

SUPREME COURT  
FILED

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

MAY 29 2026

MUSCOGEE (CREEK) NATION, )  
)  
Appellant, )  
)  
v. )  
)  
THOMAS LEO BANKS, JR., )  
)  
Respondent. )

Case No.: SC-2025-11  
(District Court Case No.: CF-2024-1290)

CONNIE DEARMAN *km*  
MUSCOGEE (CREEK) NATION  
COURT CLERK

Appeal from District Court, Okmulgee District, Muscogee (Creek) Nation

Geraldine Wisner, Muscogee (Creek) Nation, Office of the Attorney General, Okmulgee,  
Oklahoma, for the Appellant, Muscogee (Creek) Nation.

Wm. Bartley Logsdon, Sapulpa, Oklahoma, for the Respondent, Thomas Leo Banks, Jr.

**ORDER AND OPINION**

**MVSKOKVLKE FVTCECKV CUKO HVLWAT VKERRICKV HVYAKAT OKETV  
YVNKE VHAKV HAKATEN ACAKKAYEN MOMEN ENTENFVTCETV, HVTVM  
MVSKOKE ETVLWVKE ETEHVLVTKE VHAKV EMPVTAKV.<sup>1</sup>**

Before: ADAMS, *C.J.*; LERBLANCE, *V.C.J.*, HARJO-WARE, MCNAC, STOMSKI,  
THOMPSON, *JJ.*

Order of the District Court affirmed.

<sup>1</sup>“The Muscogee (Creek) Nation Supreme Court, after due deliberation, makes known the following decision based on traditional and modern Mvskoke law.”

## **Per Curiam**

The Muscogee (Creek) Nation (hereinafter, the “Appellant”) submits its interlocutory appeal pursuant to M(C)NCA Title 27, App. 2, Rule 3 (A), seeking review of a Muscogee (Creek) Nation District Court *Order Denying Motion to Strike and Excuse Non-Indian Jurors*, entered on July 18, 2025. The Appellant asserts that the trial court erred in “denying the Nation’s request to strike and excuse non-Indian jurors, as the [Respondent] is an Indian for the purposes of federal and MCN law.”<sup>2</sup> On the record presented, and for the reasons set forth below, we affirm the District Court’s July 18, 2025, *Order Denying Motion to Strike and Excuse Non-Indian Jurors*.

## **BACKGROUND**

On September 25, 2024, the Appellant filed its *Criminal Complaint and Information* against Thomas Leo Banks, Jr. (hereinafter, the “Respondent”) in District Court case number CF-2024-1290. Pursuant to the *Complaint*, the Respondent was charged with one count of Domestic Abuse by Strangulation, in violation of M(C)NCA Title 14, § 2-303 (G), a felony charge, and one count of Domestic Abuse, in violation of M(C)NCA Title 14, § 2-303 (C), a misdemeanor charge.

On June 19, 2025, the Appellant filed its *Motion to Strike and Excuse Non-Indian Jurors*, arguing that the Violence Against Women Act (hereinafter, “VAWA”), and the Nation’s corresponding VAWA statutes (NCA 16-038 and NCA 22-113) create new requirements that the jury pool in VAWA cases “reflect a fair cross section of the community[,]” that does not “systemically exclude any distinctive group in the community, including non-Indians.”<sup>3</sup> The Appellant asserts that, because the Respondent is an Indian person, it is not necessary for the Nation to rely on these VAWA provisions to prosecute the Respondent for domestic abuse related

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<sup>2</sup> See, Appellant’s Notice of Intent to Appeal, pg. 1, filed in SC-2025-11 on July 28, 2025.

<sup>3</sup> See, 25 USC § 1304 (d)(3) and M(C)NCA Title 14, Chapter 1, § 1-303 (K).

offenses. Instead, the Appellant argues, the Nation may rely simply on the Indian Civil Rights Act, which affirms a tribe's sovereign power to "exercise criminal jurisdiction over all Indians[,]"<sup>4</sup> and proceed with a jury pool consisting of only Indian jurors.

To comply with the Nation's VAWA requirements, the Muscogee (Creek) Nation District Court has divided all criminal cases into two dockets: a non-VAWA docket and a VAWA docket. The VAWA docket includes all defendants whose alleged crimes would be covered under VAWA, regardless of the defendant's Indian person status. The Appellant has no objection to this division of cases, but argues that this distinction should not affect the jury pool that is used for Indian defendants. More specifically, the Appellant argues that the "fair cross-section" expanded-jury that includes non-Indian jurors, as required under VAWA, should not be utilized in cases in which the defendant is an Indian person.

On July 18, 2025, the District Court issued its *Order Denying Nation's Motion to Strike and Excuse Non-Indian Jurors*, finding:

"...[the] Nation's argument that the status of the Defendant is the determinative factor of jury selection is flawed. MCNA Title 27, Appendix 1, Rule 13 (c)(2) clearly states that defendants charged with crimes designated as domestic, dating, or family violence an impartial jury that reflects a fair cross-section of the community and does not systematically exclude any distinctive group in the community, including non-Indians. This language [is] inclusive of both Indian and non-Indian defendants."

On July 28, 2025, the Appellant timely submitted its *Notice of Interlocutory Appeal*. On July 30, 2025, this Court issued its *Order Acknowledging Receipt of Interlocutory Appeal*, and

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<sup>4</sup> See, 25 USC § 1301.

directed the presiding District Court Judge to issue a *Determination of Merit*, pursuant to M(C)NCA Title 27, App. 2, Rule 3 (A)(1-3). This was completed by the District Court on August 8, 2025, concluding that (1) the appeal may materially advance the termination of the litigation or clarify further proceedings in the litigation, and (2) may clarify an issue of general importance in the administration of justice. On August 8, 2025, this Court issued its *Order Accepting Appellant's Application for Interlocutor Appeal*, and docketed the case.

### **JURISDICTION, SCOPE, AND STANDARD OF REVIEW**

Appellate jurisdiction is proper under M(C)NCA Title 27, § 1-101 (C).<sup>5</sup> This Court will review issues of law *de novo* and issues of fact for clear error.<sup>6</sup> Each respective question will be addressed based on its applicable standard of review.

### **ISSUES PRESENTED**

1. Does Mvskoke law require the use of a VAWA jury pool (inclusive of non-Indian jurors) in cases involving crimes designated as domestic, dating, or family violence, in which the Defendant is an Indian person?

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<sup>5</sup> M(C)NCA Title 27, § 1-101 (C), vests this court with exclusive jurisdiction to review final orders of the Muscogee (Creek) Nation District Court.

<sup>6</sup> See A.D. Ellis v. Checotah Muscogee Creek Indian Community, et al., SC 2010-01 at 3, \_\_\_ Mvs. L.R. \_\_\_ (May 22, 2013); In the Matter of J.S. v. Muscogee (Creek) Nation, SC 1993-02, 4 Mvs. L.R. 124 (October 13, 1994); McIntosh v. Muscogee (Creek) Nation, SC 1986-01, 4 Mvs. L.R. 28 (January 24, 1987); Lisa K. Deere v. Joyce C. Deere, SC 2017-02 at 5, \_\_\_ Mvs. L.R. \_\_\_ (May 17, 2018); Muscogee (Creek) Nation v. Bim Stephen Bruner, SC 2018-03 at 5, \_\_\_ Mvs. \_\_\_ (September 6, 2018); Derek Huddleston v. Muscogee (Creek) Nation, SC 2018-02 at 3, \_\_\_ Mvs. \_\_\_ (October 4, 2018); Bim Stephen Bruner v. Muscogee (Creek) Nation, SC 2018-04 at 4, \_\_\_ Mvs. \_\_\_ (May 13, 2019).

## DISCUSSION

“On March 7, 2014, the President of the United States signed the Violence Against Women Reauthorization Act of 2013 (VAWA) returning to the tribes a portion of their authority over the criminal acts of Non-Native Americans as they pertain to domestic, dating, and family violence.”<sup>7</sup> In response to this federal legislation, the Muscogee (Creek) Nation updated its code of laws via NCA 16-038, which included a total repeal of M(C)NCA Title 27, § 2-111, concerning the formation of a jury pool. Subsection (B) of this now-stricken legislation provided that:

*All registered voters of the Muscogee (Creek) Nation, of sound mind and discretion, of good moral character, not judges, sheriffs or deputies, physicians, attorneys, ministers, jailer or law enforcement officers, shall be compelled to serve as jurors. Provided, however, persons over seventy (70) years of age and persons having custody of minor children may be excused.*

[Emphasis Added]

In addition to completely striking M(C)NCA Title 27, § 2-111, this new legislation (NCA 16-038) amended M(C)NCA Title 27, App. 1, Rule 13, creating a new Subsection (C), wherein the following jury formation provisions were added:

- C. Random selection of jurors from Election Board’s voter registration database.
  1. From Election Board’s voter registration database. The Voter Registration Database represents a fair selection of the communities and districts within the Muscogee (Creek) Nation. The Election Board shall annually provide the District Court with a digital copy of the Voter Registration Database to be used in the Court’s automated jury selection process. The District Court shall make a random selection of names via a reputable court management software. All expenses associated with the transfer of data for jury selection from the Election Board to the District Court shall be paid by the Judicial Branch.
  2. *From the Muscogee (Creek) Nation employee database. The purpose of this subsection is to provide defendants charged with crimes designated as domestic, dating, or family violence an impartial jury that reflects a fair cross-section of the community and does not systematically exclude any*

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<sup>7</sup> See, NCA 16-038, Section One (B).

*distinctive group in the community, including non-Indians. Recognizing that the community of the Muscogee (Creek) Nation includes individuals living or working on land owned or under the authority of the Nation, the District Court shall annually obtain a list of employees from all the Muscogee (Creek) Nation Human Resources Departments to be incorporated into the random selection process for the jury pools of defendants charged with crimes of domestic violence. All Muscogee (Creek) Nation Human Resources shall, upon request by the District Court Clerk, provide the District Court a list of employees to be incorporated into the random selection process for the jury pools of with crimes of domestic violence.*

[Emphasis Added]

This amended version of M(C)NCA Title 27, App. 1, Rule 13, represents the only current Mvskoke statutory provision concerning the formulation of a jury. Rule 13 (C)(2) clearly states that “[t]he purpose of this subsection is to provide *defendants* charged with crimes designated as domestic, dating, or family violence an impartial jury...” [Emphasis Added]. There is no distinction made in this provision between Indian or non-Indian defendants. For purposes of domestic, dating, or family violence crimes, the only interpretation that can be drawn from this statute is that all defendants (Indian and non-Indian) fall under the umbrella of Rule 13 (C)(2).

This Court has previously stated that “[w]hen a statutory provision is unambiguous, we presume the National Council intended the resulting impact of the unambiguous provision and apply the statute according to the plain meaning of its terms. Use of the “plain-meaning rule” is both an appropriate judicial deference to the National Council’s constitutional law-making authority and an analytical hurdle which limits unnecessary judicial encroachment into the law-making function.”<sup>8</sup> While the Appellant’s arguments concerning the Nation’s sovereignty and the

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<sup>8</sup> See, In Re: The Matter of the Adoption of T.J.S., a Minor Child, SC-2025-03, at 6-7, \_\_\_ Mvs. L.R. \_\_\_. (July 22, 2025), citing Huddleston v. Muscogee (Creek) Nation, SC-2018-02, at 6-7, \_\_\_ Mvs. L.R. \_\_\_ (October 4, 2018), Slay v. Muscogee (Creek) Nation Travel Plaza and Hudson Insurance Company, SC-2014-01, at 6, \_\_\_ Mvs. L.R. \_\_\_ (October 23, 2014), and Ellis v. Checotah, SC-2010-01, at 4, \_\_\_ Mvs. L.R. \_\_\_ (May 22, 2013).

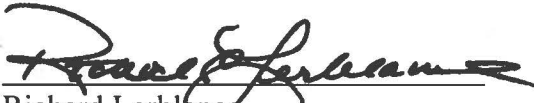
Indian Civil Rights Act are persuasive, they do not permit this Court to overstep its constitutional authority and the clear statutory language of NCA 16-038. If the National Council believes a change is warranted concerning the jury formation process that it created, then it must enact those changes through the legislation process set out under the Constitution and the National Council's rules of procedure. Until those changes have been enacted, the Judicial Branch is bound to follow the law in its current form. For these reasons, the Court affirms the District Court's July 18, 2025, *Order Denying Motion to Strike and Excuse Non-Indian Jurors*.


**CONCLUSION**


For the reasons stated above, the District Court's July 18, 2025, *Order Denying Motion to Strike and Excuse Non-Indian Jurors* is **AFFIRMED**, and the matter is remanded back to the District Court for continuation of proceedings.

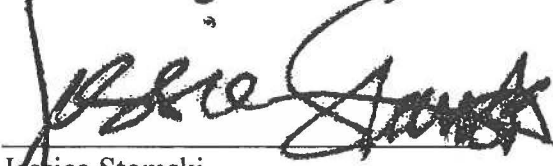
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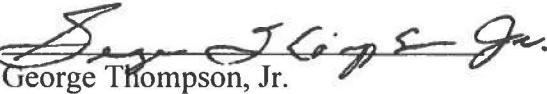
  
Andrew Adams, III  
Chief Justice

  
Richard Lerblance  
Vice-Chief Justice

  
Leih Harjo-Wade  
Associate Justice

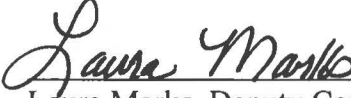
  
Amos McNac  
Associate Justice

  
Jessica Stomski  
Associate Justice

  
George Thompson, Jr.  
Associate Justice

**CERTIFICATE OF MAILING**

I hereby certify that on May 29, 2026, I mailed a true and correct copy of the foregoing *Order and Opinion* with proper postage prepaid to each of the following: Geri Wisner, and Hannah Scandy, Muscogee (Creek) Nation, Office of the Attorney General, P.O. Box 580, Okmulgee, OK 74447; and Bartley Logsdon, Law Office of WM. Bartley Logsdon, P.O. Box 125, Sapulpa, OK 74067. A true and correct copy was also hand-delivered to the Office of the Muscogee (Creek) Nation District Court Clerk.



\_\_\_\_\_  
Laura Marks, Deputy Court Clerk