

**FILED**

MAR 20 2019

Mark C. McCartt, Clerk  
U.S. DISTRICT COURTIN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 08-cv-0278-TCK-PJC

LINDSEY KENT SPRINGER, et al.,

Defendants.

## LINDSEY K. SPRINGER'S REPLY

The only time the United States mentions the term "treaties" or treaty is when listing 28 U.S.C. § 1331 quoting from its terms. But the United States never listed § 1331 in their Complaint, or Amended Complaint, and at no time does their Complaint, or Amended Complaint, raise any issues about a provision of the Constitution, a law, or any treaty. Doc. 304, p.1.

The question reserved in Indian Country, U.S.A., Inc. v. Oklahoma ex rel. Oklahoma Tax Commission, 829 F.2d 967, 975-76(10th Cir. 1987), was "whether [the Creek Nation's] 1866 boundaries remain intact." The Tenth Circuit in Murphy v. Royal, 866 F.3d 1164, 1205(10th Cir. 2017), amended by rehearing denial, 875 F.3d 896, 937(10th Cir. 2017), cert. granted, declared "we now confront that question." And the answer to that question that the United States obviously appears in opposition, which begs the question whether they should continue to remain Trustee over the guaranteed promise made to the Creek Nation in the Article VI, Cl. 2 Treaties of 1832, 1833, 1856, 1866, and the letters patent from the President of the United States on August 11, 1852, as amended by the Treaty of 1866, is:

**"THE OLD [1866] RESERVATION BOUNDARIES REMAIN IN TACT."**

Murphy, 866 F.3d at 1233 (emphasis added).

The United States resists the obvious terms and question asked and

answered by representing to this Court:

"The issue [in Murphy] was whether the crime occurred in Indian Country, or, more specifically, the Creek Nation Reservation."

Doc. 304, p.2(original altered).

The United States' opposition provides a glimmer of hope for the Creek Nation when it admits the following:

"The Tenth Circuit spent considerable effort in determining the boundaries of the Creek [Nation] Reservation and, ultimately, **DETERMINED THAT THE [CREEK NATION] RESERVATION OCCUPIED MORE TERRITORY THAN PREVIOUSLY PRESUMED BY MANY, INCLUDING THE STATE OF OKLAHOMA.**"

Doc. 304, p.2(emphasis added, original altered).

Springer appreciates most of the United States' admission but its use of the term "occupied" is grossly in error. "The Title to the land the Creek Nation holds is "a fee simple title, **not the usual right of occupancy with the fee in the United States.**" Doc. 302, p.7-8(quoted U.S. v. Creek Nation, 295 U.S. 103, 109(1935); Murphy, 866 F.3d at 1200).

The United States, and as Trustee over the reduced Treaty land boundaries belonging to the Creek Nation, opposes Springer's Rule 60(b)(4) Application for the reasons (1) Springer ignores statutory law, but not treaty law, (2) Springer misapplies the Murphy decision, including that which is essential to the holding, (3) the Creek Nation Treaty lands are under the exclusive jurisdiction of the United States, which includes Article III Judicial power and jurisdiction, (4) Springer is not Indian and therefore the Creek Nation's boundaries are irrelevant, (5) the Creek Nation Indians are subject to federal income taxes under Title 26, (6) this Article III district court's Judicial power and jurisdiction does not depend on the current 1866 Treaty boundaries of the Creek Nation, (7) Article III district courts have jurisdiction inside the Creek Nation involving "civil cases," and (8) Springer has not shown all defendants, or the subject property, were

within the Creek Nation boundaries. This Court must reject all opposition.

Once this Court removes the phrases "Creek County," "Tulsa, County" in large part, and "State of Oklahoma" from the legal description of the location of the city of Kellyville, city of Sapulpa, city of Tulsa, and from the legal description of the location of the subject property and residence address for each of the defendants, and replaces those phrases with "Creek Nation Country," it will easily conclude the Article III district court lacked Article III Judicial Power and Jurisdiction, statutory subject matter jurisdiction, and lacked a live Article III case or controversy.

First, the boundaries of the Creek Nation's Country render the State of Oklahoma's establishing, or dividing up Creek Nation Treaty land into all or part of 11 State Counties, repugnant to Article VI, Cl.2 of the Constitution for the United States, repugnant to Article I, § 3 of the Constitution approved for the State of Oklahoma, repugnant to the Treaties of 1832, 1833, 1856, and 1866, and repugnant to the letters patent dated August 11, 1852, as amended by the Treaty of 1866, issued by the President of the United States with the approval of the United States Senate.

Second, when Oklahoma became the 46th State of the Union, all of the reduced Creek Nation Treaty land was excluded from the State of Oklahoma according to the Treaties between the Creek Nation and President of the United States with the approval of the United States Senate.

Springer provided the district court with two maps establishing the legal boundaries of the Creek Nation Country, which, with the Warranty Deed, places the city of Kellyville, city of Sapulpa, city of Tulsa, and the land encompassing the State of Oklahoma's so-called Creek County, and so-called Tulsa County, all within the Creek Nation Country boundaries.

**The United States provides no alternative map establishing its under-**

standing of the Creek Nation Country boundaries but agrees such a boundary legally exists and covers far "more territory than previously presumed by many, including the State of Oklahoma." Doc. 304, p.2.

#### ADDITIONAL ISSUE RAISED BY THE UNITED STATES'S RESPONSE IN OPPOSITION

The United States subterfuge argues that the State of Oklahoma's Counties of Creek and Tulsa survive the 1866 Treaty boundaries "intact," Murphy, 866 F.3d at 1233, arguing that "[T]hese counties are within this judicial district, the Northern District of Oklahoma. 28 U.S.C. § 116(a)." Doc. 304, p.2. The United States states, but never develops, that "Springer wrongly argues [which Springer developed properly] that because these counties (or parts thereof) are within the boundaries of the Creek Nation reservation, the Court lacks jurisdiction in this case." *Id.*

Does the inclusion of the State of Oklahoma's entire Creek County, a large part of the State of Oklahoma's Tulsa County, and a small part of the State of Oklahoma's Mayes and Roger's Counties, within the **territorial** limits of 28 U.S.C. § 116(a), i.e. the Northern Judicial District of Oklahoma, render § 116(a) in violation of the Treaties with the Creek Nation of 1832, 1833, 1856, and 1866, and the letters patent dated August 11, 1852, as amended by the Treaty of 1866 from the President of the United States with approval of the United States Senate, where the guarantee by the United States was to prohibit "either of the tracts of Country defined in [the Treaty] shall ever be **embraced or included within or annexed to, any territory or State,**" and that these State of Oklahoma Counties are repugnant to Article VI, Cl.2 of the Constitution for the United States, repugnant to Article I, § 3 of the Constitution approved for the State of Oklahoma, repugnant to the Treaties of 1832, 1833, 1856, and 1866, and repugnant to the letters patent dated August 11, 1852, as amended by the Treaty of 1866,

issued by the President of the United States with the approval of the United States Senate?

1. Springer's Application does not ignore statutory law.

The United States does not oppose Springer's reliance upon the Treaties of 1832, 1833, 1856, and 1866, or the letters patent issued by the President of the United States, with the approval of the United States Senate, as amended by the Treaty of 1866, in arriving at the conclusion this Court lacked Article III Judicial Power and Jurisdiction, lacked statutory subject matter jurisdiction, and lacked a live Article III case or controversy. This is so based upon the "fact these treaties are not to be considered as exercises in ordinary conveyance." Choctaw Nation v. Oklahoma, 397 U.S. 620, 630(1970). Such treaties were imposed on the Creek Indians requiring the treaties to "be interpreted as [the Creek Indians] would have understood them." *Id.* at 631.

Equally, the United States takes no exception that the treaties with the Creek Nation qualify as the peculiar kind at issue in Choctaw Nation. See Montana v. U.S., 450 U.S. 544, 555(n.5)(1981)

Furthermore, Article VI, Cl.2 renders these treaties as not mere statutory law, but rather, "the Supreme Law of the land." Armstrong v. Exceptional Child CTR, Inc., 191 LED2D 471, 477(2015). A treaty, such as the treaties with the Creek Nation, "operates of itself without the aid of any legislative provision," is self-executing. Foster v. Neilson, 2 Pet. 253, 314(1829); Whitney v. Robertson, 124 U.S. 190, 194(1888).

This Court "must not give effect to State laws that conflict with [the treaties between the United States and Creek Nation]." Armstrong, 191 LED2D at 477(citing Gibbons v. Ogden, 9 Wheat 1, 210(1824)). State laws in conflict with the treaties between the United States and Creek Nation are to be held "without effect." Maryland v. Louisiana, 451 U.S. 725, 746(1981).



Altering, amending, or adding to the treaties between the United States and Creek Nation, "would not be an exercise of Judicial functions." The Amiable Isabella, Munos, Claimant, 6 Wheat 1, 71(1821)(Story, J.) It would be a usurpation of judicial power by making a treaty instead of construing one. Id.

Springer's Application does not ignore 26 U.S.C. § 7402, or 28 U.S.C. §§ 116, 1340, or 1345. The United States agrees (by silence) that the phrase "district court" in these statutory law means Article III district courts (inferior) under chapter 5 of Title 28. Doc. 302, p.14-15.

The United States asserts 28 U.S.C. § 1331, or 18 U.S.C. §§ 1151 and 1153. Section 1331 uses the same phrase "district courts" and was not alleged in the Complaint or Amended Complaint. Nowhere in the two complaints does the United States challenge any constitutional provision, law, or treaty. Nor do they now. The Article III district courts always have judicial power to decide their jurisdiction. U.S. v. Springer, 875 F.3d 968, 973(10th Cir. 2017).

The United States makes no effort to show how 18 U.S.C. §§ 1151 or 1153 are relevant to this district court's Judicial power and jurisdiction. Springer knows of no relevance.

"The Creeks were secured 'in the unrestricted right of...full jurisdiction over persons and property, within their respective limits.'" Doc. 302, p.8 (citing Crabtree v. Madden, 545 F. 426, 429(8th Cir. 1893)(citing Treaty of 1856, Art. 15, 11 Stat. at 704). The Creek Nation is considered "independent and self sustaining." Doc. 302, p.9(citing Indian Country, U.S.A., 829 F.2d at 971)

## 2. Springer applies Murphy faithfully with the Treaties.

It is the United States that willfully misapplies Murphy. The question asked was "whether [the Creek Nation's] 1866 boundaries remain intact," and

the Tenth Circuit answered that question: "The old [1866] reservation boundaries remain in tact." Murphy, 866 F.3d at 1233.

"The treaties and laws of the United States contemplated the Indian Territory as completely separated from that of the State: and provide that all intercourse within the [tribes] shall be carried on exclusively by the government of the Union." Worcester v. Georgia, 6 Pet. 515, 557(1832).

The United States conveyed to the Creek Nation "the title to the lands within its territory by metes and bounds." Buster v. Wright, 135 F. 947, 951 (8th Cir. 1905)(listing Treaty of 1832 with the Creek Nation).

The Tenth Circuit explained in Indian Country, U.S.A., 829 F.2d at 974:

"The treaties between the United States and the Creek Nation expressly recognize and presumed the tribes title and its right of self government **over its lands**, and expicately promised that the Creek **Country** would remain immune from **State and territorial laws**."

And of course, within the Creek Nation boundaries "lies the city of Tulsa." Murphy, 866 F.3d at 1232. "The Creek Nation was recognized by the United States as a distinct political community, with which **it makes treaties**, and **within its own territory**, administered its internal affairs." Turner v. U.S., 248 U.S. 354, 357(1919).

Springer faithfully applies the holding in Murphy.

3. The Creek Nation Treaty lands are entrusted to the United States but not under its exclusive jurisdiction as one of its territories.

There is a presumption against jurisdiction. Kokkonen v. Guardian Life, 511 U.S. 375, 377(1994). The Murphy decision requires this Court to hold 28 U.S.C. § 116(a) does not include Creek Nation Treaty lands. To continue to include the land encompassing the State's Creek County, and most of its Tulsa County, which necessarily includes the cities of Kellyville, Sapulpa, and Tulsa, within the statutory language of § 116(a), is to pile error upon error rendering the treaties between the United States and Creek Nation not

the Supreme Law of the land. Once this Court applies Murphy's holding to the State of Oklahoma's usurpation of Article VI, Cl.2 of the Constitution for the United States, its usurpation of its own Constitution at Article I, § 3, and its usurpation of the Treaties of 1832, 1833, 1856, and 1866, and the letters patent from the President of the United States approved by the United States Senate, as amended by the 1866 Treaty, it should find that 28 U.S.C. § 116(a) is repugnant to the United States Constitution, the State of Oklahoma's Constitution, and the Treaties and letters patent with the Creek Nation, and invalid and void.

The argument this Court's Article III Judicial Power and Jurisdiction can be sustained now on the basis that the United States, in violation of the Treaties, commenced their Complaint and Amended Complaint in this Article III district court, is basically asking this Court to reject the United States Constitution, reject the State of Oklahoma's Constitution, reject the treaties and letters patent, and rejects the Murphy decision. This Court in determining its jurisdiction should decline to do so for obvious reasons.

4. Springer is not Indian but born and always lived on land within the Creek Nation boundaries.

Springer is not Indian by race but was clearly born, raised, and at all times resided, prior to incarceration, within the boundaries of the 1866 Treaty lands.

5. The United States Title 26 Tax Laws are prohibited by the 1832, 1833, 1856, and 1866 Treaties, from applying within the Creek Nation boundaries.

The only way the United States may apply and enforce United States Code, Title 26, the Internal Revenue Code, and its imposition of an income tax, is where such imposition is authorized by any provision of the Treaties. The United States argues its tax laws apply inside the Creek Nation but identifies



no Treaty provision, or better yet, concession, that the Creek Nation agreed to subject its Country to the United States tax laws. The Creek Nation is "completely separated from that of the State..." Worcester, 6 Pet. at 557. The treaties of 1832, 1856, and 1866, "expressly recognize and presume the [Creek Nation's] title and its right to self government over its **lands**, and explicitly promised that the Creek Country would remain immune from State or territorial laws." Indian Country, U.S.A., 829 F.2d at 974. The authority to tax inside the Creek Nation is left to the authority of the Creek Nation. Buster, 135 F. at 951.

And we all know for certain that the power to tax is the power to destroy. McCulloch v. Maryland, 4 Wheat 316, 431(1819). The entire reason the Creek Nation has resisted what the other tribes relented is to continue to exist as a Nation of people who existed in the North American continent long before anyone else. The Creek Nation "exercise[] within defined territory the powers of a sovereign people." Indian Country, U.S.A., 829 F.2d at 977(citing Turner, 248 U.S. at 355). The Creek Nation retain the powers "not voluntarily relinquished by treaty..." Merrion v. Jicarilla Apache Tribe, 617 F.2d 537, 541 (10th Cir. 1979)

"By the Constitution a treaty is placed on the same footing, and made a like obligation, with an Act of Legislation." Whitney, 124 U.S. at 194.

This Court is to presume Title 26 does not apply within the Creek Nation Treaty land and the burden is on the United States to overcome the presumption.

6. This Article III district court's jurisdiction depends on the treaty.

The Creek Nation has never agreed to be a territory of the United States or part of any State of the Union. The "United States Court in Indian Territory was not a district court...of the United States." Stephens v. Cherokee Nation, et al, 174 U.S. 445, 476-77(1899).

And this Court is clearly an Article III district court. The Creek Nation is outside this district court's Article III territorial jurisdiction.

7. No Article III district court has jurisdiction inside the Creek Nation.

The United States states Article III district courts have jurisdiction over civil cases wholly inside the Creek Nation. But again, they cite no Treaty provision that says it is so. And Springer knows of none.

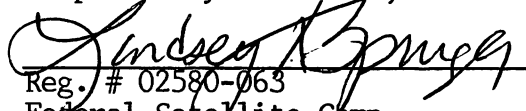
8. All defendants and the subject property were at all times in Creek Nation.

The United States promised protection, not destruction. Worcester, 6 Pet. at 552. Once this Court finds the State of Oklahoma's 11 Counties include the Creek Nation's Treaty land and places that land outside the State of Oklahoma, or any Federal territory, the Court will find all the Defendants and the subject property were not within Creek County, or Tulsa County, but instead, the Creek Nation Country, which is not within the Northern Judicial District of Oklahoma under 28 U.S.C. § 116(a) or State of Oklahoma.

CONCLUSION

Lindsey K. Springer respectfully requests this Court find it lacked Article III Judicial Power and Jurisdiction, lacked statutory subject matter jurisdiction, and lacked a live Article III case or controversy, over the Complaint, and Amended Complaint, based upon all defendants and the subject property were within the Creek Nation Country, not within the State of Oklahoma, nor within this Article III district court's territorial jurisdiction under 28 U.S.C. § 116(a).

Respectfully Submitted,

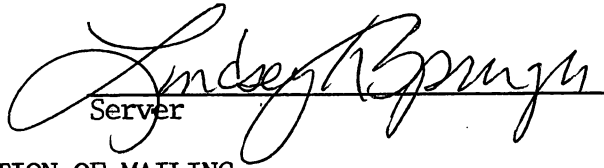
  
Reg. # 02580-063  
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CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2019, I sent by U.S. Mail, First Class, Postage Prepaid, the above Reply to the Clerk of Court, 333 West Fourth Street, Tulsa, Oklahoma 74103;

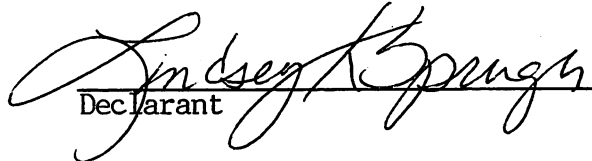
I further certify that the following party is a registered ECF user and shall receive service of the above referenced reply through this Court's ECF system:

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DECLARATION OF MAILING

I declare under the penalty of perjury pursuant to 28 U.S.C. § 1746(1), under the laws of the United States of America, that on March 17, 2019, I placed the above Reply in the U.S. Mailbox located inside Seagoville Federal Prison Camp to the Clerk of Court at the address listed above.

  
Declarant

Name Lindsey Kent Springer

Reg. No. 02580-063

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P.O. Box 9000

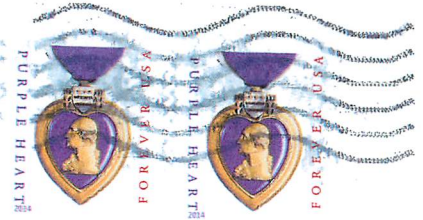
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