



NAJA Reporting Guide: U.S. Supreme Court cases *McGirt v. Oklahoma* and *Sharp v. Murphy*

On Thursday, July 9, 2020, the final decision day of its 2019-2020 term, the U.S. Supreme Court ruled in favor of Jimcy McGirt in [McGirt v. Oklahoma](#) that the Muscogee (Creek) Nation remains intact. The Native American Journalists Association and Native American Rights Fund developed this reporting guide as a tool for newsrooms reporting on Indian Country.

The U.S. Supreme Court cases *McGirt v. Oklahoma* and [Sharp v. Murphy](#) presented unique questions about criminal jurisdiction over Indians in parts of Eastern Oklahoma. Both cases asked the Supreme Court to determine whether the Muscogee (Creek) Nation's historic boundaries in Oklahoma constitute an "Indian reservation" today.

Defendants McGirt (whose case came through the Oklahoma state courts) and Patrick Murphy (whose case came through the federal courts) are citizens of federally recognized tribes who were convicted by the State of Oklahoma for crimes that occurred within the boundaries of the Muscogee (Creek) Nation. In most cases, states have no jurisdiction over crimes committed by Indians or against Indians on reservations.

The Supreme Court's decision in *McGirt v. Oklahoma* affirms the tribe's reservation status, upholding the [argument](#) that Congress never disestablished the Muscogee (Creek) reservation. That means since the Muscogee (Creek) Nation is an Indian reservation, McGirt and Murphy were tried in the wrong court, and their convictions must be thrown out.

Scrutinize historical context

Treaties between tribal nations and the federal government are the supreme law of the land according to the U.S. Constitution. These treaties provide crucial context for accurate reporting on contemporary tribal affairs.

This case turns on the 19th century treaties between the Muscogee (Creek) Nation and the United States, and a series of statutes Congress enacted in the late 19th and early 20th centuries. The state of Oklahoma and its allies argued those statutes dismantled the Muscogee (Creek) Nation's reservation and left in its place only individual parcels of Indian land where federal jurisdiction limits the state's authority. Muscogee (Creek) Nation, McGirt, Murphy and

their allies argued that Congress might have at one time intended to dismantle the reservation, but changed its mind and ultimately left the reservation intact, preserving federal jurisdiction (and ousting state jurisdiction) throughout the reservation for crimes involving Indians.

Choose sources wisely

Reporters should seek sources with relevant professional experience, tribal historians or leaders and avoid interviewing non-experts on federal Indian law. Organizations like the [Native American Rights Fund](#) and the [National Congress of American Indians](#) can inform coverage with deep context and history. Universities across the U.S. with Indigenous law programs may provide legal experts and scholars as knowledgeable sources. For more information on sourcing in Indian Country, refer to the [NAJA Indigenous Expert Guide](#).

Clearly explain impact

Past convictions of tribal citizens by the State of Oklahoma could be overturned; but the issue of when a new Supreme Court decision affects past criminal convictions is itself very complicated, so the effect on past convictions is uncertain.

- The ruling in favor of the Muscogee (Creek) Nation does not grant criminal jurisdiction over non-Indians. The Supreme Court case *Oliphant v. Suquamish* still limits tribal jurisdiction over non-Indians who commit crimes in Indian Country.
- Federal law prevents tribes from exercising civil jurisdiction or regulatory jurisdiction over non-Indians in most circumstances.
- This ruling does not change land ownership in Eastern Oklahoma.

Avoid sensationalist, reactionary or biased coverage

The Supreme Court's ruling tests the delicate relationship between tribal nations and the state. It is easy for either side to resort to hyperbole. For example, sensational coverage of the *Adoptive Couple v. Baby Girl* (Baby Veronica) case built an audience by emphasizing the issue's divisiveness and exploiting a fundamental misunderstanding of Indian law. Reporters should avoid falling into this trap and using language that reflects "sympathy" toward a specific group.

Use accurate terminology

The federal government generally considers someone American Indian if they are a member or citizen of a federally recognized tribe. Tribes have the sovereign right to determine their own membership. Reporters should identify individuals as tribal members or citizens, according to the tribe's preferred terminology. Identification by tribal citizenship is preferable to general terms such as "Native American" when citizenship information is available. Reporters may reference

the NAJA [guide on terminology](#), when identifying individuals as Native American, American Indian or Indigenous.