



National Indigenous Women's Resource Center

**NON-FED MOMENT
FOR IMMEDIATE RELEASE
FEBRUARY 11, 2020**

Media Contact:

Elizabeth Carr

Senior Native Affairs Advisor, NIWRC

ecarr@niwrc.org

National Indigenous Women's Resource Center Files Amicus Brief to Safeguard Tribal Sovereignty and Native Victims in Supreme Court Case

(Lame Deer, MT)—In a critical move to protect tribal sovereignty and Native victims of violence, the [National Indigenous Women's Resource Center](#) (NIWRC), the [American Civil Liberties Union](#) (ACLU), and the [ACLU of Oklahoma Foundation](#), along with 27 tribal and advocacy organizations, are uniting in filing an Amicus Brief in *McGirt v. Oklahoma*, a Supreme Court case that could disestablish the Muscogee (Creek) Nation tribal reservation, effectively precluding the tribe from fully implementing restored tribal criminal jurisdiction under the Violence Against Women Act.

The NIWRC is joined by five Tribal Nations—the Tulalip Tribes, the Sault Ste. Marie Tribe of Chippewa Indians, the Nottawaseppi Huron Band of Potawatomi, the Pokagon Band of Potawatomi, and the Confederated Tribes of the Umatilla Indian Reservation—each of whom are investing significant resources, time, and effort to ensure prosecutions of domestic violence crimes serve to increase the safety of their tribal communities, while simultaneously working to ensure that the rights of the defendants in tribal criminal proceedings are respected and enforced.

“The National Indigenous Women's Resource Center, along with scores of other tribal and non-Native organizations working to end domestic violence and sexual assault, today filed an amicus brief before the Supreme Court to offer our unique perspective on the relationship between Congressional authority over Indian affairs, the inherent sovereign authority of tribal governments to prosecute crimes committed against their own citizens, and safety for Native women and children,” said NIWRC Executive Director Lucy Simpson, a citizen of the Navajo Nation.

In 2017, the Tenth Circuit Court of Appeals relied on the well settled principle that “only Congress may disestablish or diminish an Indian reservation,” and in considering “whether Congress has done so as to the Creek Reservation,” the Tenth Circuit concluded “it has not.” *Murphy v. Royal*, 875 F.3d 896, 904 (10th Cir. 2017). Oklahoma immediately filed cert with the U.S. Supreme Court, asking the Court to declare the Creek Nation Reservation disestablished, despite the fact that Congress has never done so. The Supreme Court granted cert, but after a full round of briefing and oral argument in November 2019, the Court has yet to issue a decision in *Murphy v. Royal*.

More recently, on December 13, 2019, the Supreme Court granted Jimcy McGirt’s petition for a writ of certiorari in *McGirt v. Oklahoma*. The question of the continued existence of the Creek Nation’s Reservation is once again before the U.S. Supreme Court, and Oklahoma is once again arguing that the Supreme Court should overlook decades of solidified precedent to judicially declare a reservation disestablished—despite the fact Congress has kept the reservation intact.

While the two cases differ in facts, if the court were to judicially disestablish the Creek Nation’s Reservation, the majority of the lands within the Creek Nation’s historical boundaries would no longer constitute “Indian country” under 18 U.S.C § 1151(a). Such a disestablishment of an existing reservation would eliminate the very same tribal jurisdiction that Congress recently, and purposefully, restored through the reauthorization of the Violence Against Women Act in 2013 (VAWA).

In reauthorizing VAWA, Congress tethered its restoration of tribal criminal jurisdiction to lands that constitute “Indian country” as defined by 18 U.S.C. § 1151. Thus, because the lands within a Tribal Nation’s borders—its “reservation”—constitute “Indian country” under § 1151, a judicial decision disestablishing a Tribal Nation’s reservation would effectively preclude that Nation from fully implementing VAWA’s restored tribal jurisdiction. For instance, if the Court were to declare the Creek Nation’s Reservation “disestablished,” the Creek Nation’s ability to prosecute a non-Indian who committed an act of domestic violence or dating violence within its territorial jurisdiction would be severely truncated. The NIWRC *Amici*, therefore, offer a unique perspective on the relationship between Congress’s plenary power over Indian affairs, the inherent sovereign authority of tribal governments to prosecute crimes committed by or against tribal citizens, and safety for Native women and children.

###

About the National Indigenous Women’s Resource Center

The National Indigenous Women’s Resource Center, Inc. (NIWRC) is a Native-led nonprofit organization dedicated to ending violence against Native women and children. NIWRC provides national leadership in ending gender-based violence in tribal communities by lifting up the collective voices of grassroots advocates and offering culturally grounded resources, technical assistance and training, and policy development to strengthen tribal sovereignty. niwrc.org

About the American Civil Liberties Union

The American Civil Liberties Union (ACLU) was founded in 1920 and is our nation's guardian of liberty. The ACLU works in the courts, legislatures and communities to defend and preserve the individual rights and liberties guaranteed to all people in this country by the Constitution and laws of the United States. aclu.org