COLLEGE OF LAW
The UNIVERSITY *of* OKLAHOMA

AMERICAN INDIAN LAW REVIEW SYMPOSIUM

FROM INDIAN COUNTRY TO THE SUPREME COURT: PROTECTING SOVEREIGNTY THROUGH LEGAL STRATEGY

Three General Continuing Legal Education Credits

8 a.m. to 2:30 p.m.
Friday, January 30, 2026

Dick Bell Courtroom
The University of Oklahoma College of Law

SCHEDULE

- **8 a.m. Breakfast and Registration**
- **9 a.m. Opening Remarks**
  Dean Anna Carpenter and Baylee Ogle
- **9:15 a.m. Panel One: From Indian Country (ICWA)**
  Kace Rodwell – Oklahoma Indian Legal Services
  Angel Marshall – Indian Child Welfare Specialist of the Cherokee Nation
  Angela Riley – Scholar and Chief Justice of the Citizen Potawatomi Nation Supreme Court
- **10:30 a.m. Break**
- **10:40 a.m. Panel Two: To the Supreme Court (Appellate)**
  Lenny Powell – Native American Rights Fund
  Kate Fort – Michigan State University College of Law
  Stephen Greetham – Senior Counsel for Chickasaw Nation
- **Noon Lunch Begins**
- **1 p.m. Keynote Address**
  Amb. Keith Harper
- **2:15 p.m. Closing Remarks**
  Professor Alex Pearl and Baylee Ogle
- **2:30 p.m. Reception and Networking**

BIOS

Kace Rodwell

Oklahoma Indian Legal Services

Kace Rodwell is a member of the Cherokee Nation and a staff attorney with Oklahoma Indian Legal Services. Her concentration is the Indian Child Welfare Act, practicing in State District Courts and Tribal Courts in Oklahoma. She is a graduate of Northeastern State University and Oklahoma City University School of Law. Rodwell has spoken on ICWA panels at the Sovereignty Symposium, NYU Law and more.

Angel Marshall

Indian Child Welfare Specialist, Cherokee Nation

Angel Marshall serves as an Indian child welfare specialist and Tribal representative for the Cherokee Nation of Oklahoma. She also serves as a course facilitator for the Indigenous Peoples Law Program at the University of Oklahoma College of Law. Angel holds a Bachelor of Arts in English from Northwestern Oklahoma State University and a Master of Legal Studies in Indigenous Peoples Law from the University of Oklahoma College of Law. She is an enrolled citizen of the Cherokee Nation.

Angela Riley

Professor, University of California, Los Angeles School of Law

Angela R. Riley (enrolled member, Citizen Potawatomi Nation) is the Goldberg Endowed Chair of Native American Law at UCLA and special advisor to the chancellor on Native American and Indigenous Affairs. She directs UCLA's Native Nations Law and Policy Center and the joint degree program in Law and American Indian Studies. She has chaired the UCLA campus Repatriation Committee since 2010. Professor Riley's research focuses on Indigenous peoples' rights, with a particular emphasis on cultural property and Native governance. Her work has been widely published in the nation's leading legal journals. She received her undergraduate degree at the University of Oklahoma and her law degree from Harvard. Riley was raised on a working farm at Saddle Mountain, Oklahoma, located within the original borders of the Kiowa, Comanche, Apache Indian reservation. In 2003 she became the first woman and youngest justice of the Supreme Court of the Citizen Potawatomi Nation and has served as chief justice since 2010. She served as co-chair for the United Nations – Indigenous Peoples' Policy Board and is currently a member of the UN World Intellectual Property Organization's Indigenous Caucus. She also currently sits as an appellate justice at

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BIOS

continued.

the Rincon Band of Luiseño Indians Court of Appeals and at the Pokagon Band of Potawatomi Indians Court of Appeals. Riley served as a judicial clerk for Judge T. Kern in the Northern District of Oklahoma after law school. She is a member of the American Law Institute and the American Philosophical Society. She has been a visiting professor at Harvard Law School, the Harvard Kennedy School of Government, Melbourne Law School, and Toronto School of Law. She has delivered lectures around the world on Indigenous rights.

Lenny Powell
Native American Rights Fund
Lenny Powell is a staff attorney in the Washington, D.C., office of the Native American Rights Fund, where he litigates appeals and voting rights. He has helped win six cases at the U.S. Supreme Court, including Haaland v. Brackeen and McGirt v. Oklahoma. He was previously special counsel in the Appellate and Supreme Court practice at Jenner & Block LLP, a law clerk to Judge Allison H. Eid of the Tenth Circuit, and a law clerk to Judge Beryl A. Howell of the District of Columbia. At Harvard Law School, Lenny served as the articles editor of the Harvard Law Review. At the time, and as far as he is aware, Lenny was the first member of a federally recognized tribe to ever serve as an editor of the Harvard Law Review. Before attending Harvard Law School, Lenny served for three years on the tribal council of the Hopland Band of Pomo Indians.

Kathryn "Kate" E. Fort
Michigan State University College of Law
Kathryn "Kate" E. Fort is the director of clinics at Michigan State University College of Law and runs the Indian Law Clinic, where she teaches the Clinic class and other classes in federal Indian law. In 2015, she started the Indian Child Welfare Act Appellate Project, which represents tribes in complex ICWA litigation across the country. She is the author of American Indian Children and the Law, published by Carolina Academic Press. Fort has researched and written extensively on the Indian Child Welfare Act. Her publications include articles in the Harvard Public Health Review, George Mason Law Review, Family Law Quarterly, Saint Louis University Law Journal, American Indian Law Review as well as chapters in Critical Race Judgements (Cambridge University Press, 2022) and Child Welfare Law and Practice (National Association. of Counsel for Children, 2023), both with Matthew L.M. Fletcher. She co-edited Facing the Future: The Indian Child Welfare Act at 30 (Michigan State University Press 2009) and she is a contributing editor to the

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BIOS

continued.

Cohen's Handbook of Federal Indian Law. She is an original contributor to the Indian law blog, Turtle Talk. Fort has provided direct representation to tribes in the Washington, Colorado, and Michigan Supreme Courts, the Ohio, Illinois, and Tennessee Court of Appeals, the Second, Fourth, Fifth, Eighth, and Ninth U.S. Circuit Courts of Appeals, as well as the United States Supreme Court. More recently she obtained significant funding to start the Tribal Appellate Clerk Project which, as part of the Indian Law Clinic, allows law students to assist tribal appellate courts by providing research and memos on appellate tribal cases.

Stephen Greetham
Greetham Law, P.L.L.C.
Stephen Greetham founded Greetham Law, PLLC in 2022. He has dedicated his 25-year legal career to representing tribal governments in federal and state judicial, legislative, and administrative processes. The protection and facilitation of Tribal exercise of rights to self-determination and sovereignty have been the core of his practice of law. Prior to founding Greetham Law, Greetham served as in-house counsel with the Chickasaw Nation in Oklahoma, working directly with Tribal leadership as senior counsel on matters of natural resource protection, economic development, and intergovernmental relations. He previously was a partner in the Nordhaus Law Firm in New Mexico and clerk to the Honorable M. Christina Armijo on the New Mexico Court of Appeals. Greetham's work has included the completion of two congressionally approved Tribal water rights settlements; the negotiation and implementation of numerous State-Tribal compacts addressing taxation, natural resources, gaming, and other matters; the litigation of the United States' fiduciary obligations to Tribal nations; and the years'-long effort to secure judicial affirmation of certain Tribal reservations in Oklahoma as well as the Tribal development of the government and intergovernmental systems appropriate to governance in those areas. Greetham is a regular speaker, teacher and scholar on federal Indian law matters, focusing particularly on intergovernmental disputes and their management. He has published several law review articles and served as adjunct law school faculty with the University of New Mexico, the University of Oklahoma, and the University of North Carolina. He is an avid photographer, backpacker, and runner. Greetham and his wife, Amanda Cobb-Greetham (Chickasaw), distinguished professor of the Native South with the University of North Carolina's American Studies Department, live with their two dogs in Chapel Hill, North Carolina.

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BIOS

continued.

Amb. Keith Harper
Partner, Jenner & Block
Ambassador Keith Harper focuses his practice on Native American affairs, litigation, and human rights from the private and public sectors. From 2014 until 2017, he served as the US ambassador and permanent representative to the United Nations Human Rights Council in Geneva, Switzerland. Keith currently serves as a co-chair of the firm's Human Rights and Global Strategy Practice and chair of the Native American Law Practice. A citizen of the Cherokee Nation, Keith is the first Native American to be named a U.S. Ambassador. He represented the plaintiff class of 500,000 individual Indians and served as class counsel in the landmark Indian trust funds lawsuit, Cobell v. Salazar. Ultimately, the case settled for $3.4 billion, which represents the largest settlement of a lawsuit against the United States in history. From 2010 to 2014, Keith served as commissioner on the President's Commission on White House Fellowships. He also served as a chair for Native American policy in the 2008 Obama for America presidential campaign and then as a member of the Obama- Biden Presidential Transition Team in the Energy and Environment Cluster. Keith was previously senior staff attorney and head of the Washington, D.C., office of the Native American Rights Fund from 1995 to 2006. During his tenure at NARF, he also taught Federal Indian Law as an adjunct professor at Catholic University, Columbus School of Law and at American University Washington College of Law. Keith served as a Supreme Court justice on the Supreme Court of the Poarch Band of Creek Indians from 2007 to 2008 and as an appellate justice on the Mashantucket Pequot Tribal Court from 2001 to 2007. While attending New York University School of Law, Keith served as articles and notes editor of the Journal of International Law and Politics, was a Root-Tilden-Snow Scholar, and a Fellow at Center for International Studies. After graduation, he was law clerk to the Honorable Lawrence W. Pierce on the U.S. Court of Appeals for the Second Circuit.

COLLEGE OF LAW

The UNIVERSITY *of* OKLAHOMA

OU College of Law
2026 American Indian Law Symposium:
A perspective on Tribal appellate advocacy (post-McGirt and otherwise)

Stephen Greetham, Greetham Law, P.L.L.C.
January 30, 2026

Post-*McGirt* appellate advocacy

Foundations . . . Johnson v. McIntosh (1823)

- Non-Tribal/non-Indian dispute over how title to Tribal lands can be acquired for purposes of realty transactions within U.S. Federal system

> "We will not enter into the controversy whether agriculturists, merchants, and manufacturers have a right on abstract principles to expel hunters from the territory they possess or to contract their limits. Conquest gives a title ***which the courts of the conqueror cannot deny, whatever the private and speculative opinions of individuals may be***, respecting the original justice of the claim which has been successfully asserted." (21 U.S. 543, 588 (emphasis added)

Post-*McGirt* appellate advocacy

Foundations . . . the year of 1828

- ***Feb. 21*** – Cherokee Nation begins publication of the *Cherokee Phoenix*
- ***May 19*** – "Tariff of Abominations" enacted by Congress, stoking moew heat into Northern-Southern U.S. state relations
- ***Oct. 27*** – Gold discovered in Cherokee Nation treaty-protected homelands
- ***Dec. 6*** – Andrew Jackson elected U.S. President, after making Indian Removal an important part of his campaign
- ***Dec. 20*** – Seeking to force the issue of Cherokee removal, Georgia enacts laws to strip the Cherokee Nation of its sovereign independence, and the Cherokee Nation immediately files request for injunction with the U.S. Supreme Court

Post-*McGirt* appellate advocacy

Foundations . . . Cherokee Nation v. Georgia (1831)

- Resolution of the Cherokee Nation's requested injunction, holding Nation cannot seek relief by recourse to the Supreme Court's original jurisdiction.

> "[Y]et it may well be doubted whether those tribes which reside within the acknowledged boundaries of the United States can, with strict accuracy, be denominated foreign nations. ***They may, more correctly, perhaps, be denominated domestic dependent nations***. They occupy a territory to which we assert a title independent of their will, which must take effect in point of possession when their right of possession ceases. Meanwhile they are in a state of pupilage. Their relation to the United States resembles that of a ward to his guardian." (30 U.S. 1, 17 (emphasis added))

Post-*McGirt* appellate advocacy

Foundations . . . Cherokee Nation v. Georgia (1831)

- The Cherokee Nation ruling was 4-2, ***but*** 2 of the concurring Justices wrote separately to deny the sovereignty or state status of the Cherokee Nation.
  - Marshall, Baldwin, Johnson, McLean – Cherokee Nation is not the sort of "state" that can invoke the Court's original jurisdiction
  - Baldwin – Tribes are neither sovereign nor "states," whether foreign or denominated otherwise
  - Johnson – Same (though with more explicit racism)
  - Thompson, Story – Tribes are sovereign foreign states with recognized and inherent powers of self-government

Post-*McGirt* appellate advocacy

Foundations . . . Worcester v. Georgia (1832)

- Georgia may not apply its criminal laws to regulate the intercourse of persons with the Cherokee Nation within that Nation's recognized lands

> "The Cherokee nation, then, is a distinct community, occupying its own territory, with boundaries accurately described, ***in which the laws of Georgia can have no force***, and which the citizens of Georgia have no right to enter but with the assent of the Cherokees themselves, or in conformity with treaties and with the acts of Congress. The whole intercourse between the United States and this nation is, by our Constitution and laws, vested in the Government of the United States." (31 U.S. 515, 561 (emphasis added))

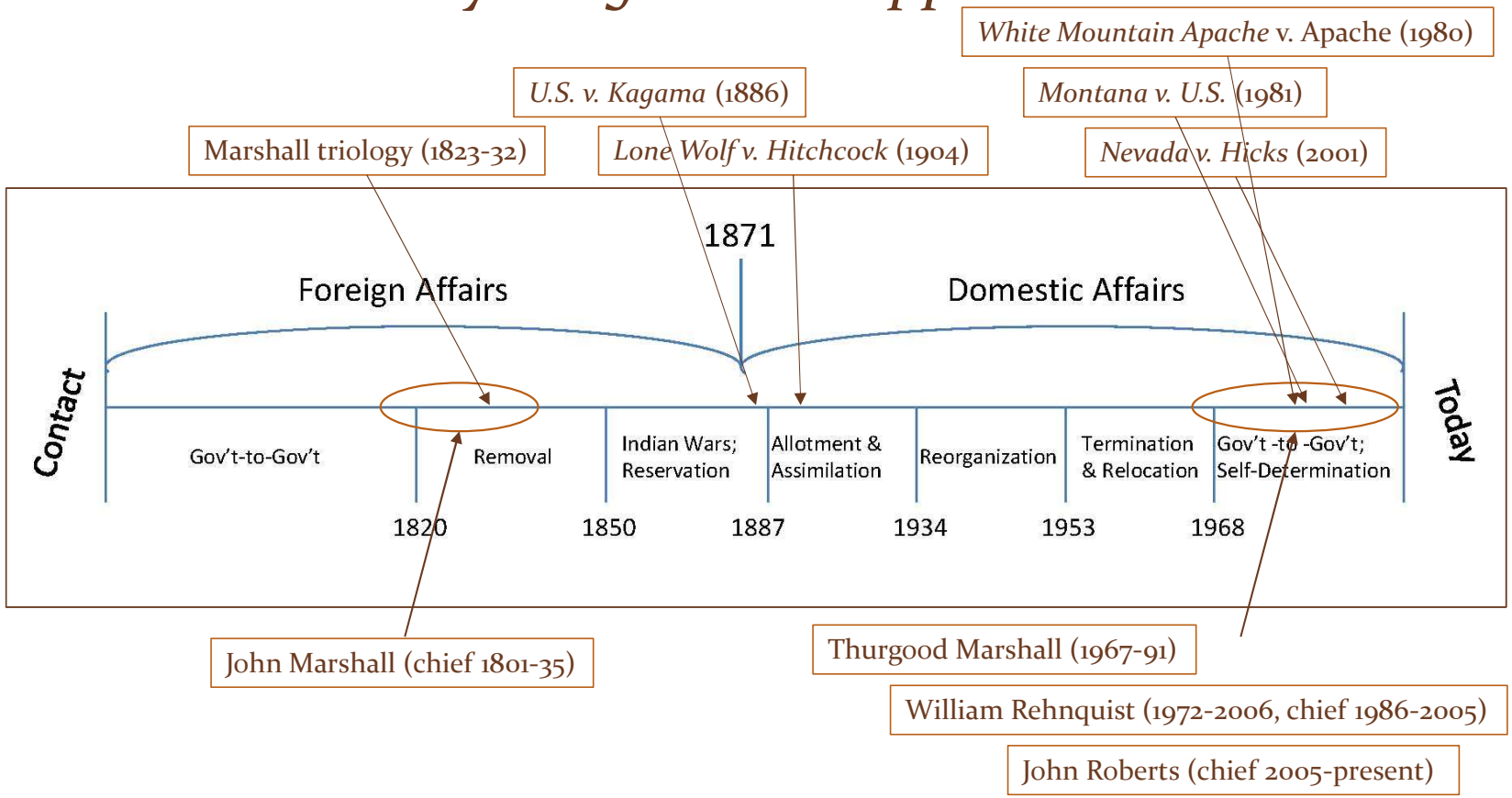
Post-*McGirt* appellate advocacy

Foundations . . . Worcester v. Georgia (1832)

"At best, ***they can enjoy a very limited independence within the boundaries of a State***, and such a residence must always subject them to encroachments from the settlements around them, and their existence within a State, as a separate and independent community, may seriously embarrass or obstruct the operation of the State laws. ***If, therefore, it would be inconsistent with the political welfare of the States and the social advance of their citizens that an independent and permanent power should exist within their limits, this power must give way to the greater power which surrounds it, or seek its exercise beyond the sphere of State authority***." (31 U.S. 515, 593-94 (McClean, concurring) (emphasis added))

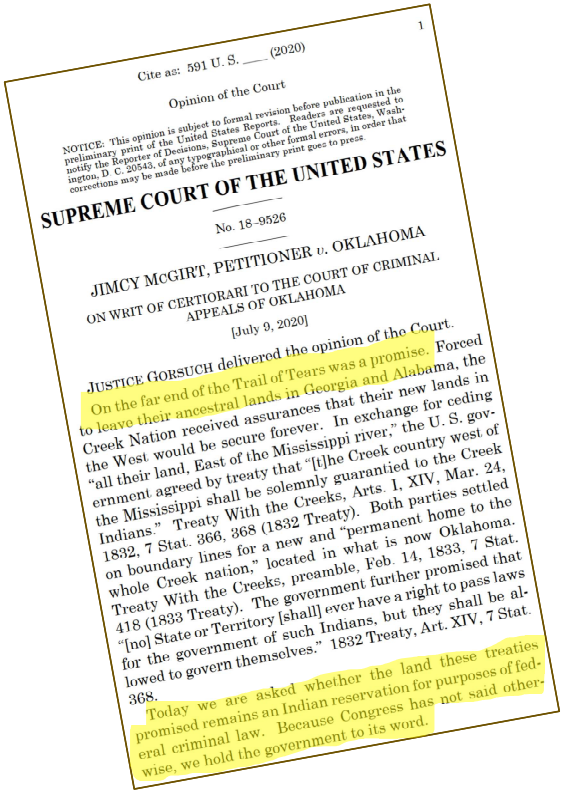
Post-*McGirt* appellate advocacy

Foundations . . . everything that's happened since



Post-*McGirt* appellate advocacy

The McGirt decision



Cite as: 591 U. S. ____ (2020) 1

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 18–9526

JIMCY MCGIRT, PETITIONER *v.* OKLAHOMA

ON WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF OKLAHOMA

[July 9, 2020]

JUSTICE GORSUCH delivered the opinion of the Court.

On the far end of the Trail of Tears was a promise. Forced to leave their ancestral lands in Georgia and Alabama, the Creek Nation received assurances that their new lands in the West would be secure forever. In exchange for ceding "all their land, East of the Mississippi river," the U. S. government agreed by treaty that "[t]he Creek country west of the Mississippi shall be solemnly guarantied to the Creek Indians." Treaty With the Creeks, Arts. I, XIV, Mar. 24, 1832, 7 Stat. 366, 368 (1832 Treaty). Both parties settled on boundary lines for a new and "permanent home to the whole Creek nation," located in what is now Oklahoma. Treaty With the Creeks, preamble, Feb. 14, 1833, 7 Stat. 418 (1833 Treaty). The government further promised that "[no] State or Territory [shall] ever have a right to pass laws for the government of such Indians, but they shall be allowed to govern themselves." 1832 Treaty, Art. XIV, 7 Stat. 368.

Today we are asked whether the land these treaties promised remains an Indian reservation for purposes of federal criminal law. Because Congress has not said otherwise, we hold the government to its word.

"On the far end of the Trail of Tears was a promise . . . .

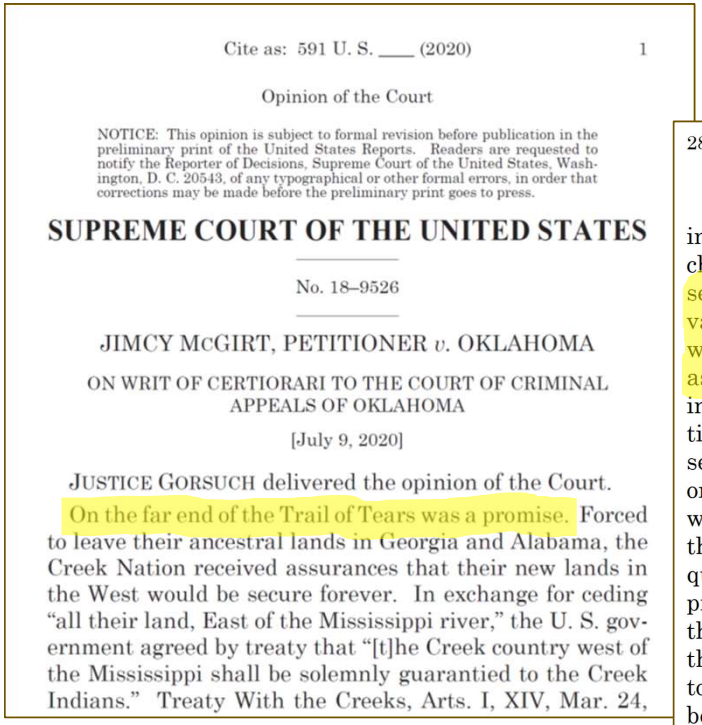
"Today we are asked whether the land these treaties promised remains an Indian reservation for purposes of federal criminal law. Because Congress has not said otherwise, ***we hold the government to its word***." (Emphasis added.)

Shameless plug I: In *Lessons Learned, Lessons Forgotten*, 57 TULSA L. REV. 612 (2022), I offer an analysis of the case in the context of Oklahoma, Tribal lawyering, and the broad work of Tribal sovereignty and continuance.

Shameless plug II: Dr. Amanda Cobb-Greetham (Chickasaw) is presently working on a project, entitled "Bright Golden Haze," that explores Oklahoma's unique identity and significance in relation to project of U.S. colonization of Native peoples.

Post-*McGirt* appellate advocacy

The McGirt decision



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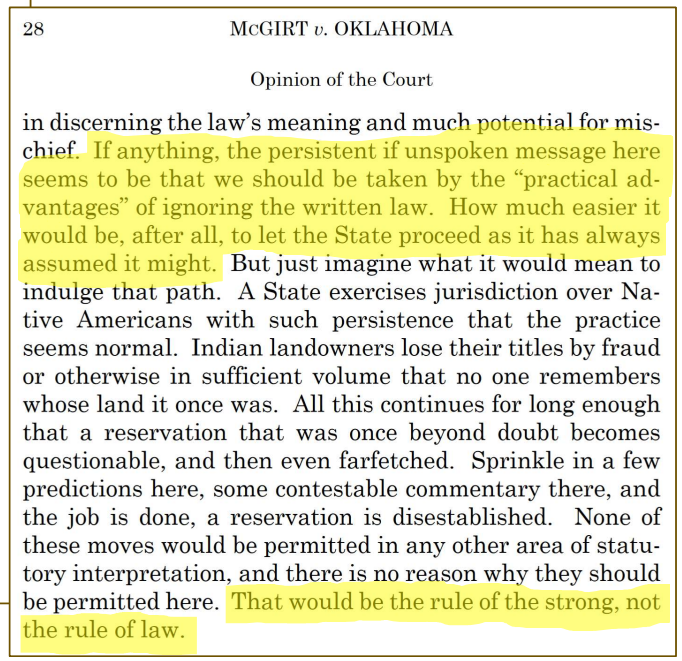


28 MCGIRT *v.* OKLAHOMA

Opinion of the Court

in discerning the law's meaning and much potential for mischief. If anything, the persistent if unspoken message here seems to be that we should be taken by the "practical advantages" of ignoring the written law. How much easier it would be, after all, to let the State proceed as it has always assumed it might. But just imagine what it would mean to indulge that path. A State exercises jurisdiction over Native Americans with such persistence that the practice seems normal. Indian landowners lose their titles by fraud or otherwise in sufficient volume that no one remembers whose land it once was. All this continues for long enough that a reservation that was once beyond doubt becomes questionable, and then even farfetched. Sprinkle in a few predictions here, some contestable commentary there, and the job is done, a reservation is disestablished. None of these moves would be permitted in any other area of statutory interpretation, and there is no reason why they should be permitted here. That would be the rule of the strong, not the rule of law.

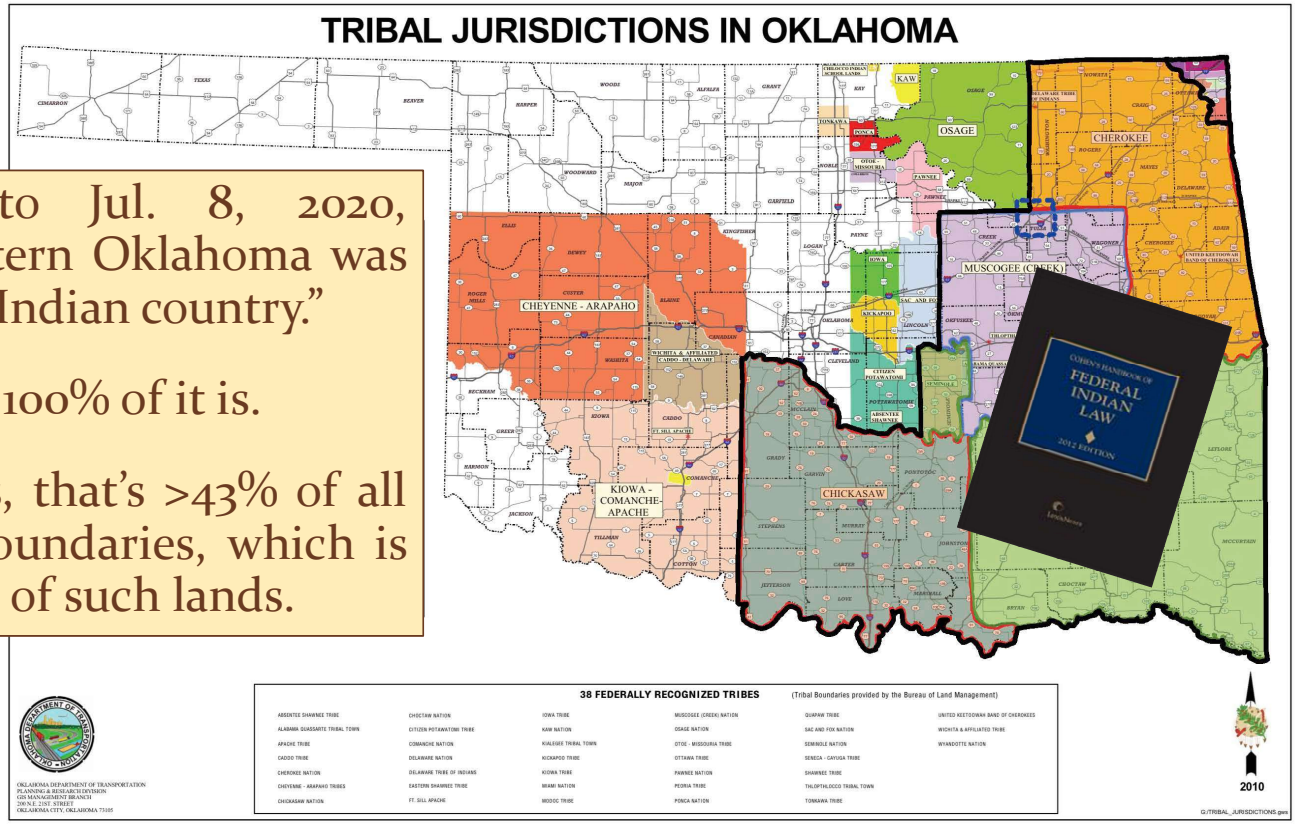
Post-*McGirt* appellate advocacy

The McGirt context

Pre-*McGirt*, i.e., prior to Jul. 8, 2020, approximately 3-5% of eastern Oklahoma was considered 18 U.S.C. § 1151 "Indian country."

Post-*McGirt* (so far), nearly 100% of it is.

To use the State's numbers, that's >43% of all land within Oklahoma's boundaries, which is up from approximately <2% of such lands.



Post-*McGirt* appellate advocacy

The McGirt first wave case law aftermath

- Cited in 805 cases and 483 law review articles (as of Jan. 21, 2026)
  - Post-conviction relief actions, resulting in, among others, ***State, ex rel. Matloff v. Wallace*** (Okla. Ct. Crim. App.)
  - Statutory litigation, resulting in ***Oklahoma v. U.S. DOI*** (W.D. Okla.), ***In re S.J.W.*** (Okla. S. Ct.) as well as ***Pawnee v. U.S. EPA, et al.*** (10th cir.)
  - Other litigation, including ***Stroble v. Okla. Tax Comm'n*** (Okla. S. Ct.)
- Oklahoma's three score plus petitions for *cert*., resulting in ***Oklahoma v. Castro-Huerta*** (which has been cited in 216 cases and 252 law review articles, as of Jan. 21, 2026), and, in turn among others, ***Hooper v. City of Tulsa*** (10th cir.), ***City of Tulsa v. O'Brien*** (Okla. Ct. Crim. App.), ***MCN v. Kunzweiler*** (N.D. Okla.), and ***MCN v. Henryetta*** (N.D. Okla.); *as well as* ***U.S., et al., v. Ballard*** (N.D. Okla.), ***U.S., et al., v. Iski*** (E.D. Okla.), ***Cherokee Nation, et al., v. Free, et al.*** (N.D. Okla.)

Post-*McGirt* appellate advocacy

Tribal lawyer lawyering – The ever-present core tension

- "Federal Indian law is . . . rooted in the ***fundamental contradiction*** between the ***historical fact and continuing reality of colonialization***, on the one hand, and ***the constitutional themes of limited government, democracy, inclusion, and fairness*** that, on the other hand, constitute part of our 'civil religion.'" Prof. Phillip Frickey in 107 Harv. L. Rev. 381 (1993).

Colonialism (power) versus Constitutionalism (law)

- "That would be the rule of the strong, not the rule of law." (591 U.S. **, Slip Op. at 28).

Post-*McGirt* appellate advocacy

Tribal lawyer lawyering – The current core battleground at law

- "The Cherokee nation, then, is a distinct community, occupying its own territory, with boundaries accurately described, ***in which the laws of Georgia can have no force*** . . . . (31 U.S. 515, 561 (emphasis added))

Federal supremacy, preemption, treaties, and sovereignty doctrine precedent; ironically, . . . Congress's plenary power

- "At best, they can enjoy a very limited independence within the boundaries of a State, ... ***If, therefore, it would be inconsistent with the political welfare of the States and the social advance of their citizens that an independent and permanent power should exist within their limits, this power must give way to the greater power which surrounds it, or seek its exercise beyond the sphere of State authority***." (31 U.S. 515, 593-94 (McClean, concurring) (emphasis added))

Tenth Amendment; state's rights

Post-*McGirt* appellate advocacy

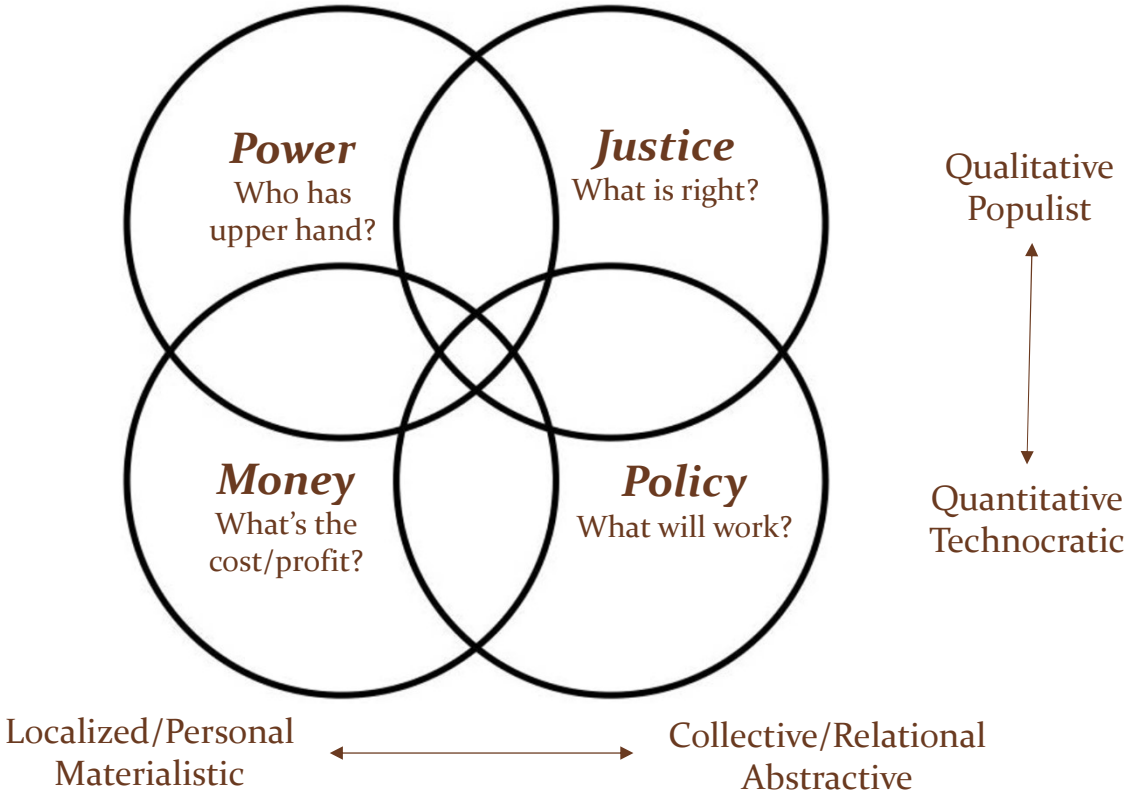
Tribal lawyer lawyering – Problem solving in the real world

With the *methodologies and limits* of our profession in mind, how do you approach the question of what the resolution of any single issue should look like?

How does *your client*?

How does *the "other side"*?

What is the *role of law and doctrine* in all this—is it one of many tools or does it exclusively define the universe of what may be possible?



Chokma'shki'!
Yakoke!
Thank you!

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