

IN THE DISTRICT COURT IN AND FOR THE 13TH JUDICIAL DISTRICT
OTTAWA COUNTY, STATE OF OKLAHOMA

FILED
DISTRICT COURT
OTTAWA CO. OKLA.

MAR 31 2023

STATE OF OKLAHOMA,
Plaintiff,

CASSI KRY COURT CLERK
BY 

vs.

Case No. CF-2022-215

STEVEN FULLER

Defendant.

Special District Judge Becky R. Baird

Court Reporter: Joni Humphries

Date: March 30, 2023

COURT ORDER WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW

State of Oklahoma present through Doug Pewitt, District Attorney

Defendant is present in person and through Terry Allen, Attorney.

Defendant fails to appear. Bench warrant and Bond Forfeiture ordered. Bond set at \$

Defendant fails to appear. Bench warrant and Bond Forfeiture taken under advisement until the day of , , at a.m./p.m.

Comes on for hearing on the Defendant's Motion to Dismiss for Lack of Jurisdiction.

The Defendant is sworn and testifies.

The Defendant moves the Court take judicial notice of Defendant's Exhibits #A attached to his written motion into evidence. The State does not object. Defendant's Exhibit is admitted into evidence.

Testimony establishes that the Defendant is a member of the Cherokee Nation tribe which is a federally recognized tribe, has some quantum of Indian blood, and was a tribal member of the Cherokee Nation

tribe at the time the alleged offense occurred. The testimony further establishes that the alleged crime took place within the historical boundaries of the Wyandotte reservation.

The State requests the Court take judicial notice of the relevant treaties, as well as the "termination act" and "reinstatement act" and the Defendant does not object.

The State argues that the "termination act" was the congressional action which disestablished the Wyandotte reservation, and that even if re-established thereafter, the Allotment Act enacted at statehood gave concurrent jurisdiction over criminal matters to the State of Oklahoma. The State announces that they have no other evidence of the Wyandotte reservation being disestablished by any Act of Congress.

The Court finds, based on the arguments of counsel and the evidence and testimony introduced, that the above named defendant is an Indian, that there is insufficient evidence presented to demonstrate that the Wyandotte reservation has been disestablished, and the alleged crime was committed on Indian land. Thus, the State lacks jurisdiction to proceed with its prosecution for the same reasons as set out in *McGirt v. Oklahoma*, 591 U.S. ____ (2020). The Court would further note that the arguments put forth by the State are identical to those argued, unsuccessfully, before the United States Supreme Court and are thus not persuasive.

Therefore, the Court sustains Defendant's Motion to Dismiss, and hereby quashes and dismisses the information for the reasons set forth above.

The Court orders the Defendant be released, subject to any holds or detainers, and bond, if any, is exonerated and the Bondsman released from further liability.

The State of Oklahoma announces its intent to appeal the ruling of the Court. Pursuant to State v. Durham, 1976 OK CR 20, 545 P.2d 805, and the request of the State, the Defendant executes an Own Recognizance Bond and is returnable on the 15th day of December, 2023, at 9:30 a.m. for tracking on appeal status.

Becky R. Baird

Special District Judge