



TRIBAL SUPREME  
COURT PROJECT



## TRIBAL SUPREME COURT PROJECT MEMORANDUM

### UPDATE OF SELECTED RECENT CASES

OCTOBER 31, 2025

The Tribal Supreme Court Project (Project) is part of the Tribal Sovereignty Protection Initiative and is staffed by the National Congress of American Indians Fund (NCAI Fund) and the Native American Rights Fund (NARF). The Project was formed in 2001 in response to a series of U.S. Supreme Court cases that negatively affected tribal sovereignty. The purposes of the Project are to promote greater coordination and improve strategy on litigation that may affect the rights of all Indian tribes. We encourage Indian tribes and their attorneys to contact the Project in our efforts to coordinate resources, develop strategy, and prepare briefs, especially when considering a petition for a writ of certiorari, prior to the Supreme Court accepting a case for review. You can find copies of briefs and opinions on the selected cases that we track on the newly redesigned Project website, (<http://sct.narf.org>).

The Court did not grant any Petitions in Indian law cases during its October Term 2024. October 6, 2025, was the first day of the Court's October Term 2025. Among pending Petitions, the Project currently is tracking *Stroble v. Oklahoma Tax Commission* (25-382) (State taxation) and *Turtle Mountain Band of Chippewa Indians v. Howe* (25-253) (Voting rights). These two selected cases and others are detailed further below.

### SELECTED PETITIONS PENDING

#### ALASKA v. UNITED STATES (25-320)

**Petitioner:** State of Alaska

**Petition Filed:** September 15, 2025

**Subject Matter:** Fishing regulation under Alaska National Interest Lands Conservation Act

**Lower Court:** U.S. Court of Appeals for the Ninth Circuit

**Recent Activity:** Amicus Briefs in Support of Petitioners filed October 17, 2025

**Upcoming Activity:** Responses to Petition due November 17, 2025

The United States sued the State of Alaska in federal district court seeking declaratory and injunctive relief regarding the State's orders restricting all fishing (except limited subsistence fishing) in the Kuskokwim River due to a projected low supply of Chinook salmon. The United States argued that the State's orders interfered with federal orders under the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). The Kuskokwim River Inter-Tribal Fish Commission, the Association of Village Council Presidents, Ahtna, Inc., the Alaska Federation of Natives, and several individuals were allowed to intervene as Plaintiffs. The district court granted summary judgment to the United States and the intervenors, concluding that the Kuskokwim River was "public land" under ANILCA and prior U.S. Court of Appeals for the Ninth Circuit precedent. The Ninth Circuit affirmed.

#### **CHINOOK INDIAN NATION V. BURGUM (25-313)**

**Petitioner:** Indian Tribe

**Petition Filed:** September 12, 2025

**Subject Matter:** Federal Recognition

**Lower Court:** U.S. Court of Appeals for the Ninth Circuit

**Recent Activity:** Amicus Brief in Support of Respondent filed October 16, 2025

**Upcoming Activity:** Call for Response to Petition – Response due November 11, 2025.

The Chinook Indian Nation (Nation) sued the U.S. Department of the Interior (Interior) in federal district court for federal recognition. The district court granted Interior's motion to dismiss on the ground that federal recognition of an Indian tribe is a non-justiciable political question. The U.S. Court of Appeals for the Ninth Circuit affirmed.

#### **SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS V. MICHIGAN (25-165)**

**Petitioner:** Indian Tribe

**Petition Filed:** August 8, 2025

**Subject Matter:** Treaty fishing rights

**Lower Court:** U.S. Court of Appeals for the Sixth Circuit

**Recent Activity:** Extension of time to Respond until November 10, 2025 granted

**Upcoming Activity:** Responses to Petition due November 10, 2025.

The Sault Ste. Marie Tribe of Chippewa Indians (Tribe) objected in federal district court to the court's authority to enter a proposed multi-tribe consent decree for treaty fishing rights. The district court approved the proposed decree over the Tribe's objections primarily on the ground that the proposed decree was not a consent decree but a judicial decree of a negotiated decree. The U.S. Court of Appeals for the Sixth Circuit affirmed, holding that under the law of the case doctrine the district court had continuing jurisdiction and inherent equitable power to allocate the fishing rights at issue.

### **STROBLE V. OKLAHOMA TAX COMMISSION (25-382)**

**Petitioner:** Individual Indian

**Petition Filed:** September 29, 2025

**Subject Matter:** State taxation of Indian's income in Indian country

**Lower Court:** Oklahoma Supreme Court

**Recent Activity:** Extension of time to Respond until December 1, 2025 granted

**Upcoming Activity:** Response to Petition due December 1, 2025.

Alicia Stroble is an enrolled citizen of the Muscogee (Creek) Nation (Nation). She works for the Nation on land owned by the Nation. She lives on privately owned fee land within the boundaries of the Nation's Reservation, as upheld in *McGirt v. Oklahoma*, 591 U.S. 894 (2020). The Oklahoma Tax Commission denied her request for exemption from state income taxation under an Oklahoma regulation on the ground that where she lived was not Indian country. Six justices of the Oklahoma Supreme Court affirmed in a per curiam opinion, with three Justices dissenting.

### **TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS V. HOWE (25-253)**

**Petitioners:** Indian Tribe and Individual Indians

**Petition Filed:** September 2, 2025

**Subject Matter:** Voting Rights Act

**Lower Court:** U.S. Court of Appeals for the Eighth Circuit

**Recent Activity:** Distribution for Conference rescheduled

**Upcoming Activity:** Distribution for Conference.

The Turtle Mountain Band of Chippewa Indians and three individual Indians (Plaintiffs) sued the North Dakota Secretary of State in federal district court under 42 U.S.C. § 1983 and Section 2 of the Voting Rights Act of 1965 (VRA) alleging that the State's redistricting violated the VRA Section 2, which bans voting discrimination on the basis of race, color, or language-minority membership. After a four-day bench trial, the district court ruled for Plaintiffs. A majority of a three-judge panel of the U.S. Court of Appeals for the Eighth Circuit reversed, holding that Section 2 is not enforceable by private plaintiffs suing under Section 1983, and its holding in an earlier decision that Section 2 is not privately enforceable through an implied right of action.

### **SELECTED PETITIONS DENIED**

**NONE AT THIS TIME**