

**Testimony of  
Jonodev Chaudhuri  
Ambassador of the Muscogee (Creek) Nation  
Before the  
United States House Committee on Natural Resources  
Subcommittee for Indigenous Peoples of the United States**  
*“Examining Oklahoma v. Castro-Huerta: The Implications of the Supreme Court's Ruling on  
Tribal Sovereignty”  
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Hesci. Jonodev Osceola Chaudhuri Cvhecefkvtos. Hvsvketvmvset, Epofvnkv, Vmvlkvt Pormetvs.

Madame Chairwoman and members of the committee, thank you for the opportunity to testify on the impacts of *Castro-Huerta*, which are already manifesting themselves in numerous ways. My name is Jonodev Chaudhuri, and I am proud to serve as the Ambassador for the Muscogee (Creek) Nation, the fourth largest tribe in the United States.

The Court’s decision in *Castro-Huerta* requires immediate action. The decision misinterprets congressional intent in the General Crimes Act, purports to overturn Indian law’s most foundational precedent, *Worcester v. Georgia*, and threatens to usurp Congress’ constitutional role in legislating over Indian affairs. The risk of misapplication of the holding, either by courts or important federal government agencies, is very high, and as a result, we need Congress to immediately signal its ongoing intent to adhere to its trust responsibility to empower tribal nations in the wake of the Court’s harmful and erroneous decision.

As Justice Gorsuch noted in his dissent, the Articles of Confederation originally reserved legislative authority over Indian affairs to the States. This, however, quickly proved chaotic and problematic, and so when our founding fathers drafted the Constitution, they took care to eliminate the Articles’ carveout for state power over tribes within their borders. Our U.S. Constitution was deliberately drafted to grant Congress the exclusive power to legislate over the United States’ sovereign-to-sovereign relationship with tribes. The founding fathers also saw fit to declare treaties, once signed by the President and ratified by the Senate, to be the “supreme Law of the Land.” The Constitution, then, tasks Congress with the incredibly important task of ensuring that federal Indian law comports with the “supreme Law of the Land,” or what we commonly refer to as the federal government’s treaty trust duty and responsibility to empower tribal nations and tribal self-determination.

At the Muscogee (Creek) Nation, we know a little something about how and why the founding fathers assigned Congress this critical role in the Constitution. Indeed, the very first treaty entered into under the Constitution as we know it today was with the Muscogee (Creek) Nation. In 1790, President George Washington gathered with Mvskoke leaders in his own home to sign the Treaty of New York. That treaty delineated the boundaries of the fledgling United States, as well as the duties, responsibilities and obligations of the United States to my nation.

But the Court's decision in *Castro-Huerta* dangerously infringes on Congress's ability to exercise its constitutional authority and effectuate its treaty trust duties and responsibilities to tribal nations. Although United States history is replete with examples of federal Indian law and policy that undermine tribal sovereignty, in the modern era, Congress has—in a consistent bi-partisan manner—steadily worked to restore tribal sovereignty and secure tribal empowerment. From the Indian Reorganization Act in 1934, to the Indian Child Welfare Act in 1978, from the 2010 Tribal Law and Order Act to the 2013 and 2022 reauthorizations of the Violence Against Women Act, Congress' message has been clear: Congress is working steadily to restore the inherent sovereign authority of our tribal nations because Congress understands that the best and only real solution to addressing the public safety crisis in Indian country is empowering tribal nations to ensure they are able to protect *everyone* within their borders, regardless of an individual's tribal citizenship status.

In VAWA 2022, Congress made very clear that no sovereign has a greater interest in protecting Indian children from non-Indian abusers than the child's tribal nation. And yet, despite the fact that Congress had recently restored this jurisdiction to tribal nations, the Court decided that states should be the ones to exercise this jurisdiction. Now, within the borders of our Reservation, certain local and county law enforcement agencies have decided that the Court's decision in *Castro-Huerta* means that they do not have to report crimes committed against our children to our Attorney General's Office for prosecution at the Muscogee (Creek) Nation. We are aware of District Attorneys who have authored memos stating that, because of *Castro-Huerta*, VAWA cases need not be referred to tribes, even if county prosecution is ultimately declined. It is our understanding that states will not be required to inform the United States Attorneys' Offices either. This is precisely the public safety crisis Congress sought to avoid by passing VAWA 2022.

The solutions to *Castro-Huerta* are clear. They are not new. Over a decade ago, the Tribal Law and Order Act Commission, created through bi-partisan legislation and composed of bi-partisan federal Indian law experts, traveled throughout Indian country studying the public safety crisis and reported one overarching solution: restore tribal jurisdiction and authority. In 2013, the Commission reported that when tribal governments “are supported—rather than discouraged—from taking primary responsibility over the dispensation of local justice, they are often better, stronger, faster, and more effective in providing justice in Indian country than their non-Native counterparts located elsewhere.”

The solution to the problems created by *Castro-Huerta* is not to study a problem we already understand. It is not another commission. The solution is restoration of tribal jurisdiction and authority, full stop. Plain and simple. Including the removal of outdated, misguided limitations imposed on the ability of tribal nations to ensure criminals receive sentences commiserate with the seriousness of the crimes they commit.

Two years ago, the Supreme Court affirmed that when Congress passed legislation to make Oklahoma a state, Congress declined to destroy our Reservation. Because of the Supreme Court's decision in *McGirt*, our Reservation remains in existence today. It is no secret that that the state of Oklahoma has sought to overturn our victory in *McGirt* since the day the decision came out. Initially, Oklahoma sought legislation in Congress that would have either disestablished our Reservation, or, significantly diminished our authority to exercise jurisdiction over it. Oklahoma's efforts failed. This Congress has repeatedly refused to abdicate its trust duties and responsibilities to protect and preserve the "supreme Law of the Land" as declared in our Treaty of 1866, and the hundreds of other treaties signed by the United States and tribal nations.

When Oklahoma could not convince Congress to eliminate our reservation, Oklahoma returned to the Court. The state spent tens of millions of dollars to file over thirty cert petitions and hired multiple PR firms to create the perception that *McGirt* created a public safety crisis. And, as the Atlantic reported in an [article](#) published on April 26, 2022, Oklahoma has dramatically inflated the number of convicted defendants Oklahoma claims to be releasing as a result of the Court's decision in *McGirt*. Ultimately, Oklahoma's numbers were demonstrated to be baseless, nothing but hyperbole. The real public crisis is not *McGirt*. It is Oklahoma's refusal to respect the sovereignty of tribal nations and cooperate with them when it comes to intergovernmental agreements and shared reporting.

And although the Supreme Court did decline Oklahoma's invitation to revisit its decision in *McGirt*, the Court's decision in *Castro-Huerta* constitutes an outcome determinative decision designed to appease one governor's misleading and false PR campaign against tribal sovereignty.

The decision, however, has implications that extend far beyond Oklahoma's borders. As the Nation that has fought to preserve Indian country's historic victory in *McGirt*, we understand what is at stake when states attempt to usurp Congress' exclusive management of Indian affairs. As my colleagues on today's panel will explain, the *Castro-Huerta* Court's misreading of the General Crimes Act and disregard for clear congressional intent only fans the flames of an already existing public safety crisis throughout all of Indian country. We are asking Congress to take action. Mvto.