

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

(1) THE CHEROKEE NATION, a federally)
recognized Indian Tribe, on its own behalf)
and as *parens patriae*,)
(2) THE CHICKASAW NATION, a)
federally recognized Indian Tribe, on its)
own behalf and as *parens patriae*, and)
(3) THE CHOCTAW NATION OF)
OKLAHOMA, a federally recognized)
Indian Tribe, on its own behalf and)
as *parens patriae*,)

Plaintiffs,)

v.)

Civil Action No. 4:25-cv-00630-CVE-JFJ

(1) WADE FREE, in his official capacity)
as Director, Oklahoma Department of)
Wildlife Conservation,)
(2) NELS RODEFELD, in his official capacity)
as Assistant Director, Oklahoma Department of)
Wildlife Conservation,)
(3) NATHAN ERDMAN, in his official)
capacity as Chief of Law Enforcement)
Division, Oklahoma Department)
of Wildlife Conservation,)
(4) J. KEVIN STITT, in his official)
capacity as Governor of the State of)
Oklahoma, and)
(5) RUSSELL COCHRAN in his official)
capacity as special counsel employed)
by the Governor,)

Defendants.)

**PLAINTIFFS’ MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65, Plaintiffs Cherokee Nation, Chickasaw Nation, and Choctaw Nation of Oklahoma (the “Nations”), on their own behalf and as *parens patriae* on behalf of their members, respectfully move this Court for a temporary restraining order

and preliminary injunction to protect their Treaty rights to hunt on their Reservations under Nation law free from state interference, and to permit members of the Five Tribes to do so in accordance with the Five Tribes Wildlife Management Reciprocity Agreement (“Reciprocity Agreement”).¹ Defendants are Wade Free, Director of the Oklahoma Department of Wildlife Conservation (“ODWC”); Nels Rodefled, Assistant Director of the ODWC; and Nathan Erdman, Chief of Law Enforcement Division for the ODWC; J. Kevin Stitt, Governor of the State of Oklahoma; and Russell Cochran, special counsel employed by Defendant Stitt, each in his official capacity (collectively, “Defendants”).

The Nations’ and their members’ rights to hunt on their Reservations, and the Nations’ right to permit and regulate hunting by their members on their Reservations under the Reciprocity Agreement, are held under their Treaties, inherent sovereign authority, and federal statutory and common law. Under settled federal law, these rights preempt state law. In addition, Defendants lack jurisdiction over Indians hunting in Indian country, as defined by 18 U.S.C. § 1151, under the decision of the United States Supreme Court in *McGirt v. Oklahoma*, 591 U.S. 894, 928-31 (2020) and the law of the Tenth Circuit, *Ute Indian Tribe v. Utah (Ute VI)*, 790 F.3d 1000, 1004 (10th Cir. 2015) (Gorsuch, J.) (quoting *Cheyenne-Arapaho Tribes v. Oklahoma*, 618 F.2d 665, 668 (10th Cir. 1980); and citing 18 U.S.C. § 1162).

However, beginning on October 8, 2025, Defendants Free, Rodefled, and Erdman publicly announced their intention to enforce state fish and game laws² against Indians, without regard to tribal membership, stating that “[t]he *Stroble v. Oklahoma Tax Commission* case ... has provided

¹ Plaintiff Nations, as well as the Muscogee (Creek) Nation and the Seminole Nation of Oklahoma, entered into the Reciprocity Agreement on July 11, 2024. *See* Ex. 1, Gamble Suppl. Decl. Ex. B. The Nations’ Motion only seeks relief as to rights held by Plaintiff Nations and their members.

² Okla. Stat. tit. 29; Okla. Admin. Code tit. 800.

clear legal confirmation that McGirt is limited to prosecuting crimes under the Major Crimes Act only,” and that “ODWC game wardens will continue to enforce the law and will issue citations to anyone in violation of the state’s fish and game laws, regardless of tribal citizenship.” Ex. 2, Dixon Decl., Attach. (ODWC, *ODWC Reaffirms Enforcement of Oklahoma’s Wildlife Laws* (Oct. 8, 2025) (“ODWC Oct. 8 Notice”). Consistent with that announcement, ODWC is now citing Indians for alleged state law hunting and fishing violations on the Nations’ Reservations and referring the citations to state courts and prosecutors for prosecution under state law. *See, e.g.* Ex. 6, Soap Decl. ¶¶ 4-6; Ex. 7, Robertson Decl. ¶¶ 4-6, 8-9; Ex. 8, Shepherd Decl. ¶¶ 3-8; Ex. 2, Dixon Decl. ¶¶ 7, 10-11; Ex. 14, Henry Decl. ¶¶ 5, 8. They have refused demands to rescind this policy. *See* Ex. 1, Gamble Suppl. Decl. ¶¶ 6-11 & Ex. A. The Attorney General of Oklahoma has announced that he will take control over and dismiss such state prosecutions as unlawful, *see Drummond to Dismiss Native American Hunting Case*, Okla. Att’y Gen. (Oct. 30, 2025),³ but Defendant Stitt has sought to thwart the Attorney General by exercising claimed state law authority, *see* Okla. Stat. tit. 74, § 6, to employ Defendant Cochran as special counsel to prosecute ODWC’s citations. Defendant Cochran is actually prosecuting Indians for such alleged non-compliance in state court, where Indians are subject to state judicial process and punishments.

Defendants’ actual and threatened actions are preventing the Nations and their members from exercising treaty rights on their respective Reservations and are nullifying the Nations’ right to regulate Nation members hunting on their Reservations. Defendants are doing so by effectively making state law control hunting by the Nations’ members on the Nations’ Reservations. These

³ <https://oklahoma.gov/oag/news/newsroom/2025/october/drummond-to-dismiss-native-american-hunting-case.html>

actual and threatened actions constitute a continuing violation of federal law, actionable under the doctrine of *Ex parte Young*, 209 U.S. 123 (1908).

Accordingly, the Nations seek to enjoin Defendants from applying or enforcing, or threatening to apply or enforce, state jurisdiction over and state laws to the Nations and their members hunting on their Reservations by means that include threatened and actual citation, fines, arrest, and detention, seizure of personal property, as well as prosecution, trial, and punishment in state court, including continuation of pending prosecutions of Indians for alleged violations of state fish and game laws in Indian country, *see State v. Shepherd*, No. WL-2025-03 (Okla. Dist. Ct. filed Nov. 13, 2025); *State v. Robertson*, No. CM-2025-136 (Okla. Dist. Ct. filed Nov. 13, 2025); and also to enjoin Defendants from interfering with the Nations' enforcement of their laws against the Nations' members hunting on the Nations' Reservations under the laws of the Nation, including each other's members doing so under the Reciprocity Agreement, and from interfering with the Nations' prosecution of violations of their laws in their own courts.

This Motion is supported by the Memorandum filed herewith, in which the Nations establish each of the four factors necessary to secure temporary or preliminary relief, namely: “(1) the movant is substantially likely to succeed on the merits; (2) the movant will suffer irreparable injury if the injunction is denied; (3) the movant's threatened injury outweighs the injury the opposing party will suffer under the injunction; and (4) the injunction would not be adverse to the public interest.” *DT Energy Grp. v. Hirschfield*, 912 F.3d 1263, 1270 (10th Cir. 2018). The relief the Nations seek will preserve the status quo by preserving “the last peaceable uncontested status existing between the parties before the dispute developed,” *see Beltronics USA, Inc. v. Midwest Inventory Distrib., LLC*, 562 F.3d 1067, 1070-71 (10th Cir. 2009), by reinstating the “last peaceable status quo exist[ing] before the [r]estrictions” on their rights imposed by

Defendants' actions beginning on October 8, *see Pryor v. Sch. Dist. No. 1*, 99 F.4th 1243, 1255 (10th Cir. 2024).

Dated: November 18, 2025

Respectfully submitted,

By: /s/ Michael Burrage

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CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2025, I electronically filed the above and foregoing documents with the Clerk of Court via the ECF System for filing, and I also caused it to be served on Defendants at the following addresses:

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