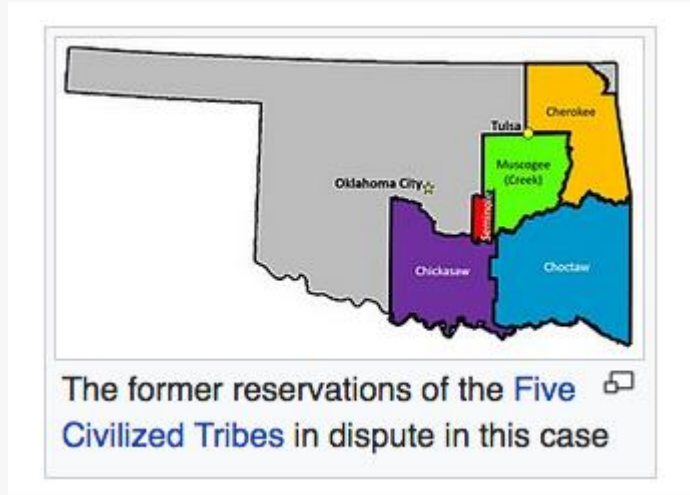


Supreme Court Rules Swath of Oklahoma is Native American Land for Federal Criminal Law

written by GEG | July 10, 2020



The Supreme Court ruled that a large swath of eastern Oklahoma, including Tulsa, is Native American land for purposes of federal criminal law. This is the consequence of a decision that could call into question thousands of state prosecutions for serious crimes. Under federal law, major crimes committed by individuals on Native American land must be tried by the federal government. Hundreds of state prosecutions could become undone, even for heinous crimes. -GEG

McGirt vs. Oklahoma:

Jimcy McGirt had been tried and convicted of performing sex crimes against a 4-year old child in 1996 in Oklahoma, and was serving a life sentence for the crime.

From CNN:

The Supreme Court said Thursday that **a large swath of eastern Oklahoma**, including Tulsa, is Native American land for purposes of federal criminal law in a decision that the state argued could call into question thousands of state prosecutions for serious crimes.

Justice Neil Gorsuch penned the 5-4 opinion joined by the liberals on the bench. "Today we are asked whether the land these treaties promised remains an Indian reservation for purposes of federal criminal law," said Gorsuch, who was appointed by President Donald Trump. "Because Congress has not said otherwise, we hold the government to its word," he said.

Under the law, crimes involving Native Americans on a reservation are under federal, not state, jurisdiction.

The unique case represented the opportunity for the Supreme Court to weigh in on the limits of tribal sovereignty and revisit the country's horrific history of displacing native tribes from their land.

The question before the court involved a case brought by Jimcy McGirt, a member of Seminole Nation of Oklahoma, who argued that his case ought to be tried by the federal government because the crimes were committed on the land of historic Muscogee (Creek) Nation.

The distinction of whether the large swath of eastern Oklahoma qualified as reservation land was key – under federal law, major crimes committed by individuals on Native American land must be tried by the federal government.

“The Supreme Court reaffirmed today that when the United States makes promises, the courts will keep those promises,” Ian Gershengorn, a lawyer for McGirt who argued the case in May, said in a statement to CNN. “Congress persuaded the Creek Nation to walk the Trail of Tears with promises of a reservation—and the Court today correctly recognized that that this reservation endures.”

The case was complicated by the painful relationship between the Creek Nation and the state of Oklahoma. During President Andrew Jackson’s administration, Indian nations were pushed from north Georgia and other parts of Appalachia and promised land in the West. Thousands of Native Americans died during what is known as the Trail of Tears, and the Muscogee people exchanged their ancestral homelands as part of the Removal Treaty of 1832 in exchange for their new lands in Oklahoma.

Gorsuch opened his opinion evoking this history.

“On the far end of the Trail of Tears was a promise,” the conservative justice wrote. “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.”

As the nation grapples with a reckoning of the government’s historic mistreatment of racial and ethnic minorities, the decision could be viewed as a step forward for indigenous tribes that were forced to migrate from their homelands at the hands of Congress.

The case marks the second time in recent weeks that Gorsuch has sided with the liberals, once again highlighting a difference between the way Gorsuch and his conservative colleagues interpret the law at times.

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