

SUPREME COURT  
FILED

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

AUG 21 2024

MUSCOGEE (CREEK) NATION, )  
)  
Appellant, )  
)  
v. )  
)  
ZACHARY PADDLETY, )  
)  
Respondent. )

Case No.: SC-2023-09  
(District Court Case No.: CF-2022-1333)

CONNIE DEARMAN *LM*  
MUSCOGEE (CREEK) NATION  
COURT CLERK

Appeal from District Court, Okmulgee District, Muscogee (Creek) Nation

Matthew J. Hall, Muscogee (Creek) Nation, Office of the Attorney General, Okmulgee,  
OK, for the Appellant, the Muscogee (Creek) Nation.

Carla Stinnett and Brittainy B. Boyer, Sapulpa, OK, for the Respondent, Zachary Paddlety.

**ORDER AND OPINION**

MVSKOKVLKE FVTCECKV CUKO HVLWAT VKERRICKV HVYAKAT OKETV  
YVNKE VHAKV HAKATEN ACAKKAYEN MOMEN ENTENFVTCETV, HVTVM  
MVSKOKE ETVLWVKE ETEHVLVTKE VHAKV EMPVTAKV.<sup>1</sup>

Before: ADAMS, C.J.; LERBLANCE, V.C.J.; DEER, HARJO-WARE, MCNAC, SUPERNAW,  
THOMPSON, JJ.

PER CURIAM

Order of the District Court reversed and remanded.

<sup>1</sup> “The Muscogee (Creek) Nation Supreme Court, after due deliberation, makes known the following decision based on traditional and modern Mvskoke law.”

## **Per Curiam**

The Muscogee (Creek) Nation (hereinafter, the “Nation”) submits its appeal pursuant to M(C)NCA Title 14, § 1-701 (B)(1), seeking review of a Muscogee (Creek) Nation District Court *Order Dismissing Case*, entered on August 8, 2023. The Appellant asserts that the District Court erred in determining that the State of Oklahoma’s “Stand your Ground” immunity provisions are applicable to the Muscogee (Creek) Nation through Article II, Section 2 of the Muscogee (Creek) Nation Constitution. On the record presented, and for the reasons set forth below, we reverse the Muscogee (Creek) Nation District Court’s August 8, 2023, *Order Dismissing Case*, and remand the matter back to the District Court for further consideration.

## **BACKGROUND**

It is alleged that on or about July 20, 2022, two individuals entered the Respondent’s dwelling place without the Respondent’s knowledge or permission, and at the direction of the Respondent’s girlfriend, to recover the girlfriend’s personal belongings. The two men entered the residence using the girlfriend’s key. Upon entering the residence, the record reflects that the Respondent was seated on a couch. It is alleged that, upon entering the residence, one of the individuals asked the Respondent where his firearm was located, at which point the Respondent picked up the firearm, walked towards the kitchen, chambered a round and pointed the gun at one of the individual’s waistlines, placing the individual “in reasonable apprehension that [the Respondent] would shoot him.”

On October 7, 2022, the Nation charged the Respondent by way of a *Criminal Complaint and Information* with one count of Unlawful Use of a Dangerous Weapon pursuant to M(C)NCA Title 14, § 2-307, and one count of Domestic Assault with a Dangerous Weapon pursuant to M(C)NCA Title 14, § 2-303 (D)(1). An *Amended Complaint and Information* was later filed on

August 1, 2023, removing the second charge related to Domestic Assault with a Dangerous Weapon.

On August 3, 2023, the Respondent filed a *Motion for Immunity and Brief in Support*, wherein the Respondent argued that, by way of Article II, Section 2 of the Muscogee (Creek) Nation Constitution, he should be granted *immunity from prosecution* via Oklahoma's "Stand your Ground" law. Further, that the Nation's affirmative defense of "Habitation" was not a sufficient substitute because it does not act as an absolute bar to prosecution, as the Oklahoma law does, but only provides an affirmative defense that can be presented to the trier of fact. The Nation filed its *Response* to the Respondent's *Motion* on August 4, 2023, withholding any objection to the District Court setting the matter for hearing on the question of the Respondent's immunity arguments, but advising the Court that "the Nation lacks any form of immunity from prosecution, either in statute or precedence set by the Supreme Court."

An immunity hearing was held on August 8, 2023, in which the Court heard testimony from the Respondent and other witnesses. Following conclusion of the hearing, the Court issued its written *Order Dismissing Case*, finding that "although [the Respondent is] a Caddo Tribal member [he] is subject to the criminal jurisdiction of the Muscogee (Creek) Nation. He is afforded the rights and immunities of any Indian subject to the jurisdiction of the Muscogee (Creek) Nation as conveyed to him through the Indian Civil Rights Act (specifically considering the *Duro* fix); the Constitution of the Muscogee (Creek) Nation, Article 2, Section 2 and application of the laws of the State of Oklahoma, particularly 21 Okla. Stat. § 1289.25 (D) commonly known as the "Stand Your Ground" law in this instance."

On August 17, 2023, the Nation filed its *Notice of Intent to Appeal* with the Muscogee (Creek) Nation Supreme Court, arguing that "Article II, Section 2 of the Muscogee (Creek) Nation

Constitution is not a backdoor to impose the State of Oklahoma’s immunity provisions...[,]” and requesting that this Court find the State of Oklahoma’s “Stand your Ground” law inapplicable to the Muscogee (Creek) Nation.

### **JURISDICTION, SCOPE, AND STANDARD OF REVIEW**

Appellate jurisdiction is proper under M(C)NCA Title 27, § 1-101 (C).<sup>2</sup> This Court will review issues of law *de novo* and issues of fact for clear error.<sup>3</sup> Each respective question will be addressed based on its applicable standard of review.

### **ISSUES PRESENTED**

1. Does Article II, Section 2 of the Muscogee (Creek) Nation Constitution authorize the incorporation of Oklahoma’s “Stand your Ground” law?

### **DISCUSSION**

Article II, Section 2 of the Muscogee (Creek) Nation Constitution provides that the “Constitution shall not abridge the rights and privileges of individual citizens of the Muscogee (Creek) Nation enjoyed as citizens of the State of Oklahoma and of the United States of America.” The Respondent argues that, through this Constitutional provision, the Nation may not prohibit an Indian defendant that is also a citizen of the State of Oklahoma from asserting the State of Oklahoma’s “Stand your Ground” law within the Courts of the Muscogee (Creek) Nation. That Oklahoma law provides in relevant part:

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<sup>2</sup> M(C)NCA Title 27, § 1-101 (C), vests this court with exclusive jurisdiction to review final orders of the Muscogee (Creek) Nation District Court.

<sup>3</sup> See A.D. Ellis v. Checotah Muscogee Creek Indian Community, et al., SC 2010-01 at 3, \_\_\_ Mvs. L.R. \_\_\_ (May 22, 2013); In the Matter of J.S. v. Muscogee (Creek) Nation, SC 1993-02, 4 Mvs. L.R. 124 (October 13, 1994); McIntosh v. Muscogee (Creek) Nation, SC 1986-01, 4 Mvs. L.R. 28 (January 24, 1987); Lisa K. Deere v. Joyce C. Deere, SC 2017-02 at 5, \_\_\_ Mvs. L.R. \_\_\_ (May 17, 2018); Muscogee (Creek) Nation v. Bim Stephen Bruner, SC 2018-03 at 5, \_\_\_ Mvs. \_\_\_ (September 6, 2018); Derek Huddleston v. Muscogee (Creek) Nation, SC 2018-02 at 3, \_\_\_ Mvs. \_\_\_ (October 4, 2018); Bim Stephen Bruner v. Muscogee (Creek) Nation, SC 2018-04 at 4, \_\_\_ Mvs. \_\_\_ (May 13, 2019).

(D) A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force, if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.

(F) A person who uses defensive force, as permitted pursuant to the provisions of subsections A, B, D, and E of this section, is justified in using such defensive force and *is immune from criminal prosecution* and civil action for the use of such defensive force. As used in this subsection, the term “*criminal prosecution*” includes charging or prosecuting the defendant.<sup>4</sup>

[Emphasis Added]

The Respondent further argues that the Nation’s affirmative defense of Habitation<sup>5</sup> is not a sufficient substitute for the Oklahoma “Stand your Ground” law because it does not work as an absolute bar to prosecution, but only authorizes a defendant to present the defense for consideration by the trier of fact. That Mvskoke statute provides:

(D) The defense of habitation is a defense when the defendant is lawfully present in a dwelling and uses force of a degree which the defendant reasonably believes is immediately necessary to use against another person who has made an unlawful entry into that dwelling, and the defendant has a reasonable belief that such other person will use physical force, no matter how slight, against any occupant of the dwelling.

The issue presented to this Court on appeal is one of Constitutional interpretation. Does Article II, Section 2 of the Muscogee (Creek) Nation Constitution authorize the Courts to incorporate Oklahoma law not otherwise authorized under the laws of the Nation? In issues of interpretation, our caselaw precedent has established that “[a] constitution, by its very nature, serves as a limitation on the power of the government. Without judicial interpretation, however, it may be construed to have as many different meanings as it has readers. Thus, once a case or controversy concerning the meaning of a constitutional provision reaches the courts, then the

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<sup>4</sup> 21 Okla. Stat. § 1289.25 (D) and (F).

<sup>5</sup> See, M(C)NCA Title 14, § 2-1005 (D).

courts become the final arbiter as to the constitutionality of governmental actions as they relate to the constitution which empowers them.”<sup>6</sup> Further, we have found that “[t]he Constitution must be strictly interpreted and where the Constitution speaks in plain language with reference to a particular matter, the Court must not place a different meaning on the words[,]”<sup>7</sup> that “[t]he duty of this Court is not to merely give definition to words within the law but it is for us, as a group, to determine the intent and scope behind the words.”<sup>8</sup>

Article II, Section 2 provides that the Constitution “shall not abridge the rights and privileges” of Mvskoke citizens “enjoyed *as citizens of the State of Oklahoma...*” [Emphasis Added]. However, the Constitution does not state that rights enjoyed through the State of Oklahoma *must match* those enjoyed within the Muscogee (Creek) Nation. In fact, there are myriad differences between Oklahoma law and Mvskoke law. For this Court to read Article II, Section 2 as a directive requiring all Oklahoma rights be incorporated within the Nation would necessitate this Court interpreting Article II, Section 2 in a way inconsistent with the plain meaning of its terms. A Mvskoke citizen may be entitled to vote in Oklahoma state elections, this does not mean that the Constitution requires the incorporation of Oklahoma’s voting process within the Nation, only that the laws of the Nation will not interfere with a citizen’s ability to exercise their right to vote in Oklahoma elections. The same is true with the Nation’s affirmative defenses. While Oklahoma law may grant a criminal defendant immunity from prosecution within Oklahoma’s court system under certain circumstances, this does not mean that the Nation must do the same. The Constitution only requires that the Nation’s laws not stand in the way of a Mvskoke citizen

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<sup>6</sup> Courtwright v. July, et al., SC-1993-01, at 5, 4 Mvs. L. Rep. 105, at 110 (June 28, 1993).

<sup>7</sup> Cox v. Childers, SC-1991-04, at 3, 4 Mvs. L. Rep. 74 (June 27, 1991).

<sup>8</sup> Cox v. Kamp, SC-1991-03, at 3, 4 Mvs. L. Rep. 75, at 79 (June 27, 1991).

exercising their Oklahoma right to immunity from prosecution *within Oklahoma's court system*.<sup>9</sup> To accept the Respondent's argument would require a finding that the Nation's laws are subservient to the laws of the State of Oklahoma; that anytime a state or federal law was in conflict with a law of the Nation, the state and/or federal law must prevail.<sup>10</sup> Such a finding would be inconsistent with every notion of sovereignty, and would effectively strip the Nation of the authority to make its own law.

As further support, the Court looks at the recent passage of NCA 22-048 by the Muscogee (Creek) Nation National Council. Following the United States Supreme Court's decision in McGirt v. Oklahoma,<sup>11</sup> the Nation recognized that its Criminal Offenses Code "ha[d] not undergone significant revision since 2010"<sup>12</sup> and that there was a "need to expand the scope of criminal laws within the MCN for enforcement by the MCN Lighthouse Police and for prosecution in the District Court of the MCN."<sup>13</sup> As such, the Nation passed legislation known as the Supplemental Crimes Act (NCA 22-048), creating a "temporary expansion of the MCN's Criminal Code of Laws by supplementing its existing criminal code with those of the governmental entities located within the reservation boundaries of the MCN."<sup>14</sup> Since the State of Oklahoma is within the Nation's reservation boundaries, this expansion authorized supplementation of the Nation's Criminal Code

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<sup>9</sup> The Court recognizes the significant difference between the State of Oklahoma's "Stand your Ground" law (which provides an absolute immunity from prosecution under certain circumstances) and the Muscogee (Creek) Nation's defense of habitation (which must be presented to the trier of fact, but does not act as a bar to prosecution). While this Court is not a legislative body, it does feel that the National Council would do well to consider the criminal defenses and immunities offered by the State of Oklahoma and determine if amendments to the Nation's criminal code are warranted to allow citizens of the Muscogee (Creek) Nation similar protections.

<sup>10</sup> During the Court's December 22, 2023, Oral Argument, when asked if the Respondent's proposition "divests the Muscogee Nation of its ultimate...self-determination and sovereignty to, essentially, pass its own laws and be bound by them..." respondent's council stated that she understood incorporation of Oklahoma's "Stand your Ground" immunity "could potentially open the door to – to other statutes..." being incorporated. *See*, Transcript of December 22, 2023, Oral Argument, Page 25-26.

<sup>11</sup> McGirt v. Oklahoma, 140 S. Ct. 2452.

<sup>12</sup> NCA 22-048, Findings, Section One (C).

<sup>13</sup> *Id.* at Section One (D).

<sup>14</sup> *Id.* at Section Two.

using the criminal laws of the State of Oklahoma. However, the Supplemental Crimes Act specifically provided that “[n]othing in this Act shall alter any existing laws of the Muscogee (Creek) Nation regarding criminal procedure, Rules of Evidence, range of punishment for felony and misdemeanor offenses, and any other procedural rules, as well as the Defendant’s rights and privileges recognized under the enacted laws of the MCN.”<sup>15</sup> Further, that “State and federal statutes and case law will not be binding on the MCN.”<sup>16</sup> The Nation’s legislative body has made it clear that, even when Oklahoma law can be used to supplement the Nation’s criminal laws and procedures under the Supplemental Crimes Act, it is impermissible for Oklahoma law to be incorporated in a way that directly conflicts with current Muscogee law and/or caselaw precedent. We agree, to the extent that the legislation does not prohibit a tribal citizen from exercising their Oklahoma rights within Oklahoma’s system of government.

### **CONCLUSION**

For the reasons stated above, we reverse the District Court’s August 8, 2023, *Order Dismissing Case*, finding that Article II, Section 2 of the Muscogee (Creek) Nation Constitution does not require incorporation of Oklahoma’s “Stand your Ground” law. This matter is remanded back to the District Court for further proceedings consistent with the above opinion.

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<sup>15</sup> M(C)NCA Title 14, § 2-114 (D) [as amended by NCA 22-048].

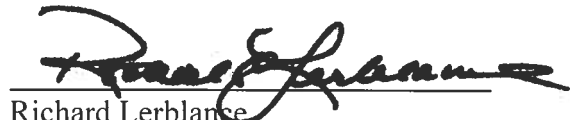
<sup>16</sup> M(C)NCA Title 14, § 2-114 (E)(3) [as amended by NCA 22-048].



FILED AND ENTERED: August 21, 2024



Andrew Adams, III  
Chief Justice



Richard Lerblance  
Vice-Chief Justice



Montie Deer  
Associate Justice



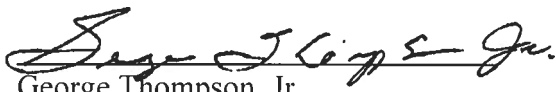
Leah Harjo-Ware  
Associate Justice



Amos McNac  
Associate Justice



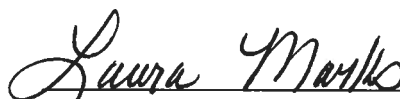
Kathleen Supernaw  
Associate Justice



George Thompson, Jr.  
Associate Justice

**CERTIFICATE OF MAILING**

I hereby certify that on August 21, 2024, I mailed a true and correct copy of the foregoing Order and Opinion with proper postage prepaid to each of the following: Geri Wisner and Matt Hall, Muscogee (Creek) Nation, Office of the Attorney General, P.O. Box 580, Okmulgee, OK 74447; Carla Stinnett, MCN Tribal Defender, 404 E. Dewey Ave., Ste. 100, Sapulpa, OK 74066. A true and correct copy was also hand-delivered to the Office of the Muscogee (Creek) Nation District Court Clerk.



\_\_\_\_\_  
Laura Marks, Deputy Court Clerk