

IN THE MUNICIPAL COURT IN AND FOR THE CITY OF MUSKOGEE
STATE OF OKLAHOMA

CITY OF MUSKOGEE,)
)
 Plaintiff,)
 vs.) Case No. _____
)
 _____,)
)
 Defendant.)

MOTION TO DISMISS FOR LACK OF JURISDICTION

COMES NOW, Defendant, _____, by and through his/her attorney of record, _____, and hereby moves the Court for an Order dismissing this case for lack of subject matter jurisdiction over the alleged offenses. In support of said motion the Defendant states as follows:

1) The Defendant was charged herein with the following offenses:

Offense 1:

Offense 2:

Offense 3:

2) The location wherein the offense allegedly occurred is located in Muskogee, Oklahoma, and is within the boundaries of the Muskogee (Creek) Nation Reservation which is defined as Indian country pursuant to 18 U.S.C. §1151. *See McGirt v. Oklahoma*, 591 U.S. ____ (2020).

3) The Defendant is an enrolled member of the _____ Nation which is a federally recognized tribe. (See Tribal enrollment card, attached hereto). Department of the Interior; Bureau of Indian Affairs; Indian Entities Recognized by and Eligible

to Receive Services From the United States Bureau of Indian Affairs, 84 Fed. Reg. 1200 (February 19, 2019)

- 4) “[T]he State of Oklahoma does not have jurisdiction over crimes committed by or against an Indian in Indian Country” *State v. Klindt*, 1989 OK CR 75, ¶ 3. Further, subject matter jurisdiction is never waived and may be raised at any time. *Magnan v. State*, 2009 OK CR 16.

WHEREFORE, premises considered, Defendant prays that the Court issue an Order dismissing this case for lack of subject matter jurisdiction.

Respectfully Submitted,
