No. 25-382

IN THE

Supreme Court of the United States

ALICIA STROBLE,

Petitioner,

v.

OKLAHOMA TAX COMMISSION,

Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of Oklahoma

BRIEF OF AMICUS CURIAE MUSCOGEE (CREEK) NATION IN SUPPORT OF PETITIONER

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STATEMENT OF INTEREST

In *McGirt v. Oklahoma*, this Court affirmed the continued existence of the Muscogee (Creek) Nation's Reservation, concluding that the United States and the Nation agreed to the establishment of the Reservation through a series of treaties from 1832 to 1866 and that Congress has never acted to disestablish it. Since the decision was rendered, the Nation has continued to engage in and enhance its robust governance throughout the Reservation. It has done so consistent with this Court's confirmation of its jurisdictional footprint and in close cooperation with multiple units of government.[1]

In holding that the Reservation qualifies as Indian country only for limited purposes, the decision below threatens to upend the Nation's efforts by introducing significant additional jurisdictional complexity into Reservation affairs and by hamstringing the Nation's ability to tax its citizens to fund governmental endeavors that benefit all Reservation residents. The Nation strongly supports a grant of the Petition in the hopes that this Court will affirm that *McGirt* means what it says and that accepted principles of federal Indian law, and in particular those relating to the taxation of tribal citizens, apply throughout the Nation's Reservation.

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[1] Pursuant to this Court's Rule 37.6, counsel for the Muscogee (Creek) Nation state that this brief was not authored in whole or in part by counsel for any party and that no person or entity other than the Nation and its counsel made a monetary contribution to the preparation or submission of this brief. In accordance with this Court's Rule 37.2, all parties were timely notified of the Nation's intent to file this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

There can be no gainsaying that this Court's decision in *McGirt v. Oklahoma,* 591 U.S. 894 (2020), occasioned intense consideration and debate among the Members of the Court. But there can likewise be no gainsaying that, with the decision having been rendered," it constitutes a precedent that commands respect in lower courts," *Nat'l Institutes of Health v. Am. Pub. Health Ass'n*, 145 S. Ct. 2658, 2663 (2025) (Gorsuch and Kavanaugh, JJ., concurring). The decision of the Oklahoma Supreme Court falls woefully short of that mark.

The court below distorted *McGirt* beyond recognition in claiming that it confirms the continued existence of the Muscogee (Creek) Reservation as Indian country under 18 U.S.C. § 1151 ("Section 1151") only for purposes of the Major Crimes Act ("MCA"), 18 U.S.C. § 1153. *McGirt* canvasses a series of nineteenth-century treaties and statutes—most of which predated the enactment of the MCA by decades—in concluding that the United States and the Creek Nation agreed to the establishment of a reservation for the Nation in the Indian Territory. It likewise canvasses a broad array of statutes, agreements, and other legal and historical sources in concluding that Congress has never since disestablished that Reservation. Neither the establishment nor the disestablishment analysis turns on the MCA, and it indeed would have been entirely illogical for this Court to have held that the Creek Reservation exists only for purposes of a statute widely understood to have diminished tribal authority.

In artificially cabining *McGirt*, the decision below portends serious practical consequences.

First, it threatens to turn the Creek and similarly situated reservations into multi-dimensional checkerboards, with the Indian country status of each parcel varying according to the laws implicated by a particular dispute. Jurisdictional determinations in Indian country are already complicated enough—requiring resort not only to the tract book but to the statute book (and perhaps the case law reporter) could render them well-nigh impossible.

Second, the decision will interfere greatly with the Nation's efforts (and those of similarly situated tribes) to engage in robust and responsible governance throughout the Reservation, in close cooperation with local units of government. Oklahoma's Governor has already seized upon the decision in arguing to the Oklahoma Supreme Court that the City of Tulsa and the Nation may not enter into a landmark cooperative agreement regarding the allocation of law enforcement authority since the crimes covered by the agreement fall outside the scope of the MCA. The Oklahoma Department of Wildlife Conservation has likewise asserted, in a recently issued memorandum, that on the basis of the decision below it may cite and arrest Creek citizens for hunting and fishing on their own Reservation with a Creek rather than a State license. Oklahoma's executive branch claims, in other words, that the decision below grants it authority to treat the Nation's reservation boundaries as all but meaningless.

Third, the decision will render it impossible as a practical matter for the Nation to fund its

substantial governmental outlays with any form of tax on its citizens. The Nation expends hundreds of millions of dollars a year on its governmental programs and services—ranging from law enforcement to health care to education to infrastructure investment—with those expenditures nearly doubling since *McGirt* was decided. The programs benefit both citizens and non-citizens of the Nation and provide invaluable assistance to other governments within the Reservation. To date the Nation has funded its governmental outlays almost entirely from its gaming revenues, but that is not a sustainable model as the outlays continue to grow. The decision below cuts off the most obvious source of additional revenue—the taxation of the Nation's own citizens—because the Nation cannot realistically subject its citizens to multiple levels of taxation, nor would it want to. If allowed to stand, the decision accordingly will restrict the Nation's ability to engage in responsible governance, to the detriment of all Reservation residents.

The Oklahoma Supreme Court's defiance of this Court's decision in *McGirt* will, in sum, lead to significant and destabilizing practical consequences and calls for this Court's prompt review.

ARGUMENT

I. The Oklahoma Supreme Court Has Acted in Defiance of *McGirt* and This Court's Taxation Precedents.

In a consistent line of cases spanning over a century, this Court has never wavered from the rule that states may not tax Indians within their tribes' Indian country absent the assent of Congress. Pet. 13–17. As Justice Scalia framed it for the Court, this

"*per se* rule" results in a "categorical prohibition of state taxation" unless Congress "has made its intention to [permit the tax] unmistakably clear." *Cnty. of Yakima v. Confederated Tribes & Bands of Yakima Indian Nation*, 502 U.S. 251, 258, 267 (1992) (quotation marks and citation omitted). Adherence to this prohibition—and to the corollary principle that states presumptively may tax Indians outside of Indian country unless Congress says otherwise—avoids undue reliance on subjective judicial balancing, thereby "maximiz[ing] the ability of States and tribes to determine the scope of their respective authority without resort to adjudication, and maximiz[ing] judicial deference to the legislative forum," *Washington v. Confederated Tribes of Colville Indian Rsrv.*, 447 U.S. 134, 181 (1980) (Rehnquist, J., concurring).

This Court's unanimous decision in *Oklahoma Tax Commission v. Sac and Fox Nation*, 508 U.S. 114 (1993), applies the per se rule in the precise context of this case: state taxation of the income of tribal members living and working in their tribe's Indian country. *Sac and Fox* explains that such taxation is barred unless Congress has "clearly expressed" its assent. *Id.* at 124 (quoting *McClanahan v. State Tax Comm'n of Ariz.*, 411 U.S. 164, 176 (1973), and citing *Colville*, 447 U.S. at 178–79 (Rehnquist, J., concurring)). And notably for purposes of this case, *Sac and Fox* confirms that invocation of the rule requires only that a tribal member reside and earn income within her tribe's Indian country as "Congress has defined Indian country" in "18 U.S.C. § 1151." *Id.* at 123; *see also id.* at 125 ("we ask only whether the land is Indian country" under 18 U.S.C. § 1151).

The decision below nowhere mentions this Court's repeated affirmation of the categorical rule in its Indian country tax precedents. It instead attempts to relegate those precedents to irrelevance by way of two related propositions: (1) that *McGirt* holds that the Creek Reservation (and by extension other eastern Oklahoma reservations) is Indian country under Section 1151 for purposes of the MCA only; and (2) that the Oklahoma Supreme Court therefore lacked the authority to recognize the Reservation for other purposes except where "expressly required by federal statute," Pet. App. 9a–10a & n.3. In doing so, the decision threatens to sow chaos in areas of federal Indian law that have long been understood as well-settled and capable of straightforward administration, and to create substantial challenges on the ground in Indian country. This Court's review is called for to avoid such destabilizing consequences.

A. *McGirt*'s Holding that the Creek Reservation Endures to this Day Is Not Confined to the Major Crimes Act.

The Oklahoma Supreme Court reasoned that because *McGirt* involved a crime covered under the MCA, "it stopped there" and recognized a Creek Reservation for purposes of the MCA only. Pet. App. 9a–10a. For that premise, the court cited its recent decision in *Matter of Guardianship of K.D.B.*, 564 P.3d 83 (Okla. 2025), which holds that *McGirt* "did not

address … the existence of any reservation under civil law," *id.* at 90.[2]

McGirt, however, cannot be so lightly dismissed, and the characterization of the decision by the Oklahoma Supreme Court bears little resemblance to reality. *McGirt* first addressed whether the United States and the Creek Nation had agreed to a reservation for the Nation that would qualify as Indian country under Section 1151. To answer that question, this Court engaged in a detailed historical and legal analysis before concluding that "Congress established a reservation for the Creeks," with "boundary lines which will secure a country and permanent home to the whole Creek Nation of Indians" and within which, "with exceptions, the Creeks were to be 'secured in the unrestricted right of self-government,' with 'full jurisdiction' over enrolled Tribe members and their property," *McGirt*, 591 U.S. at 899–900, 902 (quoting and citing Treaty with the Creeks art. XIV, Mar. 24, 1832, 7 Stat. 366, 368; Treaty with the Creeks preamble, Feb. 14, 1833, 7 Stat. 417, 418; Treaty with Creeks and Seminoles art. XV, Aug. 7, 1856, 11 Stat. 699, 704). Nothing about that analysis turns on the

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[2] The court's current reading of *McGirt* reverses its prior position. *See, e.g.*, *Milne v. Hudson*, 519 P.3d 511, 513, 514 (Okla. 2022) (stating that "[i]t is well established that the federal statutory definition of Indian Country in 18 U.S.C. § 1151 applies in both civil and criminal contexts," and that "*McGirt* … held that the Muscogee Nation reservation was never disestablished and continues to be Indian Country. *With that finding*, activity supporting the [civil] protection order in this case occurred in Indian Country …. Our analysis thus focuses on the issue of civil jurisdiction in Indian Country" (emphasis added) (citation omitted)).

MCA, which postdated the original establishment of the Reservation by half a century.

The Court then engaged in a similarly extensive analysis as to whether Congress has ever disestablished the Reservation, *id.* at 903–24, concluding that "in all this history there simply arrived no moment when any Act of Congress dissolved the Creek Tribe or disestablished its reservation," *id.* at 913. And once again, nothing about that conclusion turns on the MCA.

The extent to which the court below distorted *McGirt* in nevertheless characterizing it as a decision about the MCA and the MCA only is striking. The MCA is not a source of tribal authority. Rather, it confers authority on the federal government to prosecute major crimes in Indian country, in derogation of the tribes' previously exclusive authority to do so where both the defendant and victim are Indians, or where a tribe has already punished the offender. *See United States v. Wheeler*, 435 U.S. 313, 325 n.22 (1978) (describing MCA as a "carefully limited intrusion of federal power into the otherwise exclusive jurisdiction of the Indian tribes to punish Indians for crimes committed on Indian land" (quotation marks and citation omitted)).

By contrast, the treaty and statutory provisions that underpin *McGirt*'s Indian country determination *did* confer tribal powers, including civil ones, and it was on the basis of those provisions that this Court found it beyond question that Congress had established and preserved a reservation for the Nation. *See supra* p. 7; *ee also* 591 U.S. at 909 (stating that later acts of Congress "left the Tribe with significant sovereign functions over the lands in

question," including "the power to collect taxes, operate schools, [and] legislate through tribal ordinances"); *id.* at 912 (discussing Nation's present-day "criminal and civil" jurisdiction within the Creek Reservation). The Oklahoma Supreme Court ignored all this in decreeing that *McGirt* recognizes a Creek Reservation only for purposes of a statute that diminishes rather than confers tribal authority.

To justify its holding, the court seized upon *McGirt*'s statement that "[t]he only question before us … concerns the statutory definition of 'Indian country' as it applies in federal criminal law under the MCA," Pet. App. 9a (quoting *McGirt*, 591 U.S. at 935). But Section 1151 *is* "the statutory definition of 'Indian country' as it applies in federal criminal law under the MCA," 591 U.S. at 935, and by its statement this Court explained that its holding is limited not to the MCA but *to Section 1151*. It underscored that fact by noting that there are many contexts in which Section 1151 is the controlling definition of Indian country, *see id.* ("Of course, many federal civil laws and regulations do currently borrow from § 1151 when defining the scope of Indian country."), but also others where it is not, *see id.* ("[O]ften nothing requires other civil statutes or regulations to rely on definitions found in the criminal law."). The dissent agreed that, beyond criminal law, many "federal laws, triggering a variety of rules, spring into effect when land is declared a reservation," *id.* at 971 (Roberts, C.J., dissenting), and outlined numerous civil jurisdictional outcomes that follow when that occurs, including outcomes compelled by "our precedents," *id.* at 972–73. Accordingly, every member of the *McGirt* Court recognized that the Court's Section 1151 Indian

country determination extends to contexts, including civil ones, in which Section 1151 provides the governing definition of Indian country. And this is just such a case. *Sac and Fox*, 508 U.S. at 123–25.

Nor can the holding below be reconciled with this Court's subsequent decision in *Oklahoma v. Castro-Huerta*, 597 U.S. 629 (2022). The Court there stated, without qualification, that "[i]n light of *McGirt* and the follow-on cases [concerning other reservations], the eastern part of Oklahoma, including Tulsa, is now recognized as Indian country," *id*. at 634. Accordingly, it had no difficulty—in that non-MCA context—in treating "[t]he jurisdictional dispute in this case [as] aris[ing] … [in] Indian country" as that term is defined in "18 U.S.C. § 1151," *id* at 636. The Oklahoma Supreme Court has simply refused to acknowledge what is clear to this Court: the Creek Reservation is Indian country, full stop.

B. An Act of Congress Is Not Required for the Oklahoma Supreme Court To Comply with This Court's Precedents.

The Oklahoma Supreme Court's claim that it lacks authority to "extend" *McGirt's* Indian country determination to the civil context absent an act of Congress, Pet. App. 9a, likewise connotes a troubling disrespect for this Court's precedents. Citing to its decision in *K.D.B.*, 564 P.3d 83, the court stated that it has only "recognized the reservation status" of the Creek and other reservations in eastern Oklahoma affirmed in the wake of *McGirt* for "specific civil matters where expressly required by federal statute." Pet. App. 10a n.3. In *K.D.B.*, the court declined to find that the Cherokee Reservation exists

"for purposes of civil law generally" and instead described its "holding [as] merely an acknowledgment of the existence of the Cherokee Nation Reservation under [the Indian Child Welfare Act] due to ICWA's incorporation of § 1151 of the Major Crimes Act in the ICWA definition of Indian country." 564 P.3d at 96.

The Supreme Court of Oklahoma hence accepts (as it must) that "the criminal definition [of Indian country] as held in *McGirt*" applies to determine Indian country status wherever Congress "explicitly imports" that definition by statute. *Id*. at 91. But this Court has been no less explicit in directing that Section 1151 applies to the question of income taxation in Indian country than Congress was in directing that it applies under ICWA. *See Sac and Fox*, 508 U.S. at 123, 125 (for the categorical prohibition on state taxation of Indian income to apply, "it is enough that the member live in 'Indian country.' Congress has defined Indian country broadly …. See 18 U.S.C. § 1151" and "we ask only whether the land is Indian country" under Section 1151).[3] This Court has been clear, moreover, that the categorical rule is grounded in constitutional dictates. *See Montana v. Blackfeet Tribe of Indians*, 471 U.S. 759, 764 (1985) ("The Constitution vests the Federal Government with exclusive authority over relations with Indian tribes. As corollary of this authority,…Indian tribes and individuals generally are exempt from state taxation within their own territory." (citation omitted)).

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[3] *See also, e.g., Alaska v. Native Vill. of Venetie Tribal Gov't*, 522 U.S. 520, 527 (1998) (stating in civil tax case that "whether the Tribe's land is Indian country depends on whether it falls within" the Section 1151definition, and that "this definition … applies to questions of civil jurisdiction such as the one at issue here").

The only apparent explanation for the decision below, then, is that the Supreme Court of Oklahoma views itself as bound by the word of Congress as to when and where Section 1151 supplies the applicable definition of Indian country, but not by the word of this Court. And to merely state that proposition is to defeat it. As "the constitutional organ of the supreme Law of the Land," *Cooper v. Aaron*, 358 U.S. 1, 26 (1958) (Frankfurter, J., concurring), this Court's proclamations of federal law are no less binding on state courts than statutes enacted by Congress. Accordingly, "state courts must reasonably apply the rules squarely established by this Court's holdings to the facts of each case." *White v. Woodall*, 572 U.S. 415, 427 (2014) (quotation marks omitted)). *McGirt* squarely establishes that the Creek Reservation meets the Section 1151 definition of Indian country; and *Sac and Fox* squarely establishes that when that is the case, states are forbidden (absent congressional assent) from taxing the income of tribal citizens such as Petitioner who live and work within their Reservation.

The defiant nature of the Oklahoma Supreme Court's decision is further underscored by the fact that the court nowhere explained why it did not undertake an Indian country analysis of its own once it concluded that this Court's decisions do not resolve the Creek Reservation's Indian country status for income tax purposes. Nor did it explain how any such analysis would, or lawfully could, have differed from the interpretation of federal treaties and statutes

arrived at by this Court in *McGirt*.[4] The upshot of the Oklahoma Supreme Court's approach is that unless an act of Congress exists directly confirming a particular aspect of the Nation's reservation authority, the default is that the Nation and its members lose. This approach turns settled law on its head: for once Congress establishes a reservation, it "retains its reservation status until Congress explicitly indicates otherwise," *Solem v. Bartlett*, 465 U.S. 463, 470 (1984) (citing *United States v. Celestine*, 215 U.S. 278, 285 (1909)). The result-oriented recalcitrance of the court below amounts to an impermissible act of piecemeal judicial disestablishment and presents a clear basis for this Court's review.

II. The Oklahoma Supreme Court's Decision Portends Jurisdictional Chaos and Conflict in Eastern Oklahoma Indian Country.

The implications of the decision below for jurisdictional coherence in eastern Oklahoma's Indian country are startling. Section 1151 defines Indian country to include "all land within the limits of any Indian reservation under the jurisdiction of the United States Government[.]" 18 U.S.C. § 1151. Under this plain text, land either falls within the limits of a federal Indian reservation (and accordingly is Indian country) or it does not. The text is bright-line clear by design, as Congress sought to

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[4] While the concurrences posit various theories for denying Petitioner her state tax immunity, it is telling that seventeen months after argument no such theory garnered majority support.

avoid "confusion" and "impractical pattern[s] of checkerboard jurisdiction" within reservations, *Seymour v. Superintendent of Wash. State Penitentiary*, 368 U.S. 351, 358 (1962).

The decision below would "recreate confusion Congress specifically sought to avoid," *id.*, by riddling the clarity of Section 1151 with ever-shifting contingencies. Under the court's reasoning, the same parcel of land can, *simultaneously*, fall within the boundaries of an Indian reservation for one jurisdictional purpose but outside those boundaries for other purposes. This is not a recipe for mere checkerboarding, but for checkerboarding under which the Indian country status of any given square on the checkerboard blinks on and off depending on the jurisdiction being asserted; and under which the same square short-circuits in a matter implicating a statute that expressly incorporates Section 1151 and one or more other sources of law that do not. Governments and individual citizens will need to "search" not only the "tract books," *id.* at 358, but also the statute books to assess—while standing in the exact same location—when they are in Indian country and when they are not, with the answer frequently being "we really have no idea, and the courts will have to decide." Indian country jurisdictional issues are already complex enough. If allowed to stand, the decision below would render them incomprehensible.

This is not an academic concern. There has been a great deal of cooperation between the Nation and other governmental entities on the Reservation in the wake of *McGirt*, particularly at the county and municipal level. For example, the Nation now has cross-deputization agreements with sixty-four units of government on the Reservation, leaving only three

without one.[5] And while the City of Tulsa originally resisted the consequences of *McGirt*, *see Hooper v. City of Tulsa*, 71 F.4th 1270 (10th Cir. 2023), the Nation and the City recently executed a landmark agreement establishing procedures under which they will exercise their joint law enforcement responsibilities cooperatively in accordance with the federal laws respecting criminal jurisdiction in Indian Country. *See* Joint Settlement Agreement Between Plaintiff Muscogee (Creek) Nation and Defendants City of Tulsa Et Al. (Dkt. 150-1), *Muscogee (Creek) Nation v. City of Tulsa*, Case No. 23-cv-00490-JDR-CDL (N.D. Okla. June 25, 2025).

But Oklahoma's executive branch has demonstrated significant resistance to this Court's holding, and the decision below has only added fuel to the fire. Indeed, the Governor of Oklahoma very recently urged the Oklahoma Supreme Court to abrogate the Joint Settlement Agreement between the Nation and Tulsa in part because that court has "declined to extend *McGirt*" beyond the MCA. Brief in Support of Application for Original Jurisdiction and Petition for a Writ of Prohibition and Injunctive Relief at 9, *Oklahoma ex rel. Stitt v. City of Tulsa*, Case No. 123368 (Okla. Aug. 20, 2025) (citing *Matter of Stroble*, No. 120,806, 2025 WL 1805918, at *4 (Okla. July 1, 2025)).

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[5] Transcript of Plaintiff's Motion for Preliminary Injunction at 66:1–6, *Muscogee (Creek) Nation v. City of Henryetta*, No. 25-CV-227 (E.D. Okla. Oct. 7, 2025) ("*Henryetta* Tr."), https://bit.ly/MCN_Governmental_Expenditures_Sources; Cross-Commission Deputization List, https://bit.ly/MCN_Governmental_Expenditures_Sources.

In a similar vein, on October 8, 2025, the Oklahoma Department of Wildlife Conservation announced that, based on the decision below, "ODWC game wardens will … issue citations to anyone in violation of the state's fish and game laws, regardless of tribal citizenship…. The Stroble v. Oklahoma Tax Commission case, which was decided by the Supreme Court of the State of Oklahoma, has provided clear legal confirmation that McGirt is limited to prosecuting crimes under the federal Major Crimes Act only."[6] Under this policy, Creek Nation citizens hunting and fishing on their own Reservation must (contrary to the general rule) be licensed by both the State and the Nation, undertake those activities in accordance with two different sets of regulations, and risk citation and prosecution by the State even if acting in full compliance with the Nation's regulations.

State officials, then, have deemed the Nation's Reservation boundaries (and those of the other eastern Oklahoma nations) meaningless with respect to the very sort of cooperative governance arrangements endorsed by this Court in *McGirt*, *see* 591 U.S. at 936–37, and on issues as fundamental as the ability of tribal members to hunt and fish free of State interference. This is only the tip of the iceberg, and this Court's intervention is required before the destabilizing consequences of the decision below spread even further.

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[6] Okla. Dep't of Wildlife Conservation, *ODWC Reaffirms Enforcement of Oklahoma's Wildlife Laws*, https://bit.ly/ODWC_Enforcement.

III. The Oklahoma Supreme Court's Decision Will Thwart the Nation's Ongoing Efforts, and Those of Other Tribes, To Engage in Robust and Responsible Governance.

"Congress has acknowledged that the tribal power to tax is one of the tools necessary to self-government," and tribes "undoubtedly possess the inherent right to resort to taxation to raise … necessary revenue[.]" *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 139, 140 (1982) (citation omitted). To date, and amidst the pending uncertainty surrounding the State's disputed taxing authority, the Nation has not exercised its sovereign prerogative to tax its citizens' income. The trajectory of continued growth in its provision of critical governmental functions and services means that it will be unable to refrain from doing so indefinitely. However, as long as the State is allowed to levy income taxes on the Nation's citizens, the imposition of the Nation's own levies would subject its citizens to multiple layers of taxation (including at the federal level), which is both economically and politically infeasible. The "per se rule" against state taxation is aimed at sparing tribes this dilemma.

With this Court's confirmation of its broad jurisdictional footprint in *McGirt*, the Nation has implemented dramatic expansions in its governmental capacity, including in the areas of law enforcement and critical government services. On the eve of *McGirt*, the Nation exercised a broad array of governmental functions for the benefit of both Nation citizens and non-citizens. As it explained to this Court, the Nation's Lighthorse Police Department, for example, is a sophisticated and well-equipped police

force cooperating successfully under cross-deputization agreements with the United States, various Oklahoma state agencies, and local governments within the Reservation to ensure law and order for Indians and non-Indians alike. *See* Brief for Amicus Curiae Muscogee (Creek) Nation in Support of Petitioner at 36–40, *McGirt* (No. 18-9526), 2020 WL 774430, at *36–40.

Since then, the Nation has only increased its commitment to effective law enforcement throughout the Reservation. It has nearly quintupled its annual expenditures on the Lighthorse Police Department, from roughly $4.6 million in 2019 to almost $21.5 million in the first nine months of 2025.[7] The vast majority of that funding comes from the Nation's own governmental revenues, with the balance (approximately $2 million in 2025) coming from federal self-governance funding.[8] The increased expenditures have allowed Lighthorse to nearly triple its personnel,[9] including the addition of nearly sixty new Patrol Unit officers, and to invest in advanced technologies including Special Weapons and Tactics (SWAT) vehicles and a drone command center—technologies Lighthorse regularly deploys to support local police departments that do not have such equipment of their own, Decls. of Deputy Att'y Gen. Geraldine Wisner ¶¶ 5–11, Police Chief Michael Bell ¶¶ 8–9, and Okmulgee Police Chief Danny Owen ¶ 10,

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[7] Mem. Re: Nation Governmental Expenditures and Investments ("Governmental Expenditures Mem.") at 2 (Oct. 24, 2025), https://bit.ly/MCN_Governmental_Expenditures_Sources.

[8] *Id.*

[9] *Henryetta* Tr. at 48:23–49:6, https://bit.ly/MCN_Governmental_Expenditures_Sources.

Muscogee (Creek) Nation v. City of Henryetta.[10] The Reservation-wide benefits are evident. The Chief of Police for the City of Coweta has stated that "[e]ntering a cross-deputization agreement with the Nation was like doubling my police force without having to pay for it. Our partnership with Lighthorse … has brought tremendous benefits to the City of Coweta and my department[.]" Bell Decl. ¶ 11.[11] And the Chief of Police for the City of Okmulgee has likewise described that city's partnership with the Nation's Lighthorse Police as "a force-multiplier that significantly improves the number of officers and the equipment available for law enforcement in Okmulgee, and allows us to serve the community in a more efficient and effective manner." Owen Decl. ¶ 5.[12]

Between 2019 and 2025, the Nation has also nearly quintupled its funding for its tribal court system,[13] allowing it to more than double its number of district court judges and increase its overall district court staff sevenfold.[14] The Nation recently opened a new courthouse just outside the City of Tulsa and broke ground on a $30 million state-of-the-art courthouse complex at its capital in Okmulgee.[15] And since

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[10] https://bit.ly/MCN_Governmental_Expenditures_Sources.
[11] *Id.*
[12] *Id.*
[13] Governmental Expenditures Mem. at 3, https://bit.ly/MCN_Governmental_Expenditures_Sources.
[14] *Henryetta* Tr. at 187:23–188:18, https://bit.ly/MCN_Governmental_Expenditures_Sources; Mem. Re: Tribal District Court Employees (Sept. 29, 2025), https://bit.ly/MCN_Governmental_Expenditures_Sources.
[15] Governmental Expenditures Mem. at 3, https://bit.ly/MCN_Governmental_Expenditures_Sources.

2019, the Nation's annual expenditures on its Office of Attorney General have nearly tripled,[16] with the addition of twelve new prosecutors and fifteen new non-attorney staff members.[17] As the result of the increased prosecutorial and judicial capacity, the number of felonies prosecuted in the Nation's district court annually has increased more than tenfold, from 86 in 2019 to 1,096 for the first nine months of 2025.[18]

The Nation engages in a broad array of other governmental activities. It operates three state-of-the-art hospitals in otherwise underserved rural areas within the Reservation, which are open to Indians and non-Indians alike, along with nine health clinics (a number that continues to grow) that are open to all Indians on the Reservation.[19] The Nation's annual expenditures for its Department of Health have more than tripled, from roughly $76 million in 2019 to more than $252 million to date in 2025, and its annual expenditures for its Department of Community and Human Services have increased from

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[16] *Id.* at 2.

[17] Attorney General's Office Staffing 2019, https://bit.ly/MCN_Governmental_Expenditures_Sources (listing one prosecutor and seven non-attorney staff members); Attorney General's Office Staffing 2026, https://bit.ly/MCN_Governmental_Expenditures_Sources (listing thirteen prosecutors and twenty-two non-attorney staff members); *Henryetta* Tr. at 144:7–12, 145:11–20, https://bit.ly/MCN_Governmental_Expenditures_Sources.

[18] Summary of MCN District Court Dispositions at PDF pp. 1, 7, https://bit.ly/MCN_Governmental_Expenditures_Sources.

[19] Muscogee Nation Dep't of Health–MCNHealth, https://bit.ly/MCN_Department_of_Health (last visited Oct. 29, 2025).

under $12 million in 2019 to nearly $29 million thus far in 2025.[20]

The Nation also provides robust emergency services and disaster relief throughout the Reservation and funds an increasingly comprehensive array of other critical public services, including: adult and child protective services; caregiver assistance; substance abuse assistance; elder services; children and family services; developmental disability services; low-income food, shelter, and energy assistance; child care assistance; burial assistance; and school clothing assistance.[21] The Nation operates a community college and a residential boarding school within the Reservation, offers a Head Start program, funds education scholarships, and provides supplemental funding for the 22,605 Indian children enrolled in the fifty-three public school districts within the Reservation.[22] Many of the Nation's vital government services—such as its Family Violence Prevention

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[20] Governmental Expenditures Mem. at 4, https://bit.ly/MCN_Governmental_Expenditures_Sources.

[21] The Muscogee Nation–Disaster Assistance Program, https://bit.ly/MCN_Disaster_Assistance_Program (last visited Oct. 29, 2025); The Muscogee Nation–Community and Human Services, https://bit.ly/MCN_Community_Human_Services (last visited Oct. 29, 2025); Muscogee Nation Dep't of Health–MCN-Health–Behavioral Health and Substance Use, https://bit.ly/MCN_Behavioral_Health_and_Substance_Use (last visited Oct. 29, 2025).

[22] College of the Muscogee Nation, https://bit.ly/College_of_Muscogee_Nation (last visited Oct. 29, 2025); The Muscogee Nation–Department of Education and Training, https://bit.ly/MCN_Department_of_Education (last visited Oct. 29, 2025); MCN Grade Categories Counts, https://bit.ly/MCN_Governmental_Expenditures_Sources.

Program, comprehensive victim services for survivors of domestic violence and sexual assault (including a forensic nursing team), and programs for food assistance and nutrition education to expectant and new mothers, infants, and children—are provided free of charge to Indians and non-Indians alike throughout the Reservation.[23]

The Nation's overall annual budget for this array of critical government services has increased from $171 million in FY 2019 to $324 million in FY 2025.[24] To date, it has funded its governmental expenditures almost entirely from its gaming operations.[25] However, that is not a sustainable model going forward, and the Nation will not be able to forego imposing taxes on its citizens indefinitely. Yet allowing the decision below to stand will, as a practical matter, foreclose the Nation from exercising

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[23] The Muscogee Nation–Community and Human Services, https://bit.ly/MCN_Community_Human_Services (last visited Oct. 29, 2025); Muscogee Nation Dep't of Health–MCNHealth–Forensic Nursing Team, https://bit.ly/MCN_Forensic_Nursing_Team (last visited Oct. 29, 2025); The Muscogee Nation–WIC, https://bit.ly/MCN_WIC_Program (last visited Oct. 29, 2025).

[24] Governmental Expenditures Mem. at 1, https://bit.ly/MCN_Governmental_Expenditures_Sources.

[25] Given its commitment to robust governance, the Nation does not make per capita payments to its citizens from its gaming operations. It devotes its gaming revenues exclusively to its governmental operations (after first making revenue-sharing payments to the State of Oklahoma pursuant to a gaming compact under which the Nation's payments to the State between FY 2020 and FY 2024 totaled roughly $60 million). Okla. Off. of Mgmt. & Enter. Servs., *Okla. Gaming Compliance Unit Annual Report: Fiscal Year 2024* at 5, https://bit.ly/OK_Gaming_Report_2024.

that sovereign authority, as doing so would burden Creek citizens with federal, state, *and* tribal income taxation, an unrealistic option both economically and politically. The decision below hence runs directly counter to the "firm federal policy of promoting tribal self-sufficiency and economic development … [and] encouraging tribal independence," *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143–44 (1980), that undergirds this Court's precedents "[i]n the special area of state taxation" of Indians, *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 215 n.17 (1987).

Nor is state taxation of the income of Creek citizens warranted, as the Petition explains, *see* Pet. 23–24, by any legitimate fiscal need of the State of Oklahoma, whose Governor recently signed a substantial income tax reduction into law, stating that "[o]ur economy is booming. We still have record savings, and so, everything's good,"[26] and who has announced that Oklahoma is on "a path towards zero income tax[.]"[27] Indeed, the Oklahoma Tax Commission estimates the annual revenue impact of the State's inability to tax the income of Creek citizens at $21.5 million.[28] This figure pales in comparison to the Nation's far greater contributions

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[26] Hicham Raache, *Gov. Stitt Signs Oklahoma Personal Income Tax Cut into Law*, Oklahoma Business Voice, May 29, 2025, https://bit.ly/Gov_Stitt_signs_personal_income_tax_cut_law_OK_Business_Voice.

[27] Okla. Gov. J. Kevin Stitt, *Governor Stitt, Legislature Announce Budget Deal*, May 14, 2025, https://bit.ly/Gov_Stitt_Legis_Announce_Budget_Deal.

[28] Okla. Tax Comm'n, *Report of Potential Impact of McGirt v. Oklahoma* at 2 (Sept. 30, 2020), https://bit.ly/McGirt_vs_OK_Potential_Impact_Report.

to public health, welfare, and safety within the Reservation as set forth above. And of course, Creek citizens annually pay substantial amounts in other taxes to support State services, including property taxes on fee lands, which account for a vast majority of individual Indian-owned lands within the Reservation.

The decision below, in sum, will not only engender substantial jurisdictional chaos in eastern Oklahoma but will prevent the Creek Nation and other tribes from fully engaging in robust governance throughout their Reservations, to the detriment of all Reservation residents.

CONCLUSION

The Nation respectfully requests that the Court grant the Petition for a Writ of Certiorari.

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Respectfully submitted,

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