATE OF SERVICE

I certify that on April 1, 2026, I electronically transmitted the above and foregoing document to the Clerk of the United States District Court for the Eastern District of Oklahoma using the ECF System for filing and transmittal of a Notice of Electronic Filing to:

Gentner Drummond, Attorney General
OFFICE OF THE ATTORNEY GENERAL, STATE OF OKLAHOMA

Amie Ely, First Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL, STATE OF OKLAHOMA

Garry M. Gaskins, II, Solicitor General
OFFICE OF THE ATTORNEY GENERAL, STATE OF OKLAHOMA

Will Flanagan, Assistant Solicitor General
OFFICE OF THE ATTORNEY GENERAL, STATE OF OKLAHOMA

/s/ Philip H. Tinker