

No. 25-5027

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT**

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UNITED STATES OF AMERICA, Plaintiff - Appellee,

vs.

CAMERON LYNN, Defendant - Appellant.

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Appeal from the United States District Court  
for the Northern District of Oklahoma  
The Honorable Gregory K. Frizzell, District Judge,  
Presiding  
D.C. No. 24-CR-076-GKF

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**APPELLANT'S OPENING BRIEF**

**\*\*\*ORAL ARGUMENT REQUESTED\*\*\***

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**PRIOR RELATED APPEALS**

None.

## JURISDICTION

The district court had jurisdiction over the case pursuant to 18 U.S.C. § 3231. This Court has jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. The district court entered its final judgment on February 28, 2025. R1: 1197.<sup>1</sup> Mr. Lynn filed his timely notice of appeal on March 3, 2025. R1: 1204. See Fed. R. App. P. 4(b)(1)(A)(i) (granting criminal defendant 14 days to file notice of appeal).

## ISSUES PRESENTED FOR REVIEW

- I. Did the district court err in admitting under the hearsay exception of Federal Rule of Evidence 803(6) for records of a regularly conducted activity a screenshot of a Choctaw Nation database page purporting to be a record of Mr. Lynn's tribal membership and quantum of Indian blood?
- II. Did the district court abuse its discretion in drafting the jury instruction on self-defense when it sua sponte included language from this Court's decision in *United States v. Hicks*, 116 F.4th 1109 (10th Cir. 2024), that could have misled the jury?
- III. Did the district court abuse its discretion in denying Mr. Lynn's request that it instruct the jury on the government's burden of disproving his defense of imperfect self-defense beyond a reasonable doubt?

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<sup>1</sup> Citations to the four-volume record on appeal are to "R.[volume]:[page]."

## STATEMENT OF THE CASE

### *Facts Relevant to the Issues Submitted for Review*

In 2024, a grand jury for the Northern District of Oklahoma indicted Mr. Lynn on one count each of (1) first degree murder in Indian Country, in violation of 18 U.S.C. §§ 1151, 1153, and 1111; (2) assault with a dangerous weapon in Indian Country with intent to do bodily harm, in violation of 18 U.S.C. §§ 1151, 1153, and 113(a)(3); (3) carrying, using, brandishing, and discharging a firearm during and in relation to a crime of violence (specifically, Count 2), in violation of 18 U.S.C. § 924(c)(1)(A)(iii); and (4) assault in Indian Country resulting in serious bodily injury, in violation of 18 U.S.C. §§ 1151, 1153, and 113(a)(6). R1: 177-180.

The charges against Mr. Lynn arose from a confrontation and shooting that occurred around midnight on February 24, 2024, in an area of homeless encampments along a section of railroad tracks in Tulsa, Oklahoma. R1: 177-180; R1: 573-574, 577. This area of Tulsa lies just within the boundaries of the Cherokee Nation Reservation, making it “Indian Country” for purposes of federal jurisdiction. R1: 342-344. *See* 18 U.S.C. § 1151. Both Mr. Lynn and his brother, Jason, had campsites in this area at the time. R1: 571, 574-575.

### ***1. Jason's Campsite***

On the late evening of February 23, 2024, Jason was at his campsite, where he was sitting by a campfire with Mr. Lynn, Cara Campbell (Mr. Lynn's common-law wife), and another man named James "Cowboy" Ervin. R1: 576-579; R1: 538. The members of the group were "catching up with each other" and smoking cigarettes, weed, and methamphetamine. R1: 579; R1: 609-10. Cowboy noticed that Mr. Lynn was quiet and acting "[n]ot normal." R1: 546. Jason similarly noticed that Mr. Lynn was acting "strange" that evening, was unusually quiet, and was walking "back and forth" at the campsite. R1: 583.

Eventually Mr. Lynn got up from the campfire and left the others to walk away from the campsite towards the west. R1: 547, 584. According to Cowboy, before leaving the group, Mr. Lynn stated, "Something's bothering me. I have to check it out." R1: 546. Jason, on the other hand, testified that, before Mr. Lynn departed, he said either, "[A]fter doing this, I don't like the man that I've become" (R1: 584-585), or "I really, really don't like the person that he's going to become"<sup>2</sup> (R1: 586, lines 17-18).

Not long after Mr. Lynn left the camp, Jason heard "a lot of shots" fired. R1: 588. More specifically, Jason stated that he heard two shots,

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<sup>2</sup> The record is unclear whether Jason's use of the word "he" in this sentence is a reference to Mr. Lynn or to another person.

followed by a pause, and then nine or ten shots. R1: 588. He also testified that the first two gunshots sounded different from the remaining shots. R1: 611-12. Cowboy likewise heard “what sounded like gunshots” after Mr. Lynn left the campsite. R1: 547.<sup>3</sup>

Cowboy testified that he had previously seen Mr. Lynn with a “regular black pistol” tucked in his belt or pocket. R1: 552. He stated, however, that he could not remember if he had seen Mr. Lynn with the gun that day, but he was certain that he had not seen Mr. Lynn in possession of the gun while they were at the campfire. R1: 546. Jason testified that Mr. Lynn would sometimes carry a black Glock 19 pistol in a holster on his hip, but like Cowboy, he did not see Mr. Lynn with a gun around the campfire that evening. R1: 580-81.

“Shortly after” Cowboy heard the gunfire, he noticed Mr. Lynn returning “pretty fast” to Jason’s campsite. R1: 549-50. Jason similarly testified that, after hearing the gunfire, he observed Mr. Lynn “running back up” to the campsite. R1: 588-89. Jason also noted that Mr. Lynn “looked scared” upon returning. R1: 614. Cowboy testified that Mr. Lynn stated that “people” had shined lights in his eyes and had been “aggressive.” R1: 550-51. Mr. Lynn later gave Jason a similar account of the confrontation at the other campsite, saying that “they” were

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<sup>3</sup> Cara Campbell did not testify at Mr. Lynn’s trial, but instead invoked the marital testimonial privilege. R1: 457; see R1: 788-90. See generally *United States v. Bahe*, 128 F.3d 1440, 1441-42 (10th Cir. 1997) (discussing marital privileges).

“shining a light in his eyes” and that he told them to stop, but “the white dude started shooting at him and so he shot back.” R1: 593.

According to Jason, upon returning to the campsite, Mr. Lynn “instructed” Cara to leave the area and told Cowboy and Jason that they “might want to leave too.” R1: 590. All four then left the encampment. R1: 590.

## ***2. The Victims’ Campsite***

Another encampment in the area, comprised of a grouping of four tents, housed three other people that evening: Teresa Burke and two men, Jesse Walthers and Alcides Monroig. R1: 710-714; R1:719. This campsite was the location of the confrontation and shooting. Of the three individuals staying at the campsite that evening, Ms. Burke, who sustained a gunshot wound, was the only one to testify at Mr. Lynn’s trial. Mr. Monroig, who was known as “Junior,” was shot and killed during the incident and Mr. Walthers did not testify at trial.<sup>4</sup> Accordingly, Ms. Burke’s testimony was the only eyewitness account of the shooting presented at trial.

Ms. Burke testified that she went to bed in the tent she shared with Mr. Walthers around 9:15 on the evening of February 23, 2024. R1: 717.

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<sup>4</sup> The Tulsa Police Department detective in charge of the case testified at trial that, although he interviewed Mr. Walthers in the days following the shooting, he had not seen him since March 2024. The detective testified that he attempted to find Mr. Walthers after that but was unsuccessful. R1: 925-27.

She was later awakened by the sound of someone walking on a large garbage pile in their camping area. R1: 717. From inside the closed tent, Mr. Walthers asked who was there and a male voice responded, “It’s Jason.” R1: 721. Ms. Burke knew Jason because he was a friend of Junior’s who would come to hang out with Junior and get drugs from him. *Id.* In fact, this was not the first time that Jason had come to their campsite in the middle of the night. A month earlier, Jason had come to the campsite asking for drugs and they had “actually had to yell at him to leave.” R1: 721.

Mr. Walthers asked, “What do you want?” R1: 723. “Jason” responded, “I want my stuff back.” *Id.* Ms. Burke and Mr. Walthers then stood up inside their tent, “dropped” the tent door, and again asked what the man wanted. *Id.* The man on the trash pile then asked, “Did you see anybody run through here about 30 minutes ago?” R1: 723-24. They told him that they had not because they had been asleep. R1: 724. The man continued to say that he wanted his “stuff back,” and Burke and Walthers repeated that they did not have his stuff and that they did not know what he was talking about. R1: 724. According to Ms. Burke, the man then stated that he had a gun, to which Mr. Walthers responded, “I don’t care about your gun. Get out of our camp.” *Id.* In response to the man’s mention of a gun, Ms. Burke told Mr. Walthers to shine their flashlight on him. R1: 724-25.

When the flashlight shone on the man, Ms. Burke realized that he was not the “Jason” who had previously come to their camp. R1: 725. At this point, Mr. Walthers yelled to Junior, who was in an adjacent tent. Junior, who had been sleeping, said, “Hey, man, don’t make me come out there.” R1: 725-26. The man told Burke and Walthers to turn off the flashlight and he would leave. R1: 726. According to Ms. Burke, “As soon as we turned off the flashlight is when he opened fire.” *Id.* She continued, “When we shut the light off, he brought his hand out of his pocket, he pulled back the gun, he shot two times in this direction, and then shot four times straight in front of him.” R1: 729.

Ms. Burke sustained a gunshot wound to her hip. R1: 732. Mr. Walthers, who was unharmed, called 911, and police and medical personnel arrived at the campsite within “[m]oments. Not even five minutes.” R1: 731. When law enforcement arrived, they discovered Junior nonresponsive in his tent. *See* R1: 486. He died from a gunshot wound to the chest. R1: 780. Ms. Burke later identified Mr. Lynn in court as the man who shot her. R1: 737-38.

Relevant to the issues presented in this appeal, when Mr. Lynn encountered Ms. Burke and Mr. Walthers that night he was aware of Jason’s prior, contentious interaction with them. Jason had previously told Mr. Lynn that, when he went to the victims’ campsite approximately

one month earlier, Ms. Burke threatened him, telling him that the group would “jump” him and beat him up. R1: 606-07, 614.

### ***Relevant Procedural History***

Mr. Lynn’s brother, Jason, was detained by the Tulsa Police Department on February 24, 2024, as part of its investigation into the shooting. R1: 869. Jason was neither arrested nor charged, however, and the police soon turned their attention toward his brother, Mr. Lynn. R1: 870. Mr. Lynn was ultimately arrested for the shootings in this case and charged with (1) first degree murder in Indian Country, (2) assault with a dangerous weapon in Indian Country with intent to do bodily harm, (3) carrying, using, brandishing, and discharging a firearm during and in relation to a crime of violence, and (4) assault in Indian Country resulting in serious bodily injury. R1: 177-180. The indictment alleged that Mr. Lynn was an “Indian,” a crucial, jurisdictional element of the murder and assault offenses charged in the indictment. R1: 177-180.

At trial, Mr. Lynn presented defenses of both self-defense and imperfect self-defense. *See, e.g.*, R1: 473; R1: 1027-28; R1: 1085-95. (The district court’s instructions to the jury on these defenses are the subject of two of the issues Mr. Lynn raises in this appeal.) Important to Mr. Lynn’s defense was the possibility, unresolved by the police investigation, that Mr. Walthers fired shots at him during the confrontation. On cross-examination, the lead detective admitted that Mr. Walthers had been

involved in a prior “incident.” R1: 931. Defense counsel then asked, “And it involved a weapon, a gun?” The detective testified that, although he did know that Walthers had been involved in a prior incident, he was not “up on what it was about.” *Id.* Because Mr. Walthers was not made available for trial, however, the defense was prevented from pursuing this issue any further. *See* R1: 929-30.

Although Jason and Cowboy testified that they heard multiple gunshots (up to 12 shots, by Jason’s count (*see* R1: 588)), the police discovered only five shell casings at the scene. R1: 490; R1: 511; R1: 952; R1: 978 (lead detective describing witness accounts that “[t]here were two gunshots in the beginning and there were several after the second volley of shots”); R1: 979. Moreover, although the police took photographs of the four tents at the victims’ campsite, they did not preserve the tents themselves as evidence. R1: 514-15; R1: 943-46. The photographic evidence presented to the jury showed more than five holes in the tents (*see, e.g.*, R1: 946-47), but because the tents were neither preserved nor tested, it was impossible to verify if the holes in the tents were entrance or exit holes.

The jury ultimately convicted Mr. Lynn on each of the four counts charged in the indictment. R1: 1163-64. The district court subsequently sentenced him to life imprisonment on Count 1 and to 120-month sentences on each of the remaining counts. R1: 1198. The court ordered

that the sentences on Counts 1, 2, and 4 would run concurrently, while the 120-month sentence on Count 3 (the § 924(c) count) would run consecutively to the other counts. R1: 1197-98. This timely appeal followed.

## SUMMARY OF ARGUMENT

In the pages that follow, Mr. Lynn presents three independent arguments for reversal of his convictions. If the Court agrees that the district court committed reversible error with regard to either of the arguments raised in Sections I or II, the Court should vacate all four of Mr. Lynn's convictions.<sup>5</sup> On the other hand, if the Court believes that reversal is appropriate solely on the argument raised in Section III, the appropriate remedy would be to reverse Mr. Lynn's murder conviction under Count 1.

Mr. Lynn argues in Section I that the district court committed reversible error in admitting Government's Trial Exhibit 59 over his hearsay and Confrontation Clause objections. Exhibit 59 is a "screenshot" of a page from the tribal enrollment database of the Choctaw Nation. The government relied on Exhibit 59 to establish, for purposes of Counts 1, 2, and 4, that Mr. Lynn was an "Indian" at the time of the

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<sup>5</sup> Count 3 of the indictment charged Mr. Lynn with a violation of § 924(c)(1)(A)(iii) expressly tied to the assault alleged in Count 2. *See* R1: 178-79. Because the arguments presented in Sections I and II, if successful, would require reversal on Counts 1, 2, and 4, the conviction on Count 3 would necessarily need to be vacated as well.

alleged offenses. The district court admitted Exhibit 59 under the hearsay exception of Federal Rule of Evidence 803(6) for “records of a regularly conducted activity.” Mr. Lynn argues in Section I, however, that the government failed to satisfy that rule’s requirement that the information contained in the document was made at or near the time of the events it purportedly recorded and was made by someone with knowledge. Mr. Lynn further argues in Section I that Exhibit 59 contained double hearsay, with the information concerning the issuance of his Certificate of Degree of Indian Blood coming from the Bureau of Indian Affairs rather than the Choctaw Nation. Because the government failed to demonstrate an independent hearsay exception for this information, it was inadmissible hearsay and violated his right to confront the witnesses against him.

Mr. Lynn argues in Section II that the district court committed reversible error in crafting the self-defense instruction in his case. Specifically, he argues that the court improperly added language to the instruction informing the jury that it could consider his ability or opportunity to retreat as a factor in assessing whether his use of deadly force was reasonably necessary to defend himself under the circumstances. Although this language is not a misstatement of the law *per se*, its inclusion in the jury instruction in *this* case had the effect of misleading the jury about the significance of the “duty to retreat” in adjudicating Mr. Lynn’s guilt.

Finally, in Section III, Mr. Lynn argues that the district court erred in denying his request that it instruct the jury that the government had the burden of proving beyond a reasonable doubt that he was not acting in imperfect self-defense with regard to the homicide offense alleged in Count 1. This error had the improper result of relieving the government of its burden to prove all elements of homicide beyond a reasonable doubt and requires reversal of Mr. Lynn's conviction on Count 1.

## ARGUMENT

**I. The district court erred in admitting under the hearsay exception of Federal Rule of Evidence 803(6) for “records of a regularly conducted activity” a screenshot of a Choctaw Nation database page purporting to be a record of Mr. Lynn’s tribal membership and quantum of Indian blood. Not only did the government fail to establish that the information contained in the exhibit was made at or near the time of its creation by someone with knowledge, but the exhibit also contained double hearsay for which the government argued no hearsay exception.**

### A. Relevant Facts

An element of each of the offenses charged against Mr. Lynn in Counts 1, 2, and 4 of the indictment was that he was an “Indian.” R1: 177, 178, 180. *See, e.g., United States v. Prentiss*, 206 F.3d 960, 966 (10th Cir. 2000) (Indian status is an essential element under Indian Crimes Act). “To find that a person is an Indian the [jury] must first make factual findings that the person has some Indian blood and, second, that the person is recognized as an Indian by a tribe or by the federal

government.” *United States v. Walker*, 85 F.4th 973, 983 (10th Cir. 2023) (quoting *United States v. Diaz*, 679 F.3d 1183, 1187 (10th Cir. 2012)). The burden falls on the government to prove Indian status beyond a reasonable doubt. *United States v. Harper*, 118 F.3d 1288, 1296 (10th Cir. 2024).

In an attempt to meet its burden to establish Indian status in this case, the government called Erica Tomlinson, a program coordinator and supervisor in the tribal enrollment department of the Choctaw Nation of Oklahoma. R1: 792-93. Ms. Tomlinson testified that she began working for the Choctaw Nation in 2016. R1: 808-09. Through Ms. Tomlinson the government attempted to admit Government Trial Exhibit 59. See Tenth Cir. R. 28.2(A) Attachment to this Brief (“Att.”)<sup>6</sup> at A-1. Specifically, the government sought to admit the document as a business record of the Choctaw Nation under the hearsay exception of Federal Rule of Evidence (“FRE”) 803(6).

Exhibit 59 was a “screenshot” from the tribal enrollment database, which Ms. Tomlinson “provide[d]” to the government. R1: 797.<sup>7</sup> Tomlinson testified that the tribe “kept [the database] in the regular

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<sup>6</sup> Documents in the Rule 28.2(A) Attachment to this Brief are numbered sequentially from A-1 through A-15.

<sup>7</sup> The screenshot is blurry and difficult to read. See, e.g., R1: 805 (Tomlinson stating that the exhibit is “a little blurred.”).

course of the Choctaw Nation business.” R1: 796. Exhibit 59 purported to be a screenshot of how Mr. Lynn’s tribal record appeared in the tribe’s database. R1: 797. The exhibit is a screenshot of a “Tribal Member Search” on a computer database apparently called “My Workspace.”<sup>8</sup> See Att. at A-1. The database search is for “Cameron Wayne Lynn.” Relevant to the issue of Mr. Lynn’s Indian status, the exhibit contains hearsay statements indicating that (1) Cameron Wayne Lynn’s status with the tribe is “member”; (2) his “Member Approved Date” is “09/20/2001”; (3) his “CDIB<sup>9</sup> Status” is “Issued”; and (4) the “Date CDIB Issued” is “02/14/1991.” See Att. at A-1; *see also* R1: 798-99, 805. Exhibit 59 also includes an entry stating “63/126,” which Ms. Tomlinson testified represents the “degree or quantum of Indian blood.” R1: 804.

With regard to the CDIB, Ms. Tomlinson explained that the certificates are issued by the Bureau of Indian Affairs (“BIA”), “a federal agency that is separate from the tribe[.]” R1: 811-12. She explained that the role of her office was only to “do the footwork for [the BIA]” by collecting and checking whatever documents were sent to the BIA for issuance of the CDIB, but that the BIA would “do their own policy and requirements” and “have the final approval.” R1: 812.

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<sup>8</sup> The government provided no witness testimony or other information concerning when the screenshot was made.

<sup>9</sup> According to Ms. Tomlinson, “CDIB” stands for “a Certificate Degree of Indian Blood that is issued by the Bureau of Indian Affairs.” R1: 793.

Important to the issue Mr. Lynn raises here, Ms. Tomlinson was unable to say *when* the various pieces of information in Exhibit 59 were entered into the database, or who entered them. For example, when asked by the government whether the “membership enrollment document” was created “prior to the initiation of this case,” she responded, “Yes. It would have been entered *whenever* into the software.” R1: 797-80 (emphasis added). On cross-examination, Ms. Tomlinson clarified that she did not know when the information about Cameron Lynn would have been entered into the system. R1: 814. And when asked by the judge, who interjected at this point, whether she knew “generally when it was entered into the database,” she responded, “I do not know.” R1: 814. Defense counsel then asked, “So you are unable to say when [sic] it was entered at or near the time of 1991-2001?” R1: 815. Tomlinson responded, “Correct.”<sup>10</sup> R1: 816; *see also* R1: 814 (“Q: You don’t know when it was entered in the database? A: Not the specific date, no.”).

Mr. Lynn objected to the admission of Exhibit 59 on several grounds, including that it (1) contained hearsay statements that did not satisfy the requirements of the business records hearsay exception of FRE 803(6), and (2) violated his rights under the Confrontation Clause

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<sup>10</sup> The judge later commented on this testimony: “Well, I mean she says she’s unable to say when [sic] it was entered at or near the time of 1991 to 2001. That’s a ten-year span.”

of the Sixth Amendment. R1: 808, 847, 848. Despite its concerns that Ms. Tomlinson did not know when or by whom the data was entered into the database, the district court overruled Mr. Lynn’s objection and admitted Exhibit 59 pursuant to FRE 803(6). *See* Att. at A-2 to A-3; R1: 848.

### **B. Standard of Review**

This Court reviews legal interpretations of the Federal Rules of Evidence de novo, while evidentiary decisions are reviewed for abuse of discretion. *United States v. Wood*, 109 F.4th 1253, 1263 (10th Cir. 2024). “Evidentiary rulings ‘may constitute an abuse of discretion only if based on an erroneous conclusion of law, a clearly erroneous finding of fact or a manifest error in judgment.’” *Harper*, 118 F.4th at 1296 (quoting *United States v. Keck*, 643 F.3d 789, 795 (10th Cir. 2011)). Further, although this Court reviews a district court’s evidentiary rulings for abuse of discretion, it reviews de novo whether admission of the evidence violated the Confrontation Clause. *United States v. Townley*, 472 F.3d 1267, 1271 (10th Cir. 2007).

### **C. Analysis**

For Exhibit 59 to qualify for admission under FRE 803(6), the government was required to demonstrate, among other things, that the information contained in the document “was made at or near the time” of the events it purportedly recorded and was made by “someone with

knowledge.” *See Harper*, 118 F.4th at 1297; *see also Wood*, 109 F.4th at 1258. As Mr. Lynn recounted above, Ms. Tomlinson’s testimony failed to do that. In fact, she consistently testified that *she did not know* when or by whom the data was entered. The most recent date mentioned in Exhibit 59 is September 2001, fifteen years before Ms. Tomlinson was employed by the Choctaw Nation. Because nothing on the face of Exhibit 59 identifies who entered the data or when it was entered, and because Ms. Tomlinson admitted that she did not know the answer to either question, the government failed to meet the requirements of FRE 803(6).

In fact, a review of the information conveyed in Exhibit 59 demonstrates that the government *cannot* satisfy its burden under FRE 803(6) for this document. Ms. Tomlinson testified that the exhibit is a screenshot of the Choctaw Nation tribal enrollment records for Cameron Lynn. Yet, Exhibit 59 itself states that Cameron Lynn did not become a member of the Choctaw tribe until September 20, 2001. *See Att. at A-1*. Thus, prior to September 2001, the tribe would not have had an “enrollment” record for him. Yet, Exhibit 59 also states that Lynn’s CDIB card was issued on February 14, 1991, more than a decade before he purportedly became a member of the tribe. Accordingly, the government cannot possibly demonstrate that the reference in Exhibit 59 to the issuance of a CDIB was entered “at or near to the time” the CDIB was supposedly issued because Cameron Lynn would have had no tribal enrollment records at that time, and wouldn’t for another decade.

Mr. Lynn also objected to the admission of Exhibit 59 as a violation of his Sixth Amendment right to confront the witnesses against him. R1: 808, 847, 848. This objection is premised on the fact that the exhibit contains double hearsay. *See United States v. Gwathney*, 465 F.3d 1133, 1141 (10th Cir. 2006) (“[B]usiness records are potentially fraught with double hearsay.”). Specifically, as Ms. Tomlinson testified, the BIA, not the Choctaw Nation, is responsible for issuing the CDIB. R1: 812. “Any information provided by another person, if an outsider to the business preparing the record, must itself fall within a hearsay exception to be admissible.” *Gwathney*, 465 F.3d at 1141 (citing *Wilson v. Zapata Off-Short Co.*, 939 F.2d 260, 271 (10th Cir. 1991)). In this case, the person providing the information regarding the issuance of the CDIB would have been an employee of the BIA, not the Choctaw Nation. *See, e.g., Gwathney*, 465 F.3d at 1141 (“[T]he DEA cannot claim Western Union’s response as one of its *own* business records for the simple reason the DEA did not prepare the document. The fact Western Union’s response is likely trustworthy given that it was required to comply with the terms of the subpoena does not change this basic fact.”) Exhibit 59’s reference to the BIA’s issuance of a CDIB in February 1991 is therefore double hearsay, and the government proffered no hearsay exception to justify its admission.

“In the American legal system, the role of cross-examination has paramount importance to a criminal trial’s core truth-seeking function.”

*Jones v. Basinger*, 635 F.3d 1030, 1040 (7th Cir. 2011) (citing *California v. Green*, 399 U.S. 149, 158 (1970)). The Confrontation Clause guarantees a criminal defendant the right to subject the witnesses against him to “the crucible of cross-examination.” *Id.* (citing *Davis v. Alaska*, 415 U.S. 308, 317 (1974), and *Crawford v. Washington*, 541 U.S. 36, 61 (2004)). By rejecting Mr. Lynn’s Confrontation Clause objection to the admission of Exhibit 59, the district court permitted information concerning the supposed issuance of Mr. Lynn’s CDIB to come into evidence without allowing Mr. Lynn to cross-examine the source of that information. This was error.

If this Court determines that the district court abused its discretion in admitting Exhibit 59 because the government failed to satisfy the requirements of FRE 803(6), the burden then shifts to the government, under a non-constitutional harmless error analysis, to prove by a preponderance of the evidence that the error did not affect Mr. Lynn’s substantial rights. *See Walker*, 85 F.4th at 982; *Harper*, 118 F.4th at 1300. If this Court also determines, however, that the district court’s error in admitting the double hearsay in Exhibit 59 implicated Mr. Lynn’s Sixth Amendment right to confront the witnesses against him, the government must then satisfy the constitutional harmless error standard of review. *See United States v. Blechman*, 657 F.3d 1052, 1067 n.15 (10th Cir. 2011) (citing *United States v. Joe*, 8 F.3d 1488, 1497 (10th Cir. 1993)).

Under that standard, the government must demonstrate that the error was harmless beyond a reasonable doubt. *Id.*

Under both standards of harmless error review the burden lies first with the government to prove that the error was harmless. Presumably, the government will cite to the testimony of Mr. Lynn's brother, Jason, as proof that any error was harmless. Specifically, Jason testified that when he and Mr. Lynn were "growing up" they both were members of the Choctaw Nation and both had CDIB cards. R1: 571-73. But Jason's testimony is insufficient to remedy the harm caused by the admission of Exhibit 59. This Circuit "employs a two-part test to determine who is an 'Indian' under § 1153: a person must (1) have 'some Indian blood' and (2) be 'recognized as an Indian by a tribe or by the federal government.'" *Nowlin v. United States*, 581 F. App'x 722, 723 (10th Cir. 2014) (quoting *United States v. Prentiss*, 273 F.3d 1277, 1280 (10th Cir. 2001)). Jason's testimony that he and Mr. Lynn were members of the Choctaw Nation and had CDIB cards when they "were growing up" is insufficient, on its own, to establish both elements of the *Prentiss* test beyond a reasonable doubt. It was only through Ms. Tomlinson's testimony and the admission of Exhibit 59 that the government was able to prove that Mr. Lynn was a member of the Choctaw Nation at the time of the offense and that he had a 63/126 quantum of Indian blood. Accordingly, this Court should hold that the district court's admission of Exhibit 59 was reversible error.

**II. The district court abused its discretion in drafting the jury instruction on self-defense when it *sua sponte* included language from this Court’s decision in *United States v. Hicks*, 116 F.4th 1109 (10th Cir. 2024), that could have misled the jury.**

**A. Relevant Facts**

Mr. Lynn submitted proposed jury instructions to the district court shortly before trial. R1: 235. Included in those proposed instructions was a request for a self-defense instruction. R1: 265. *See* Att. at A-4. The instruction requested by Mr. Lynn was a verbatim copy of Tenth Circuit Criminal Pattern Jury Instruction 1.28 (“Self-Defense or Defense of Another”), with an additional sentence added at the end: “Self-defense only requires the defendant’s reasonable belief that deadly force was necessary, not that he exercise a duty to retreat or recognize the unavailability of reasonable alternatives.” Att. at A-4; R1: 264. *Compare with* Att. at A-5, Tenth Circuit Criminal Pattern Jury Instruction 1.28. The additional sentence proposed by Mr. Lynn came directly from this Court’s opinion in *United States v. Hicks*, 116 F.4th 1109, 1118 (10th Cir. 2024) (“Self-defense only requires the defendant’s reasonable belief that deadly force was necessary, not that he exercise a duty to retreat or recognize the unavailability of reasonable alternatives.”).

Near the end of trial, the district court and parties conferenced regarding the court’s proposed jury instructions. The court drafted a self-defense instruction identical to the one proposed by Mr. Lynn, but with

one additional sentence from *Hicks* included. Att. at A-6; R1: 1139. Specifically, the final paragraph of the court's self-defense instruction read as follows, with the language of the first two sentences proposed by Mr. Lynn and the third sentence added by the district court *sua sponte*:<sup>11</sup>

Self-defense only requires the defendant's reasonable belief that deadly force was necessary. A defendant has no duty to retreat or recognize the unavailability of reasonable alternatives. *However, you may consider the defendant's ability or opportunity to retreat as a factor in assessing whether his use of deadly force was reasonably necessary to defend himself under the circumstances.*

Att. at A-6; R1: 1139 (italics added).

Mr. Lynn objected to the addition of the third sentence. See R1: 1061-68. Specifically, he argued that the instruction should end after the second sentence and that the third sentence should be removed in its entirety. He reasoned that the language in the third sentence was merely a recognition by this Court in *Hicks* that the government *could argue* that a defendant might have had alternatives to the use of deadly force and thus had not acted reasonably, but to include that language in the jury instruction itself would amount to burden shifting. R1: 1061-62. Mr. Lynn argued that the error created by including the third sentence was particularly prejudicial in his case because the government had presented no evidence regarding "alternatives" to deadly force that might

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<sup>11</sup> The third sentence also comes directly from this Court's opinion in *Hicks*. See *Hicks*, 116 F.4th at 1118.

have been available to him during the confrontation with the victims. R1: 1066 (“I’ll also state that the government has not put forth specific alternatives to this jury. And so, again, it is burden-shifting and leaving the jury to hypothesize as to what these number of alternatives could or should have been.”).

The district court rejected Mr. Lynn’s argument that the third sentence amounted to shifting the burden to him to prove that there were no alternatives available to him. R1: 1066. The third sentence was included in the instruction given to the jury (*see* Att. at A-6). As Mr. Lynn explains below, the decision to include the additional language from *Hicks* constituted reversible error under the particular facts of his case.

### **B. Standard of Review**

“When a defendant has presented sufficient evidence to warrant an instruction on the theory of self-defense, the elements of the defense should be fully defined.” *United States v. Corrigan*, 548 F.3d 879, 883 (10th Cir. 1977). “In the case of an affirmative defense . . . the potential for misinterpretation is too great to permit ambiguity.” *Id.* As this Court explained in *Corrigan*, “In the absence of clear instructions, it is not unlikely that the jury would infer that the government has borne its burden and that it is up to the defendant to establish his justification. This is contrary to the standard of proof beyond a reasonable doubt on all elements of the offense[.]” *Id.*

This Court reviews jury instructions de novo and views them “in the context of the entire trial to determine if they accurately state the governing law and provide the jury with an accurate understanding of the relevant legal standards and factual issues in the case.” *United States v. Woodmore*, 135 F.4th 861, 878-79 (10th Cir. 2025) (quoting *United States v. Freeman*, 70 F.4th 1265, 1278 (10th Cir. 2023)). As part of this analysis, the Court considers whether the district court abused its discretion in “shaping or phrasing” a particular jury instruction and in “deciding to give or refuse a particular instruction.” *Woodmore*, 135 F.4th at 878-79 (quoting *Freeman*, 70 F.4th at 1278).

A district court abuses its discretion if its decision is arbitrary, capricious or whimsical, or falls outside the bounds of permissible choice under the circumstances. *Woodmore*, 135 F.4th at 879 (quotation marks omitted) (quoting *United States v. Olea-Monarez*, 908 F.3d 636, 639 (10th Cir. 2018)). Stated differently, “[t]he appropriate standard of review for challenges to jury instructions is whether the jury, considering the instructions as a whole, was misled.” *Woodmore*, 135 F.4th at 879 (quotation marks omitted) (quoting *United States v. Dowlin*, 408 F.3d 647, 664 (10th Cir. 2005)).

As this Court observed in *Hicks* itself, “[a] district court must *adequately* instruct the jury on the legal principles underlying a defendant’s theory of the defense.” 116 F.4th at 1121 (emphasis in

original, quotation marks and brackets omitted) (quoting *United States v. Migliaccio*, 34 F.3d 1517, 1523 (10th Cir. 1994)). “This means instructions must be tailored to reach the ‘peculiar’ facts and legal issues raised in each case.” *Hicks*, 116 F.4th at 1121 (quoting *United States v. Lofton*, 776 F.2d 918, 922 (10th Cir. 1985)).

### C. Analysis

Viewed under the “peculiar facts and legal issues” presented in Mr. Lynn’s case, the district court abused its discretion in including the third sentence of the final paragraph of the self-defense instruction. Specifically, in an effort to include all of the language from *Hicks* that it believed was relevant, the district court actually misled the jury concerning the issue of self-defense *in this case*.

To understand the district court’s error, the analysis must start with this Court’s earlier decision in *United States v. Toledo*, 739 F.3d 562 (10th Cir. 2014). The language from *Hicks* that formed the basis of the self-defense instruction in this case actually came from *Toledo*. See *Hicks*, 116 F.4th at 1118 (quoting *Toledo*, 739 F.3d at 567, 568).

In *Toledo*, this Court was presented with a defendant’s claim that the district court erred in denying his request for a self-defense instruction. 739 F.3d at 566-67. The defendant in *Toledo* was charged with second-degree murder resulting from a fatal stabbing on the Navajo Nation. *Id.* at 564. The confrontation that led to the stabbing occurred

between the defendant and his uncle, who lived on an adjoining piece of land. *Id.* at 565. The confrontation occurred at a barbed-wire fence separating the properties of the two families, with the defendant and his uncle on opposite sides of the fence. *Id.* at 564, 565.

The defendant in *Toledo* testified at trial that the “fence separated him from his uncle and that he could have simply ‘backed away.’” *Toledo*, 739 F.3d at 565. The defendant did not back away, however, but instead fatally stabbed his uncle over the top of the fence. *Id.* In concluding that, despite the defendant’s admission, the district court erred in denying him a self-defense instruction, this Court held that “[s]elf-defense only requires the defendant’s reasonable belief that deadly force was necessary, not that he exercise a duty to retreat or recognize the unavailability of reasonable alternatives.” *Id.* at 568.

This Court observed in *Toledo* that the defendant’s admission at trial that “he could have retreated rather than defend himself at the fence line” “may be a problem for the defense at retrial.” 739 F.3d at 567. The Court reasoned:

Considering [the defendant’s admission], a reasonable jury could certainly conclude that Mr. Toledo’s resort to deadly force was unreasonable and therefore reject a self-defense acquittal. It is possible, however, that Mr. Toledo’s admission that he could have retreated occurred to him only in hindsight, and that in the heat of the moment, he genuinely thought that deadly force was necessary. As noted, Mr. Toledo testified that his first instinct when confronted with [the victim’s] aggression was to defend himself, that he was scared, and that when the stabbing occurred, he didn’t believe he did it. He testified that [the victim] could have easily

pulled him over the fence. Under these circumstances, a reasonable jury could conclude that Mr. Toledo had an objectively reasonable belief that deadly force was necessary.

*Toledo*, 739 F.3d at 567-68.

In *Hicks*, this Court was presented with a district court's failure to instruct a jury, consistent with *Toledo*, that a defendant has no legal duty to retreat or consider alternatives before using deadly force. 116 F.4th 1112, 1117. The defendant in *Hicks*, who shot his cousin during a confrontation in the middle of a street, was charged with second-degree murder and argued self-defense. *See id.* at 1112-13. At trial, the government responded to the defendant's claim of self-defense by "pointing to a plethora of non-lethal alternatives Defendant could have exercised." *Id.* at 1112. This Court reversed the second-degree murder conviction in light of the district court's failure to properly instruct the jury that, as the Court had held in *Toledo*, "[s]elf-defense only requires the defendant's reasonable belief that deadly force was necessary, not that he exercise a duty to retreat or recognize the unavailability of reasonable alternatives." *Id.* at 1118 (citing *Toledo*, 739 F.3d at 567, 568).

Given that the government's response to the defendant's self-defense claim in *Hicks* had been to focus on possible non-lethal alternatives available to the defendant, the Court also observed, "A jury, however, may consider a defendant's ability or opportunity to retreat as a factor in assessing whether his use of deadly force was reasonably

necessary to defend himself or another under the circumstances.” *Hicks*, 116 F.4th at 1118 (citing *Toledo*, 739 F.3d at 567). In light of “the ‘peculiar’ facts and legal issues raised” in *Hicks*, the Court’s observation was understandable and appropriate. It was not, however, the announcement of an additional element to self-defense. Rather, the Court observed that, in that particular case, the defendant’s failure to retreat was only “one” of the factors “the jury may consider in assessing whether Defendant’s belief that it was necessary to use deadly force was reasonable.” *Id.* at 1121.

This discussion of *Toledo* and *Hicks* explains how the district erred in Mr. Lynn’s case. Specifically, by *sua sponte* adding the third sentence to the final paragraph of the self-defense instruction, the district court failed to “tailor” the self-defense instruction to the “peculiar” facts of Mr. Lynn’s case. The issue of “a duty to retreat” never arose in Mr. Lynn’s trial. Rather, the government’s response to the self-defense issue was to argue that there was no threat or use of unlawful force by the victims, so any use of force by Mr. Lynn was unreasonable. R1: 1080-81. Thus, the district court’s insertion of the issue of the “ability or opportunity to retreat” in the self-defense jury instruction was an abuse of discretion. Moreover, by focusing the jury’s attention solely on the issue of ability or opportunity to retreat (a matter that was never discussed at trial), to the exclusion of other factors that the jury could reasonably have considered in assessing the “reasonableness” of Mr. Lynn’s claim of self-defense (but

were *not* instructed on), the district court misled the jury. Accordingly, the district court erred in instructing the jury on self-defense.

This Court applies a harmless error test in evaluating a district court's failure to properly instruct the jury. *United States v. Britt*, 79 F.4th 1280, 1292 (10th Cir. 2023); *United States v. Kahn*, 58 F.4th 1308, 1317-18 (10th Cir. 2023). The harmless error test asks “whether it appears beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained.” *Kahn*, 58 F.4th at 1317-18. “It is well-established that the burden of proving harmless error is on the government.” *Id.* at 1318 (quoting *United States v. Holly*, 488 F.3d 1298, 1307 (10th Cir. 2007)). Accordingly, because the burden falls on the government to prove beyond a reasonable doubt that the district court's error in instructing Mr. Lynn's jury on self-defense was harmless, Mr. Lynn will wait until his reply brief to address the impact of the district court's error on his case.

**III. The district court abused its discretion in denying Mr. Lynn's request that it instruct the jury on the government's burden of disproving his defense of imperfect self-defense beyond a reasonable doubt.**

**A. Relevant Facts**

Mr. Lynn received a jury instruction on the issue of imperfect self-defense. R1: 1150; Att. at A-7. As the instruction correctly stated, a person acts in imperfect self-defense if he subjectively believed, at the

time he acted, that his actions were necessary for the defense of himself against the immediate use of unlawful force to prevent death or great bodily harm, but his belief was objectively unreasonable. *Id.*

During the jury instruction conference, Mr. Lynn (twice) requested that, given that the Court was giving an imperfect self-defense instruction, it also instruct the jury that the government had the burden of proving beyond a reasonable doubt that Mr. Lynn did *not* act in imperfect self-defense. R1: 916. Specifically, defense counsel requested that the court add to the instructions for the substantive elements of the various degrees of murder on which the jury was being instructed an additional element: namely, that the government had proven beyond a reasonable doubt that the defendant had not acted in imperfect self-defense. *Id.*; *see also* R1: 1068.

The government argued against adding this element to the murder instructions, claiming that it would make the instructions “overly confusing” and would “mudd[y] the waters.” R1: 917. The district court agreed: “I think that’s right. This is simpler and it directs the jury where to go. If they find imperfect self-defense, it specifically directs the jury to involuntary manslaughter.” Att. at A-8; R1: 917. Mr. Lynn later renewed his request for the addition of the language explaining that the government had to disprove imperfect self-defense beyond a reasonable

doubt, but the court again rejected the request. R1: 1068. The district court's ruling was in error.

### **B. Standard of Review**

This Court reviews jury instructions de novo and views them in the context of the entire trial to determine if they accurately state the governing law and provide the jury with an accurate understanding of the relevant legal standards and factual issues in the case. *Freeman*, 70 F.4th at 1278 (citing *United States v. Thomas*, 749 F.3d 1302, 1312 (10th Cir. 2014)). Ordinarily, the failure to instruct on such an essential element as intent or knowledge requires reversal. *United States v. Prince*, 647 F.3d 1257, 1265 (10th Cir. 2011) (citing *United States v. Laughlin*, 26 F.3d 1523, 1527 (10th Cir.1994)).

### **C. Analysis**

This Court's recent decision in *United States v. Maryboy*, 138 F.4th 1274 (10th Cir. 2025), controls the resolution of this issue. In *Maryboy*, this Court held that, even under a plain-error analysis, a district court's failure to instruct the jury that the government bears the burden of disproving imperfect self-defense beyond a reasonable doubt constitutes reversible error. *See id.* at 1292-95; *accord Lofton*, 776 F.2d at 920 (murder defendant who sufficiently raises mitigating defense is entitled to instruction informing jury that government has burden of disproving the defense beyond a reasonable doubt). As the Court reasoned in

*Maryboy*, because the district court failed to instruct the jury that the government had to prove beyond a reasonable doubt that the defendant did not act in imperfect self-defense, “the government was not held to its burden under the Due Process Clause.” 138 F.4th at 1293.

The record before this Court demonstrates that Mr. Lynn twice asked the district court to instruct the jury that the government bore the burden of disproving imperfect self-defense beyond a reasonable doubt, and that the district court denied the request both times. R1: 916-17, 1068. Pursuant to *Maryboy*, the district court’s refusal to instruct the jury on the government’s burden was error.

Moreover, as the Court noted in *Maryboy*, the district court’s error was of constitutional dimension because it relieved the government of its burden under the Due Process Clause to prove every element of a crime beyond a reasonable doubt. *See Maryboy*, 138 F.4th at 1293. Accordingly, pursuant to *Chapman v. California*, 386 U.S. 18, 24 (1967), the government bears the burden in this appeal to demonstrate that the error was harmless beyond a reasonable doubt. *See United States v. Montelongo*, 420 F.3d 1169, 1176 (10th Cir. 2005) (citing *Chapman*).

## CONCLUSION

For the foregoing reasons, Mr. Lynn requests that this Court vacate his convictions and remand for a new trial.

## REQUEST FOR ORAL ARGUMENT

Mr. Lynn requests oral argument because he believes it will substantially assist the Court in the resolution of his appeal.

Respectfully submitted:

September 3, 2025.

JON M. SANDS  
Federal Public Defender

*s/Michael L. Burke*  
MICHAEL L. BURKE  
Assistant Federal Public  
Defender  
*Attorney for Mr. Lynn*

## CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because:

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**Signature:**  s/Michael L. Burke

**Date:** September 3, 2025.

## **CERTIFICATE OF ECF FILING AND DELIVERY**

I hereby certify that on September 3, 2025, I electronically transmitted the attached documents to the Clerk of Court using the CM/ECF System for filing. A Notice of Electronic Filing will be sent via the Court's CM/ECF filing system to counsel for Plaintiff/Appellee:

Steven Briden, email: Steven.Briden@usdoj.gov

JON M. SANDS  
Federal Public Defender

*s/Michael L. Burke*  
MICHAEL L. BURKE  
Assistant Federal Public Defender  
*Attorney for Mr. Lynn*

**RULE 28.2(A) ATTACHMENT**



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**MR. SANDS:** It's not mine.

**THE COURT:** Yeah, I know.

**MR. SANDS:** We renew our objection based on the Federal Rules of Evidence 803(6) of the records. We reference the court to the recent decision in *Harper*. We also make the record based on the other Federal Rules of Evidence that would apply as applicable, also the Sixth and Fourteenth Amendment, and I raise the issue of blood quanta as a violation of the Fourteenth Amendment. And if the court so grants, I would move to strike.

**THE COURT:** All right. I appreciate the attorneys being patient with the court. As you all know, this is post-*McGirt*. These are new challenges that we all have, and Mr. Sands has helped us through *Harper* to understand what the permissible avenues are.

I think *Harper*, now after having looked at it, is a bit different because it was not self-authenticating. This is another avenue by which the government can seek to establish that someone is a member and the most interesting issue, which you just touched on, was blood quanta. I think all of that has yet to be resolved in the courts of appeal. Because as I understand it -- and I may be wrong -- the Tenth Circuit requires blood quanta; the D.C. Circuit says it's a political classification, I think. At least that's what I've been told. But this is all very easy stuff according to Justice Gorsuch;

1 right?

2 I think after you've all presented additional testimony  
3 here, 803(6) is satisfied. The touchstone of 803(6) is  
4 reliability and I'm remembering that from law school. And I  
5 think here, now having stepped back a little bit, it's clear  
6 that this of the Choctaw Nation was kept in the course of the  
7 tribe's regularly-conducted activity, the making of the record  
8 was a regular practice of that activity, and now I understand  
9 the distinction here. And as highlighted by the testimony that  
10 Mr. Elmore has just elicited, the document was made at or near  
11 the time, that being the time the defendant was approved for  
12 membership, September 20th of 2001, from information  
13 transmitted by someone with knowledge.

14 So I humbly suggest and rule that 803(6) has been  
15 satisfied and the document will be admitted.

16 **MR. SANDS:** And I move for the -- I move under the  
17 blood quanta, the Fourteenth Amendment and Sixth Amendment,  
18 that it's improper.

19 **THE COURT:** I will take note of that and I hope you  
20 can get clarification from the federal court.

21 **MR. SANDS:** I take it it's denied?

22 **THE COURT:** Yes, sir.

23 **MR. SANDS:** Okay.

24 *(Bench conference concluded)*

25 **THE COURT:** Ladies and gentlemen, thank you for your

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**PROPOSED JURY INSTRUCTION NUMBER 21**  
**SELF-DEFENSE OR DEFENSE OF ANOTHER**

The defendant has offered evidence that he was acting in [self-defense] [defense of another].

A person is entitled to defend [himself] [another person] against the immediate use of unlawful force. But the right to use force in such a defense is limited to using only as much force as reasonably appears to be necessary under the circumstances.

[A person may use force which is intended or likely to cause death or great bodily harm only if he reasonably believes that force is necessary to prevent death or great bodily harm to [himself] [another]].

To find the defendant guilty of the crime charged in the indictment, you must be convinced that the government has proved beyond a reasonable doubt:

Either, the defendant did not act in [self-defense] [ defense of another],

Or, it was not reasonable for the defendant to think that the force he used was necessary to defend [himself] [another person] against an immediate threat.

Self-defense only requires the defendant's reasonable belief that deadly force was necessary, not that he exercise a duty to retreat or recognize the unavailability of reasonable alternatives.

Source: Tenth Circuit Criminal Pattern Jury Instruction 1.28 (2021)  
*United States v. Hicks*, 2024 WL 4112763, at \*6 (10th Cir. Sept. 9, 2024)

### 1.28 SELF-DEFENSE OR DEFENSE OF ANOTHER

The defendant [name the defendant] has offered evidence that he was acting in [self-defense] [defense of another].

A person is entitled to defend [himself] [another person] against the immediate use of unlawful force. But the right to use force in such a defense is limited to using only as much force as reasonably appears to be necessary under the circumstances.

[A person may use force which is intended or likely to cause death or great bodily harm only if he reasonably believes that force is necessary to prevent death or great bodily harm to [himself] [another]].

To find the defendant guilty of the crime charged in the indictment, you must be convinced that the government has proved beyond a reasonable doubt:

*Either*, the defendant did not act in [self-defense] [defense of another],

*Or*, it was not reasonable for the defendant to think that the force he used was necessary to defend [himself] [another person] against an immediate threat.

#### Comment

As with most affirmative defenses, once the defendant raises the defense, the government must establish beyond a reasonable doubt that the defendant's action was not in self-defense. *United States v. Corrigan*, 548 F.2d 879, 881-84 (10th Cir. 1977).

**JURY INSTRUCTION NO. 21**

The defendant Cameron Lynn has offered evidence that he was acting in self-defense.

A person is entitled to defend himself against the immediate use of unlawful force. But the right to use force in such a defense is limited to using only as much force as reasonably appears to be necessary under the circumstances.

A person may use force which is intended or likely to cause death or great bodily harm only if he reasonably believes that force is necessary to prevent death or great bodily harm to himself.

To find the defendant guilty of the crimes charged in the indictment, you must be convinced that the government has proved beyond a reasonable doubt:

*Either*, the defendant did not act in self-defense;

*Or*, it was not reasonable for the defendant to think that the force he used was necessary to defend himself against an immediate threat.

Self-defense only requires the defendant's reasonable belief that deadly force was necessary. A defendant has no duty to retreat or recognize the unavailability of reasonable alternatives. However, you may consider the defendant's ability or opportunity to retreat as a factor in assessing whether his use of deadly force was reasonably necessary to defend himself under the circumstances.

**JURY INSTRUCTION NO. 29**

The defendant has offered evidence of having acted in “imperfect” self-defense. A person acts in “imperfect” self-defense if he subjectively believed, at the time he acted, that his actions were necessary for the defense of himself against the immediate use of unlawful force to prevent death or great bodily harm, but his belief was objectively unreasonable.

The difference between self-defense and imperfect self-defense is whether the defendant’s belief was reasonable. A person whose belief in the need for self-defense was reasonable has acted in self-defense. A person whose belief was unreasonable has acted in imperfect self-defense.

A defendant who acts in imperfect self-defense commits involuntary manslaughter.



AO 245B (Rev. 10/17) Judgment in a Criminal Case  
 Sheet 1

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

CAMERON LYNN

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:24-CR-00076-001-GKF

USM Number: 02608-511

Jon M. Sands, Success V. Carter, and Debbie Jang  
 Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s)
- pleaded nolo contendere to count(s) which was accepted by the Court.
- was found guilty on count(s) One through Four of the Indictment after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

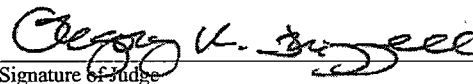
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 1151, 1153, and 1111	First Degree Murder in Indian Country	2/24/24	1
18 U.S.C. §§ 1151, 1153, and 113(a)(3)	Assault with a Dangerous Weapon in Indian Country with Intent to Do Bodily Harm	2/24/24	2
18 U.S.C. § 924(c)(1)(A)(iii)	Carrying, Using, Brandishing, and Discharging a Firearm During and in Relation to a Crime of Violence	2/24/24	3
18 U.S.C. §§ 1151, 1153, and 113(a)(6)	Assault Resulting in Serious Bodily Injury in Indian Country	2/24/24	4

The defendant is sentenced as provided in this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) \_\_\_\_\_
- Count(s) \_\_\_\_\_  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant must notify the Court and United States Attorney of material changes in economic circumstances.

February 28, 2025  
 Date of Imposition of Judgment

  
 Signature of Judge

Gregory K. Frizzell, United States District Judge  
 Name and Title of Judge

February 28, 2025  
 Date

AO 245B (Rev. 10/17) Judgment in Criminal Case  
Sheet 2 -- Imprisonment

DEFENDANT: Cameron Lynn  
CASE NUMBER: 4:24CR00076-1

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: Life. Said sentence shall consist of life as to Count One, 120 months as to each of Counts Two, Three and Four. Counts One, Two, and Four shall run concurrently, each with the other, and Count Three shall run consecutively to Counts One, Two, and Four.

- The Court makes the following recommendations to the Bureau of Prisons:  
The Court recommends the defendant be placed in a facility that will allow him the opportunity to participate in the Bureau of Prisons' Residential Drug Abuse Program. The Court further recommends the defendant be placed at a facility as close to Tulsa, Oklahoma, as possible.
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
  - at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_
  - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
  - before 2 p.m. on \_\_\_\_\_
  - as notified by the United States Marshal.
  - as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this Judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this Judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By

\_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

AO 245B (Rev. 10/17) Judgment in a Criminal Case  
Sheet 3 — Supervised Release

DEFENDANT: Cameron Lynn  
CASE NUMBER: 4:24CR00076-1

### SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Five years. Said terms shall consist of five years as to each of Counts One and Three, and three years as to each of Counts Two and Four. Said terms shall run concurrently, each with the other.

### MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
  - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4.  You must make restitution in accordance with 18 U.S.C §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5.  You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6.  You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7.  You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: Cameron Lynn  
CASE NUMBER: 4:24CR00076-1

### STANDARD CONDITIONS OF SUPERVISION

As part of your supervision, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when to report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by the probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may, after obtaining Court approval, notify the person about the risk or require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

AO 245B (Rev. 10/17) Judgment in a Criminal Case  
Sheet 3B — Supervised Release

DEFENDANT: Cameron Lynn  
CASE NUMBER: 4:24CR00076-1

### SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall submit his person, property, residence, office, vehicle, cellular telephone, computer, or any other electronic communication device, to a search conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
2. The defendant shall successfully participate in a program of testing and treatment, to include inpatient treatment, for drug and alcohol abuse, at a treatment facility and on a schedule determined by the probation officer. The defendant shall abide by the policies and procedures of the testing and treatment program to include directions that the defendant undergo urinalysis or other types of drug testing consisting of no more than eight tests per month if contemplated as part of the testing and treatment program. The defendant shall waive any right of confidentiality in any records for drug and alcohol treatment to allow the probation officer to review the course of testing and treatment and progress with the treatment provider.
3. The defendant shall successfully participate in a program of mental health treatment and follow the rules and regulations of the program. The probation officer, in consultation with the treatment provider, will determine the treatment modality, location, and treatment schedule. The defendant shall waive any right of confidentiality in any records for mental health treatment to allow the probation officer to review the course of treatment and progress with the treatment provider. The defendant must pay the cost of the program or assist (co-payment) in payment of the costs of the program if financially able.
4. If the defendant is unemployed after the first sixty days of supervision, or if unemployed for sixty days after termination or lay-off from employment, or not employed at a regular lawful occupation, as deemed suitable by the probation officer, the defendant shall participate in workforce development programs and services for occupational and career development, to include but not limited to assessment and testing, educational instruction, training classes, career guidance, counseling, and job search and retention services, at a program and on a schedule as determined by the probation officer. Further, as directed by the probation officer, the defendant shall provide verification of daily job search results or other employment related activities. In the event the defendant fails to secure suitable employment, participate in workforce development programs or provide verification of daily job search results, the defendant may be required to perform up to twenty-four hours of community service per week until employed. 18 U.S.C. §§ 3563(b)(4) and (12) and 3583(d) and USSG §5F1.3.

### U.S. Probation Officer Use Only

A U.S. Probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this Judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_



AO 245B (Rev. 10/17) Judgment in a Criminal Case  
Sheet 6 — Schedule of Payments

DEFENDANT: Cameron Lynn  
CASE NUMBER: 4:24CR00076-1

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A  Lump sum payment of \$ 400 due immediately, balance due  
 not later than \_\_\_\_\_, or  
 in accordance with  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this Judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 90 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:

Any monetary payment is due in full immediately, but payable on a schedule to be determined pursuant to the policy provision of the Federal Bureau of Prisons' Inmate Financial Responsibility Program if the defendant voluntarily participates in this program. If a monetary balance remains, payment is to commence no later than 60 days following release from imprisonment to a term of supervised release in equal monthly payments of \$50 or 10% of net income (take home pay), whichever is greater, over the duration of the term of supervised release and thereafter as prescribed by law for as long as some debt remains. Notwithstanding establishment of a payment schedule, nothing shall prohibit the United States from executing or levying upon property of the defendant discovered before or after the date of this Judgment.

Unless the Court has expressly ordered otherwise, if this Judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several  
Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.