Buckner v. City of Sallisaw, 2023 WL 2742735 (E.D. Okla., March 31, 2023).

- **Holding**: Inquiring whether driver of vehicle is Native American is not facially discriminatory when necessary to determine whether the appropriate venue for prosecution is state, federal, or tribal courts.
- **Summary**: Buckner, a member of Cherokee Nation, was stopped for driving with a broken headlight, and asked by the officer if he was a Native American. Buckner brought a federal action, in part under 42 U.S.C. § 1981, alleging discrimination based on his status as a Native American and the fact that the tags on his car were issued by the Cherokee Nation. The court took judicial notice of the fact that since the Supreme Court's decision in *McGirt v. Oklahoma*, 207 L. Ed. 2d 985, 140 S. Ct. 2452 (2020), that the Muscogee (Creek) Nation had not been disestablished and that the state courts had no jurisdiction over the Muscogee Nation's citizens on reservation land to prosecute crimes under the Major Crimes Act, "it has become necessary for law enforcement to ascertain if the suspect that they are detaining are citizens of Native American nations in order to determine whether the appropriate venue for prosecution is state, federal, or tribal courts." Thus, "[n]o racially discriminatory intent can reasonably be derived from the mere question of tribal citizenship." The court dismissed those portions of the complaint alleging discrimination based on Native American status.
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