



ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Nathan Anderson, Ryan Herrod,)
Wesley Montemayor, Leyahna Hicks,)
Malinda Noon, Inda McGrit, Jason Sawyer,)
Joyce Noon, Summer Barnes, Leeanna Tomah,)
Individually and as elected officials of the)
Thlopthlocco Tribal Town,)
a federally-recognized Indian Tribe,)
Petitioners,)

FILED
SUPREME COURT
STATE OF OKLAHOMA

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SELDEN JONES
CLERK

v.)

No. 123548

THE HONORABLE LAWRENCE PARISH,)
District Judge of Okfuskee County,)
State of Oklahoma, and PLAINTIFFS holding)
themselves out at Thlopthlocco Tribal Town,)
a federally-recognized Indian Tribe)
In CASE NO. CJ-2025-79 in the District Court)
of Okfuskee County,)
Respondents.)

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AMENDED BRIEF IN SUPPORT OF PETITION SPECIAL APPEARANCE FOR LACK OF SUBJECT MATTER JURISDICTION AND WRIT OF PROHIBITION

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ARGUMENT

Proposition I:

The District Court patently lacks subject-matter jurisdiction under *McGirt v. Oklahoma* 591 U.S. 894 (2020), *Williams v. Lee*, 358 U.S. 217 (1959), and the federal trust title.

“Absent express federal law to the contrary, Indians within Indian country have the right to make and be governed by their own laws.” *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 56 (1978).

The claims in this action center on a dispute over leadership and governance of the Thlopthlocco Tribal Town, including interpretations of the Tribal Constitution and tribal laws. Such intra-tribal disputes are inherently matters of tribal self-governance and fall outside the subject matter jurisdiction of state courts. Federal Indian Law preempts state authority in this area, as Tribes retain inherent sovereign powers over their internal affairs. See *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982). Even if sovereign immunity were waived, state courts cannot adjudicate disputes involving tribal constitutions, elections, or leadership, as these are exclusively within tribal or federal jurisdiction. See *Santa Clara Pueblo*, 436 U.S. at 59 (federal courts lack jurisdiction over intra-tribal disputes absent express congressional authorization); *Thlopthlocco Tribal Town v. Stidham*, 762 F.3d 1226 (10th Cir. 2014) (affirming tribal sovereignty in governance disputes). Oklahoma is not a Public Law 280 state for civil jurisdiction, further limiting state authority. See 18 U.S.C. § 1151; *Bryan v. Itasca County*, 426 U.S. 373 (1976).

Proposition II:

Castro-Huerta does not extend to civil inter-tribal disputes on trust land.

The United States Supreme Court explicitly preserved the civil infringement test:

“We do not address civil jurisdiction.” *Oklahoma v. Castro-Huerta*, 597 U.S. at 650 n.10 (2022).

The events underlying this dispute arise on federal trust land within Indian country, as defined by 18 U.S.C. § 1151. State courts lack subject matter jurisdiction over civil actions involving Indians on trust land, absent express federal consent. See *Montana v. United States*, 450 U.S. 544 (1981); *Strate v. A-1 Contractors*, 520 U.S. 438 (1997). A waiver of sovereign immunity does not override this federal preemption.

Proposition III:

Tribal Forums or Federal Court have exclusive jurisdiction over internal tribal matters. Waivers of sovereign immunity must be unequivocal and authorized by legitimate tribal-government.

Federal regulations (25 C.F.R. § 151) and the Indian Civil Rights Act vest exclusive jurisdiction over internal tribal matters in tribal forums or federal court (28 U.S.C. § 1362). Tribal sovereign immunity protects federally recognized Tribes from suit unless Congress abrogates it or the Tribe clearly waives it. See *Kiowa Tribe of Oklahoma v. Mfg. Techs., Inc.*, 523 U.S. 751 (1998). Waivers must be unequivocal and authorized by the legitimate tribal-governing body. See *Cayuga Nation v. Campbell*, 34 N.Y.3d 282 (2019) (BIA recognition of faction for funding informs legitimacy). Here, the individuals purporting to act for the Plaintiff are not the lawful governing body, as they were not elected every four years as required by the Tribal Constitution. Petitioners, however, were properly elected and recognized by federal authorities for managing the Tribe's SAM account, confirming their legitimacy. Thus, any purported waiver by the Plaintiff is invalid. While the parties surely dispute who is the governing body, the Courts of the State of Oklahoma cannot determine the answer or provide a faction with the authority to divest another faction from power or access to Trust lands.

Proposition IV:

Irreparable harm.

Irreparable harm occurs daily as the state court purports to determine who controls tribal trust property and governance.

CONCLUSION

Therefore, Petitioners request immediate stay and permanent writ accordingly, along with such other and further relief as this Court deems just and proper

Respectfully submitted,

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CERTIFICATE OF MAILING TO PARTIES

I certify that a true and correct copy of the Brief in Support of Petition Special Appearance for Lack of Subject Matter Jurisdiction and Writ of Prohibition was mailed this 13th day of November, 2025, by depositing it in the U.S. Mail, postage prepaid or by electronic mail to:

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