9OFs to reconsider McGirt v Oklahoma 012122

By Lawrence Hurley -- Reuters

The U.S. Supreme Court on Friday agreed to consider limiting the scope of its own 2020 ruling https://www.reuters.com/article/us-usa-court-oklahoma/u-s-supreme-court-deems-half-of-oklahoma-a-native-american-reservation-idUSKBN24A268 that greatly expanded Native American tribal authority in Oklahoma in a case involving a man convicted of child neglect.

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The justices took up the state's appeal in a case involving a man named Victor Castro-Huerta, a non-Native American whose crime was committed against a Native American child on the Cherokee Nation reservation. A state court threw out his conviction, saying the Supreme Court's 2020 ruling deprived Oklahoma authorities of jurisdiction in Castro-Huerta's case.

The 2020 ruling in a case called McGirt v. Oklahoma recognized about half of Oklahoma - much of the eastern part of the state - as Native American reservation land beyond the jurisdiction of state authorities.

The Supreme Court said it would not consider Oklahoma's request that it overturn the McGirt ruling. In its appeal, Oklahoma has asked the justices to rule that non-Native Americans who commit crimes on Native American land against Native Americans should remain under state jurisdiction.

The Oklahoma Court of Criminal Appeals in 2021 threw out Castro-Huerta's conviction in state court. Castro-Huerta by then was already indicted for the same underlying offense by federal authorities, transferred from state to federal custody and pleaded guilty to one count of child neglect. He has not yet been sentenced.

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In the state court case, Castro-Huerta was convicted of neglecting his 5-year-old stepdaughter, who has cerebral palsy and is legally blind. He was sentenced to 35 years in prison.

Oklahoma Attorney General John O'Connor, a Republican, is seeking to limit the scope of the Supreme Court's 2020 ruling that deprived state authorities of jurisdiction over hundreds of cases involving crimes committed on tribal land. The parameters of the decision are still being tested.

A win for Oklahoma would "not alleviate all of McGirt's harmful consequences in our state," O'Connor said in a statement, referring to the 2020 ruling. But, O'Connor added, it would "guarantee Indian victims the same protection and justice that other Oklahomans enjoy."

The Supreme Court is due to hear the case in April and rule by the end of June.

In a court filing urging the justices not to hear Oklahoma's appeal, the Cherokee Nation downplayed the state's suggestion that the McGirt ruling created chaos in the legal system. The tribe has entered into agreements with Oklahoma counties with respect to law enforcement cooperation and has brought more than 2,000 criminal cases in its courts since the McGirt case was decided, the tribe's lawyers wrote.

Chuck Hoskin, the tribe's principal chief, said in a statement he is pleased the court did not take up Oklahoma's "blatantly political request" to overturn the McGirt decision and called on the state's Republican leaders, who have chafed at the ruling, to now work with the tribes in implementing it.

The McGirt ruling was made on a 5-4 vote with conservative Justice Neil Gorsuch joining four liberal justices in the majority. Since then, the court has moved rightward, with conservative Justice Amy Coney Barrett replacing the late liberal justice Ruth Bader Ginsburg in 2020, leaving a 6-3 conservative majority.

Under U.S. law, tribe members who commit crimes on tribal land cannot be prosecuted in state courts and instead are subject to federal or tribal prosecution.

(Reporting by Lawrence Hurley; Editing by Will Dunham).