



ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

STATE OF OKLAHOMA ex rel., )  
J. KEVIN STITT, in his official capacity as )  
Governor of the State of Oklahoma, )  
 )  
Petitioner, )

SEP - 9 2025

SELDEN JONES  
CLERK

vs. )

Case No. 123368

CITY OF TULSA, a political subdivision of the )  
State of Oklahoma; )  
MONROE NICHOLS IV, in his official capacity )  
as Mayor of the City of Tulsa; )  
DENNIS LARSEN, in his official capacity as )  
Chief of Police, Tulsa Police Department; )  
JACK BLAIR, in his official capacity as )  
City Attorney for the City of Tulsa; )  
 )  
Respondents. )

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**RESPONDENTS CITY OF TULSA, MONROE NICHOLS, IV, DENNIS LARSEN, AND  
JACK BLAIR'S RESPONSE IN OPPOSITION TO PETITIONER'S APPLICATION  
FOR ORIGINAL JURISDICTION AND PETITION FOR A WRIT OF PROHIBITION  
AND INJUNCTIVE RELIEF**

Respectfully Submitted,

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INDEX

**INTRODUCTION.....1**

**ARGUMENT ANT AUTHORITIES.....1**

**I. EXTRAORDINARY WRITS ARE NOT PERMITTED WHEN OTHER REMEDIES ARE AVAILABLE.....1**

**Cases:**

*Champlin v. Carter*, 1920 OK 231 .....2

*State ex rel. Wester v. Caldwell*, 84 Okla. Crim. 334, 181 P.2d 843 .....2

*Ware v. Walden*, 1929 OK 502 .....1

**II. THIS COURT SHOULD DECLINE ORIGINAL JURISDICTION AND DECLINE TO GRANT DECLARATORY OR INJUNCTIVE RELIEF.....3**

**Cases:**

*Fent v. Contingency Rev. Bd.*, 2007 OK 27 .....3

*State v. Lyon*, 1917 OK 229 .....3

*United States v. Antelope*, 430 U.S. 641 .....4

**III. TULSA HAS NOT VIOLATED STATE LAW OR EXCEEDED MUNICIPAL AUTHORITY AND THIS COURT SHOULD NOT GRANT PETITIONER RELIEF .....5**

**Cases:**

*City of Tulsa v. State*, 2001 OK 23 .....5, 6

**a. Petitioner cannot show he has a clear legal right to have the act performed, that the act arises from a duty, or that the act does not involve discretion.....6**

**Cases:**

*City of Chicago v. Morales*, 527 U.S. 41 .....7

*City of Tulsa v. O'Brien*, 2024 OK CR 31 .....9

*Indep. Sch. Dist. # 52 of Oklahoma County v. Hofmeister*, 2020 OK 56 .....7

*State v. Haworth*, 2012 OK CR 12 .....6, 9

INDEX

**INTRODUCTION.....1**

**ARGUMENT ANT AUTHORITIES.....1**

**I. EXTRAORDINARY WRITS ARE NOT PERMITTED WHEN OTHER REMEDIES ARE AVAILABLE.....1**

**Cases:**

*Champlin v. Carter*, 1920 OK 231 .....2

*State ex rel. Wester v. Caldwell*, 84 Okla. Crim. 334, 181 P.2d 843 .....2

*Ware v. Walden*, 1929 OK 502 .....1

**II. THIS COURT SHOULD DECLINE ORIGINAL JURISDICTION AND DECLINE TO GRANT DECLARATORY OR INJUNCTIVE RELIEF.....3**

**Cases:**

*Fent v. Contingency Rev. Bd.*, 2007 OK 27.....3

*State v. Lyon*, 1917 OK 229 .....3

*United States v. Antelope*, 430 U.S. 641 .....4

**III. TULSA HAS NOT VIOLATED STATE LAW OR EXCEEDED MUNICIPAL AUTHORITY AND THIS COURT SHOULD NOT GRANT PETITIONER RELIEF .....5**

**Cases:**

*City of Tulsa v. State*, 2001 OK 23 .....5, 6

**a. Petitioner cannot show he has a clear legal right to have the act performed, that the act arises from a duty, or that the act does not involve discretion.....6**

**Cases:**

*City of Chicago v. Morales*, 527 U.S. 41 .....7

*City of Tulsa v. O'Brien*, 2024 OK CR 31 .....9

*Indep. Sch. Dist. # 52 of Oklahoma County v. Hofmeister*, 2020 OK 56 .....7

*State v. Haworth*, 2012 OK CR 12.....6, 9

*State v. Linn*, 1915 OK 1037 .....7, 8

*Town of Castle Rock, Colorado v. Gonzales*, 545 U.S. 748.....7

*United States v. Antelope*, 430 U.S. 641 .....9

*United States v. Curtis*, 344 F.3d 1057.....10

*Wayte v. United States*, 470 U.S. 598.....6

*White v. City of Lawton*, 373 P.2d 25 .....8

**Statutes:**

11 O.S. § 28-109 .....9

11 O.S. § 34-102(A).....7

51 O.S. § 166 .....8

**Ordinances and Charter:**

1989 Amended Charter, Art. III, § 1.4 .....7

Tul.Rev.Ord. Title 29, § 105 .....7

**b. Respondents have not refused to perform any act. ....11**

**Cases:**

*City of Tulsa v. O'Brien*, 2024 OK CR 31 .....11

**Statutes:**

25 U.S.C.A. § 1301(2).....11

**c. Petitioner admits there are adequate remedies at law .....12**

**IV. THIS MATTER DOES NOT REQUIRE ADDITIONAL APPROVAL FROM THE GOVERNOR OR CITY COUNCIL .....12**

**Cases:**

**Constitutional provisions:**

Okla. Const. Art. 18, § 3(a).....12

**Statutes:**

11 O.S. § 13-101 .....12

11 O.S. § 130-109 .....12

**Ordinances and Charter:**

1989 Amended Charter .....12

1989 Amended Charter, Art. II, § 1.....13

1989 Amended Charter, Art. II, § 19.....13

1989 Amended Charter, Art. III, § 1.4 .....13

1989 Amended Charter, Art. XII, § 3.....13

Tul.Rev.Ord. Title 29, § 101 .....13

**IV. THIS MATTER DOES NOT CONSTITUTE A NEW INTERGOVERNMENTAL  
COOPERATIVE AGREEMENT REQUIRING APPROVAL OF THE GOVERNOR OR  
THE JOINT COMMITTEE ON STATE-TRIBAL RELATIONS.....14**

**Statutes:**

74 O.S. § 1221 .....14, 15

## INTRODUCTION

The Petitioner seeks extraordinary emergency writs directly from this Court to prevent the City of Tulsa from exercising its home-rule charter authority to settle federal court litigation, as well as its discretion to determine how best to enforce applicable laws and prosecute offenders. Petitioners seek such extraordinary relief, even though the Governor is actively seeking similar relief in federal court and even though the State of Oklahoma has explicitly authorized the City of Tulsa to enforce tribal laws within the Muscogee Nation and refer violations to the Muscogee Nation for prosecution. In short, Petitioner asks this Court to allow him to bind the decision-making authority and discretion of elected and appointed City officials and replace them with his own.

Notwithstanding unsupported assertions in the Petition, the City of Tulsa is vigorously enforcing the law, against both Indians and non-Indians, and referring charges to the appropriate prosecutorial authorities – municipal, state, tribal, and federal. Indian defendants are not falling through any cracks. Petitioner’s Application for Original Jurisdiction presents an improper foundational challenge to Respondents’ discretion to continue to enforce applicable laws and refer cases to appropriate prosecutorial authorities, and as such must be denied.

## ARGUMENT AND AUTHORITIES

### **I. EXTRAORDINARY WRITS ARE NOT PERMITTED WHEN OTHER REMEDIES ARE AVAILABLE.**

As an initial procedural matter, neither a writ of prohibition nor a writ of mandamus is appropriate in this instance, where the State has adequate remedies at law to address its concerns. It is a long-held principle that “[a] writ of ‘prohibition being an extraordinary writ, cannot be resorted to when the ordinary and usual remedies provided by law are available.’”

*Ware v. Walden*, 1929 OK 502, ¶ 5, quoting *Morrison v. Brown*, 26 Okl. 201, 109 P. 237; see also, *MacThwaite Oil & Gas Co. v. Bolen*, 1919 OK 383, ¶ 7 (“...prohibition would not lie for the reason that section 5768, Comp. Laws of Oklahoma 1909, provides the defendant with an effective remedy.”). Additionally, “[t]he writ of mandamus is a remedy to compel the performance of a duty required by law, where the party seeking relief has no other legal remedy, and the duty sought to be enforced is clear and indisputable.” *Champlin v. Carter*, 1920 OK 231, ¶ 6, 78 Okla. 300, 190 P. 679, 680 (citation omitted).

The State presents concerns to this Court about a settlement entered into by the City of Tulsa and the Muscogee Nation in case number 23-CV-490-JDR-SH, filed in the United States District Court for the Northern District of Oklahoma. Pet. App’x No. 7. As of the date of this response, that litigation is still pending. The Governor has filed in that case a Notice of Required Dismissal for Non-Joinder or, In the Alternative, Motion To Intervene, on which the federal court has yet to rule. See Doc. No. 127, Pet. App’x No. 5. Rather than wait for the Federal District Court to rule on his pending motion, the Governor is now attempting to circumvent the regular processes he invoked and is seeking extraordinary writs from this Court. Under long-standing Oklahoma case law, this attempted workaround is not permitted and this court should decline to entertain it.

Additionally, a writ of prohibition is a wholly inappropriate vehicle for the relief requested. Petitioner seeks “a writ of prohibition preventing Tulsa from continuing any agreement, policy, or practice that cedes or refuses to equally enforce the State’s valid exercise of criminal jurisdiction.” Application for Original Jurisdiction and Petition for Writ of Prohibition and Injunctive Relief (hereinafter “Application” or “App.”), p. 13. “The writ of prohibition is that process by which an appellate court prevents an inferior court from usurping

and exercising unauthorized jurisdiction.” *State ex rel. Wester v. Caldwell*, 84 Okla. Crim. 334, 340, 181 P.2d 843, 847 (1947). While this Court would be able to issue a writ of prohibition to an inferior court, this Court cannot direct the actions of the United States Court for the Northern District of Oklahoma. This is effectively what Petitioner is seeking through his writ of prohibition and it must be denied.

## **II. THIS COURT SHOULD DECLINE ORIGINAL JURISDICTION AND DECLINE TO GRANT DECLARATORY OR INJUNCTIVE RELIEF.**

“Jurisdiction to grant declaratory relief may be assumed (1) in matters of public interest where there is (2) an element of urgency or a pressing need for an early decision.” *Fent v. Contingency Rev. Bd.*, 2007 OK 27, ¶ 11, 163 P.3d 512, 521. This decision is discretionary. *Id.* This Court has defined *publici juris* as “something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected.” *State v. Lyon*, 1917 OK 229, ¶ 1, 63 Okla. 285, 165 P. 419, 420. “It does not mean anything so narrow as the interests of the particular localities which may be affected by the matters in question.” *Id.*

While Petitioner argues that this is “precisely the kind of crisis that this Court’s original jurisdiction was designed to address,” Petitioner does not cite to any authority demonstrating an exercise of original *publici juris* jurisdiction over a matter involving only a portion of a single municipality. *Brief in Support of Application for Original Jurisdiction and Petition for a Writ of Prohibition and Injunctive Relief* (hereinafter “Pet. Br.”), p. 4. Instead, Petitioner cites three cases involving original *publici juris* jurisdiction over *statewide* matters. While Petitioner attempts to contort this matter into one that affects every citizen of this state, the City’s exercise of prosecutorial discretion relates solely to that portion of the city of Tulsa lying within the Muscogee Reservation, and is not one of statewide concern.

Second, this matter does not present exigent circumstances sufficient to support an exercise of original jurisdiction. As stated above, Petitioner cannot support his claim that this Court's intervention is somehow necessary to prevent a public safety emergency. Petitioner has provided no evidence that each day "crimes go unprosecuted." Pet. Br., at 6. Instead, Petitioner has presented, but wholly ignored, evidence that the City of Tulsa and the Muscogee Nation are actively working together to ensure that this is not the case.

Petitioner asserts without any factual basis that "Tulsa has ceased investigating and prosecuting certain criminal offenses based solely on the racial and political status of the offender and whether the person qualifies as Indian." Pet. Br. at 5.<sup>1</sup> In making that assertion, Petitioner entirely disregards significant elements of the settlement. Tulsa is not "actively ceasing criminal investigations" of Indians within the boundaries of the Muscogee Nation. Pet. Br., at 3. The settlement specifically acknowledges that the City continues to exercise criminal jurisdiction pursuant to the Cross-Deputization Agreement approved by the State of Oklahoma. Pet. App'x, No. 7, p. 4. Further, Petitioner refers to the City's policy of dismissing pending municipal prosecutions against known Indian defendants and to not initiate future prosecutions in Municipal Court or State Court against known Indian defendants (Pet. Br. at 2-3), but Petitioner neglects to mention that the settlement provides for the filing and prosecution of those cases and future cases in tribal court.<sup>2</sup> Pet. App'x, No. 7, p. 5. Accordingly, Petitioner's argument that crimes are going unprosecuted is entirely without merit. Petitioner is merely

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<sup>1</sup> Tribal jurisdiction is not based on the racial status of an offender, but is rather rooted in the "unique status of Indians as 'a separate people' with their own political institutions." *United States v. Antelope*, 430 U.S. 641, 646, 97 S. Ct. 1395, 1399, 51 L. Ed. 2d 701 (1977).

<sup>2</sup> As it relates to municipal and state laws, the Muscogee Nation has adopted a "Supplemental Crimes Act," NCA 22-048, by which the Nation recognizes and makes a tribal offense any criminal offense prescribed by the laws of governmental entities within reservation boundaries, including the laws of the City of Tulsa and the State of Oklahoma.

unhappy with the venue. Just as Petitioner cannot manifest this localized matter into one of statewide concern, he also cannot manufacture a public safety crisis by willfully omitting significant portions of the settlement.

Even if the City of Tulsa and the Muscogee Nation were not actively enforcing laws and prosecuting violations, Petitioner admits that an interim order of a State district court or a ruling on Petitioner's motions in the Northern District of Oklahoma could offer relief, but Petitioner is simply too impatient to pursue relief through the appropriate channels. Petitioner provides no support for his assertion that "special institutional considerations" warrant the exercise of original jurisdiction. First, Petitioner argues that Respondents may not follow a district court order, necessitating original jurisdiction. This proposition is not only insulting, but meritless. As detailed below, Respondents are not violating any federal, state, or local laws by referring cases to the Muscogee Nation. In fact, they are operating within the bounds of the State-approved Cross-Deputization Agreement. *See Intergovernmental Cross-Deputization Agreement Between the United States, the Muscogee (Creek) Nation, and Political Subdivisions of the State of Oklahoma*, signed by Governor Frank Keating on October 13, 2001, and the Joint Committee on State-Tribal Relations on October 15, 2001, adopted by the City of Tulsa effective January 18, 2006, hereinafter "Cross-Deputization Agreement."<sup>3</sup> Petitioner also argues that the weight of this Court is essential due to "aggressive litigation tactics against municipalities to pressure them into submission." Pet. Br. at 7. It is, in fact, the Governor who is resorting to aggressive litigation tactics to pressure the City into submission. As detailed below, the City of Tulsa and Respondents must be able to exercise discretion in matters of criminal justice without needless intervention from the Governor. There are no

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<sup>3</sup> <https://www.sos.ok.gov/documents/filelog/63682.pdf>;

special considerations that warrant original jurisdiction, and this Court should deny Petitioner's request.

**III. TULSA HAS NOT VIOLATED STATE LAW OR EXCEEDED MUNICIPAL AUTHORITY AND THIS COURT SHOULD NOT GRANT PETITIONER RELIEF.**

Petitioner cannot show that Tulsa has violated any law or exceeded municipal authority entitling him to extraordinary relief. As stated above, Petitioner is not entitled to declaratory relief in his matter. Furthermore, Petitioner cannot show that a writ of mandamus is proper here. For a writ of mandamus to issue, Petitioner must show:

[1] the petitioner has a clear legal right to have the act performed; [2] the act arises from a duty of the respondent arising from an office, trust, or station; [3] the act does not involve the exercise of discretion; [4] the respondent has refused to perform the act; [5] the writ will provide adequate relief and no other adequate remedy at law exists.

*City of Tulsa v. State*, 2001 OK 23, ¶ 3.

As Petitioner cannot demonstrate any of the requisite elements, this Court should deny Petitioner's request for a writ of mandamus or declaratory relief as described in Petitioner's Cause of Action I.

- a. Petitioner cannot show he has a clear legal right to have the act performed, that the act arises from a duty, or that the act does not involve discretion.**

Petitioner cannot demonstrate that any Respondent has a duty to enforce laws only in the manner that suits Petitioner. "In our criminal justice system, the executive branch of the government retains broad discretion as to whether, when, and how to prosecute crime." *State v. Haworth*, 2012 OK CR 12, ¶ 13, 283 P.3d 311, 316. As the United States Supreme Court has elaborated, "[t]his broad discretion rests largely on the recognition that the decision to prosecute is particularly ill-suited to judicial review. Such factors as the strength of the case,

the prosecution's general deterrence value, the Government's enforcement priorities, and the case's relationship to the Government's overall enforcement plan are not readily susceptible to the kind of analysis the courts are competent to undertake.” *Wayte v. United States*, 470 U.S. 598, 607 (1985).

While *Haworth* deals with the *State's* executive branch, the same principle applies at the municipal level to the City of Tulsa. Respondents necessarily exercise discretion with regard to criminal justice within the City of Tulsa, including when determining what crime should be charged and in what jurisdiction. Petitioner seeks impermissibly to strip this discretion from Respondents and substitute his own.

Petitioner asserts the general proposition that the “Oklahoma statutes require municipal mayors and chiefs to ‘enforce the city ordinances.’” Pet. Br., at 13. While Petitioner cites the powers and duties of the mayor of an aldermanic form of government, there is similarly general language in the City of Tulsa’s Charter and Revised Ordinances.<sup>4</sup> Oklahoma statutes also provide that a City’s police chief “shall be a peace officer and shall enforce the municipal ordinances.” 11 O.S. § 34-102(A). None of these provisions, however, nor any others, bind Respondents with the strict mandate claimed by Petitioner.

Petitioner argues that the use of “shall” precludes any discretion in law enforcement or prosecution. While this Court has determined that “shall” is “ordinarily interpreted as a command or mandate,” directory intent “may be made upon a finding of legislative intent for such construction.” *Indep. Sch. Dist. # 52 of Oklahoma County v. Hofmeister*, 2020 OK 56, ¶

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<sup>4</sup> Duties and Powers of Mayor

[https://library.municode.com/ok/tulsa/codes/code\\_of\\_ordinances?nodeId=COOR\\_1989AMCH\\_ARTI\\_IITHMA\\_S1.4EXADPODU](https://library.municode.com/ok/tulsa/codes/code_of_ordinances?nodeId=COOR_1989AMCH_ARTI_IITHMA_S1.4EXADPODU); Duties and Powers of Chief of Police -

[https://library.municode.com/ok/tulsa/codes/code\\_of\\_ordinances?nodeId=COOR\\_TIT29PODE\\_CH1\\_PODEPERE\\_S105DUCH](https://library.municode.com/ok/tulsa/codes/code_of_ordinances?nodeId=COOR_TIT29PODE_CH1_PODEPERE_S105DUCH)

35, 473 P.3d 475, 491, *as corrected* (July 1, 2020). The Tenth Circuit and the United States Supreme Court have both recognized the impracticality of Petitioner’s position that the use of “shall” in establishing the powers or duties of a law enforcement official removes all discretion. Petitioner’s position “flies in the face of common sense that all police officers must use some discretion in deciding when and where to enforce city ordinances.” *City of Chicago v. Morales*, 527 U.S. 41, 62 n. 32 (1999). A “true mandate of police action would require some stronger indication” than simply the use of ‘shall.’ *Town of Castle Rock, Colorado v. Gonzales*, 545 U.S. 748, 761, 125 S. Ct. 2796, 2806, 162 L. Ed. 2d 658 (2005). That is because of “deep-rooted nature of law-enforcement discretion, even in the presence of seemingly mandatory legislative commands.” *Id.*

Petitioner’s reliance on *Linn* is entirely misplaced. In *Linn*, the Court addressed a very specific state statute dealing with enforcement of Prohibition statewide and its effect on local ordinances. *State v. Linn*, 1915 OK 1037. The statute in *Linn* specifically required police chiefs to enforce prohibition and established a mechanism for them to be removed by the legislature if the police chiefs failed to abide by the statute. This case did not deal with general duties to enforce the law such as those raised by Petitioner. On the contrary, this Prohibition-era statute was precisely the type of specific legislation identified in *Castle Rock*. In *Linn*, this Court observed that “[t]he Legislature may impose upon the local officers *specific* duties in the matter of the enforcement of the laws of the state and prescribe penalties for a failure to perform the same.” *Id.* at ¶ 11 (emphasis added). The *Linn* statute’s specificity created a mandatory duty to enforce Prohibition, not a general duty to enforce the law.

Petitioner’s reliance on *White* is similarly misplaced. *White* dealt with whether an employee marking the street to regulate parking was engaged in a governmental or proprietary

function of the municipality, and thus, whether the City of Lawton was liable for that employee's negligence. *White v. City of Lawton*, 373 P.2d 25 (Okla. 1961). This distinction, relating solely to tort liability, is not relevant to the present case.<sup>5</sup> To the extent that *White* is even remotely relevant, Petitioner omits an important clause from its citation. In *White*, the Court stated, "[t]he power to regulate the use of the streets is a delegation of the police power of the state government, and whatever reasonably tends to make regulation effective is a proper exercise of that power." *Id.* (emphasis added). Here, the City of Tulsa, has chosen the more effective approach of working with the Muscogee Nation to ensure that all crimes are being prosecuted, rather than staying bogged down in years of antagonistic civil litigation.

Additionally, Petitioner's argument that Oklahoma statutes require municipal attorneys to prosecute all potential ordinance violations is without support. Petitioner misstates the relevant statute, which actually provides that a municipal attorney "shall have full power to prosecute violations of any ordinance of the city in the municipal criminal court of record." This empowerment language cannot be construed force municipal attorneys to prosecute Indians in every instance instead of tribal prosecutors, as advanced by Petitioner.<sup>6</sup> 11 O.S. § 28-109. Prosecutors, like law enforcement officers, have discretion, as the Court of Criminal Appeals has repeatedly held. See *State v. Haworth*, 2012 OK CR 12, ¶ 13, 283 P.3d 311, 316 ("where a defendant's conduct is arguably covered by more than one criminal provision, the choice is a matter within the prosecutor's discretion") (Citations omitted).<sup>7</sup>

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<sup>5</sup> Under the Governmental Tort Claims Act, this distinction has no effect on the tort liability of a municipality. 51 O.S. § 166.

<sup>6</sup> Additionally, Petitioner appears unaware that the City of Tulsa operates a Court of Record, as Petitioner cites to 11 O.S. 27-102 and 27-108 for Courts Not of Record rather than 11 O.S. 18-102 and 28-109.

<sup>7</sup> Courts in these cases tend to elaborate that prosecutorial discretion cannot be based on impermissible standards, such as race or religion. Again, while Petitioner inexplicably and repeatedly attempts to tie tribal jurisdiction to racial classification, the United States Supreme Court has made

The Court of Criminal Appeals has also acknowledged that “the city of Tulsa's jurisdiction would be concurrent only and would not displace, or diminish, the tribe's prosecutorial authority to try Indians for violations of local tribal law.” *City of Tulsa v. O'Brien*, 2024 OK CR 31, ¶ 32. Here, municipal prosecutors have both discretion and state sanction to invoke the Muscogee Nation’s concurrent jurisdiction to prosecute offenses.

Discretion is a fundamental element of every aspect of the criminal justice system. As the U.S. Supreme Court has observed, while it is possible to read a “shall” as asserted by Petitioner, such an interpretation defies common sense. Here, Petitioner attacks the decision to refer certain cases involving Indian defendants that occur within the boundaries of the Muscogee Nation, to the Muscogee Nation for prosecution. In *United States v. Curtis*, 344 F.3d 1057, 1064 (10th Cir. 2003), the Tenth Circuit recognized long-settled law and held that a prosecutor may exercise broad discretion with respect to his or her charging decisions. The defendant in *Curtis* argued that the decision to pursue federal rather than state charges was improper. *Id.* The discretion of the *Curtis* prosecutor is no different than the discretion exercised every day across the state when multiple jurisdictions may apply. Under Petitioner’s logic, Respondents could never exercise discretion to refer a case to the District Attorney or United States Attorney, if they could instead proceed in Municipal Court. Of all potential prosecutorial authorities, it is only the decision to refer cases to tribal court with which Petitioner takes issue, even though that authority is explicitly recognized in the Cross-Deputization Agreement approved by the State. Cross-Deputization Agreement, at ¶ 9

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abundantly clear that the legal status of Indians is “not because they are of the Indian race, but because they are enrolled members” of federally recognized tribal governments. *United States v. Antelope*, 430 U.S. 641, 646 (1977).

("the parties hereto acknowledge that the applicability of Muscogee, federal and state laws in Indian country many depend on whether the suspect or victim is an Indian person and that state laws have been generally held to be inapplicable to Indians in Indian country."); ¶ 9.A ("After lawful arrest by an Officer commissioned pursuant to this Agreement, the prisoner shall be turned over to a responsible official of ... the Nation for purposes of detention and processing"); ¶ 9.B ("The official determination of the correct jurisdictional authority for purposes of prosecution shall be made by the U.S. Attorney, A BIA Court of Indian Offenses prosecutor, a State prosecutor, and/or the Nation's Attorney General"); ("All evidence and investigatory reports and products shall be turned over to the proper prosecuting authority at the earliest practicable time.").<sup>8</sup> The Cross-Deputization Agreement further clarifies that "State" shall include municipalities. As the Cross-Deputization Agreement demonstrates that discretion is necessarily a component of exercising criminal jurisdiction, particularly where multiple jurisdictions overlap, Petitioner cannot show that the act is not subject discretion and is therefore not entitled to relief.

**b. Respondents have not refused to perform any act.**

Despite Petitioner's assertions to the contrary, law enforcement activities conducted by Respondents regarding Indians in the Muscogee Nation have not ceased under the federal court settlement. Accordingly, Petitioners cannot show, even if there were a non-discretionary duty to perform an act, that Respondents have refused to perform the act in question.

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<sup>8</sup> <https://www.sos.ok.gov/documents/filelog/63682.pdf>

Respondents agree that the Oklahoma Court of Criminal Appeals has held that the City has concurrent criminal jurisdiction over Indians committing non-major crimes. There are, however, conflicting State and Federal opinions regarding the City's jurisdiction over Indian defendants, [Pet. App'x., No. 7, p. 3], and there are several cases pending that may resolve or reconcile those conflicting opinions. *Id.* at 4. While this uncertainty remains as to whether federal appellate courts will uphold concurrent municipal jurisdiction over Indians for on-reservation conduct, there is no uncertainty as to the Muscogee Nation's jurisdiction in such cases. *O'Brien*, 2024 OK CR at ¶ 32; 25 U.S.C.A. § 1301(2).

Under the terms of the federal court settlement, the City of Tulsa exercises criminal jurisdiction under the State-approved Cross-Deputization Agreement. Petitioner notes that the litigation settlement calls for the City to dismiss pending municipal prosecutions and not initiate new prosecutions against known Indian defendants for conduct occurring on the Muscogee Reservation, but Petitioner entirely disregards the subsequent paragraphs stating that the dismissed cases and future cases will be referred to the Muscogee Nation for prosecution. *Id.* at 5-6. Despite Petitioner's hyperbole and misinformation, the settlement did not create a law enforcement void in the City of Tulsa. It simply delineated how jurisdiction would be exercised.

**b. Petitioner admits that there are adequate remedies at law.**

Petitioner acknowledges that "an interim order of the district court could offer some relief ... ." Pet. Br. at 6. Petitioner is merely too impatient to allow for any of those remedies to resolve. For instance, Petitioner's intervention in the Northern District case is still pending. Additionally, Petitioner did not seek any relief from the

Tulsa County District Court. Instead, Petitioner seeks this Court's original jurisdiction and extraordinary emergency writs. Petitioner's Application is an improper end-run that must not be permitted, particularly where at least one potential remedy at law is actively pending.

**IV. THIS MATTER DOES NOT REQUIRE ADDITIONAL APPROVAL FROM THE GOVERNOR OR CITY COUNCIL.**

As a preliminary matter, Petitioner demonstrates some degree of confusion over the government of the City of Tulsa and the applicable laws. The City of Tulsa is a home-rule charter city, operating under its 1989 Amended Charter.<sup>9</sup> Under Oklahoma law, any city or town with a population of at least two-thousand "may frame a charter for its own government." 11 O.S. § 13-101, Okla. Const. Art. 18, § 3(a). "Whenever a charter is in conflict with any law relating to municipalities in force at the time of the adoption and approval of the charter, the provisions of the charter shall prevail and shall operate as a repeal or suspension of the state law or laws to the extent of any conflict." 11 O.S. § 130-109. The Application includes various citations to Title 11, particularly to the duties and powers of a Mayor in an aldermanic form of government and the requirements for the passage or repeal of an ordinance, which are unavailing.

Petitioner argues that the City's policies relating to the manner in which concurrent jurisdiction is exercised conflict with the City's charter or ordinances. However, Petitioner does not identify any such conflicting provisions. As detailed above, general duties and powers to enforce laws are not sufficient to override executive discretion regarding law enforcement.

Respondents have exercised power expressly granted under the 1989 Amended Charter, the Tulsa Revised Ordinances, and Oklahoma law. For instance, the Charter authorizes the

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<sup>9</sup> [https://library.municode.com/ok/tulsa/codes/code\\_of\\_ordinances?nodeId=COOR\\_1989AMCH](https://library.municode.com/ok/tulsa/codes/code_of_ordinances?nodeId=COOR_1989AMCH)

Mayor to “Provide, administer, maintain, and operate all police, fire protection, civil defense, and emergency services and functions.”<sup>10</sup> The Mayor also has Charter authority to negotiate and execute settlement of claims against the City.<sup>11</sup> Further, “[t]he [Police] Department shall be under the control and authority of the Mayor who shall approve rules and regulations defining the authority, specifying the duties and governing the conduct of all police officers and employees of the Department.”<sup>12</sup>

The City Council possesses the legislative powers of the City of Tulsa,<sup>13</sup> provided that authority may be delegated to the Mayor “to make rules, regulations, and orders necessary and proper to implement and administer ordinances.”<sup>14</sup> Just as the Governor exercises executive authority, including policy decision-making, the Mayor of the City of Tulsa exercises such authority here. Petitioner’s argument that policy determinations constitute an amendment or repeal of an ordinance or the Charter is entirely without merit. For the reasons stated, this Court should deny Petitioner’s request for a writ of mandamus or declaratory relief as described in Petitioner’s Cause of Action II.

**V. THIS MATTER DOES NOT CONSTITUTE A NEW INTERGOVERNMENTAL COOPERATIVE AGREEMENT REQUIRING APPROVAL OF THE GOVERNOR AND THE JOINT COMMITTEE ON STATE-TRIBAL RELATIONS**

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<sup>10</sup>[https://library.municode.com/ok/tulsa/codes/code\\_of\\_ordinances?nodeId=COOR\\_1989AMCH\\_AR\\_TIIITHMA\\_S1.4EXADPODU](https://library.municode.com/ok/tulsa/codes/code_of_ordinances?nodeId=COOR_1989AMCH_AR_TIIITHMA_S1.4EXADPODU)

<sup>11</sup>[https://library.municode.com/ok/tulsa/codes/code\\_of\\_ordinances?nodeId=COOR\\_1989AMCH\\_AR\\_TXIIMIPR\\_S3EXIN](https://library.municode.com/ok/tulsa/codes/code_of_ordinances?nodeId=COOR_1989AMCH_AR_TXIIMIPR_S3EXIN)

<sup>12</sup>[https://library.municode.com/ok/tulsa/codes/code\\_of\\_ordinances?nodeId=COOR\\_TIT29PODE\\_CH\\_IPODEPERE\\_S101CODE](https://library.municode.com/ok/tulsa/codes/code_of_ordinances?nodeId=COOR_TIT29PODE_CH_IPODEPERE_S101CODE)

<sup>13</sup>[https://library.municode.com/ok/tulsa/codes/code\\_of\\_ordinances?nodeId=COOR\\_1989AMCH\\_AR\\_TIIITHCO\\_S1CRFU](https://library.municode.com/ok/tulsa/codes/code_of_ordinances?nodeId=COOR_1989AMCH_AR_TIIITHCO_S1CRFU)

<sup>14</sup>[https://library.municode.com/ok/tulsa/codes/code\\_of\\_ordinances?nodeId=COOR\\_1989AMCH\\_AR\\_TIIITHCO\\_S18DEAUMARU](https://library.municode.com/ok/tulsa/codes/code_of_ordinances?nodeId=COOR_1989AMCH_AR_TIIITHCO_S18DEAUMARU)

Petitioner's final argument concerns the validity of the litigation settlement itself. Petitioner attempts to cast the settlement as a distinct intergovernmental cooperative agreement, subject to 74 O.S. § 1221. While Petitioner argues that the settlement is "definitionally an 'intergovernmental cooperative agreement,'" the term itself is not defined anywhere in the relevant statutes. Instead, Petitioner argues that the use of the words intergovernmental or cooperative transforms the settlement of federal litigation into a compact limited by the statute. Importantly, the City of Tulsa has made and exercises these policy decisions pursuant to State-approved Intergovernmental Cooperative Agreements. In 2006, the State of Oklahoma entered into a Cross-Deputization Agreement with the Bureau of Indian Affairs.<sup>15</sup> The Cross-Deputization Agreement was approved in accordance with 74 O.S. § 1221. *Id.* It provides for the cross-deputization of law enforcement to "make lawful arrests in Indian country within or near the jurisdiction of the Tribe." *Id.* Pursuant to the State-approved Cross-Deputization Agreement, Tulsa Police Department Officers have the power to enforce both federal and tribal laws within the boundaries of the Muscogee Nation reservation, all in compliance with 74 O.S. § 1221. As such, the City's ability to enforce tribal law and refer charges to the Muscogee Nation for prosecution is entirely state sanctioned under the existing agreements. The litigation settlement reflects the City's policy determination to exercise that State-approved authority, and this court should deny Petitioner's request for a writ of mandamus or declaratory relief as described in Petitioner's Cause of Action III.

### **CONCLUSION**

For the foregoing reasons, Respondents move this Court to decline to exercise original jurisdiction and to deny Petitioner all requested relief.

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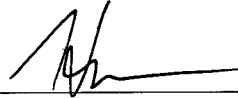
<sup>15</sup> <https://www.sos.ok.gov/documents/filelog/87419.pdf>;  
<https://www.sos.ok.gov/documents/filelog/93662.pdf>

Respectfully Submitted,

CITY OF TULSA,  
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**CERTIFICATE OF SERVICE**

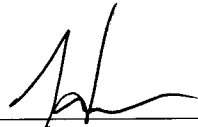
I, Hayes T. Martin, hereby certify that on the 8<sup>th</sup> day of September, 2025, I mailed a true and correct copy of the above and foregoing document with proper postage thereon applied, to:

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