

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

(1) THE HONORABLE GREG TREAT,)
Senate President Pro Tempore, in his)
official capacity, and)
(2) THE HONORABLE CHARLES MCCALL,)
Speaker of the House, in his official capacity,)

Petitioners,)

v.)

Case No. _____

THE HONORABLE J. KEVIN STITT,)
Governor of the State of Oklahoma,)
in his official capacity,)

Respondent.)

APPLICATION TO ASSUME ORIGINAL JURISDICTION AND
PETITION FOR DECLARATORY RELIEF

V. GLENN COFFEE, OBA # 14563
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ATTORNEYS FOR PETITIONERS

JUNE 4, 2020

Petitioners the Honorable Greg Treat, Senate President Pro Tempore, in his official capacity, and the Honorable Charles McCall, Speaker of the House, in his official capacity, come now, respectfully asking this Court to assume original jurisdiction and to declare that state law does not authorize the Governor to unilaterally enter into gaming agreements incorporating provisions violative of state law.

I. BACKGROUND

1. On April 22, 2020, Oklahoma Governor J. Kevin Stitt, Respondent, entered into new gaming agreements purportedly constituting Tribal-State compacts (“Agreements”) with the Comanche Nation and Otoe-Missouria Tribes.

2. The contents of the Agreements contain numerous provisions prohibited by state law.

3. Further, the Agreements were not lawfully executed by the Governor as neither was negotiated and entered into pursuant to the State-Tribal Gaming Act (“Act”), 3A O.S. 2011 & Supp. 2019, §§ 261, *et seq.*, nor approved by the Joint Committee on State-Tribal Relations pursuant to the requirements of 74 O.S. § 1221.

4. Notwithstanding the above, Governor Stitt submitted the Agreements to the Department of the Interior (“DOI”) for approval on April 23, 2020.

II. PARTIES

5. Petitioner Greg Treat is President Pro Tempore of the Oklahoma State Senate.

6. Petitioner Charles McCall is Speaker of the Oklahoma House of Representatives.

7. Respondent J. Kevin Stitt is Governor of the State of Oklahoma.

III. JURISDICTION

8. This is indisputably a matter of *publici juris*. In executing and submitting the Agreements to the DOI, the Governor has unlawfully usurped the power of the Legislature.

9. “Jurisdiction to grant declaratory relief may be assumed (1) in matters of public interest where there is (2) an element of urgency or pressing need for an early decision.” *Fent v. Contingency Rev. Bd.*, 2007 OK 27, ¶ 11, 163 P.3d 512, 521.

10. The fundamental question presented in this action represents an attempt by the executive branch to unilaterally *bind* the State to gaming activity prohibited by current state law. As such, it implicates the “core notions of our constitutional structure: both the separation of powers between branches of state government as well as the checks and balances that those branches can impose on each other.” 2020 OK AG 8, p. 3.

11. Declaratory relief is the appropriate remedy to “resolve intolerable conflicts” that “amount to a gridlock” between “co-ordinate branches of state government” and is “within the discretionary superintending jurisdiction of this court.” *Ethics Comm'n of State of Okla. v. Cullison*, 1993 OK 37, ¶ 7; *Coffee v. Henry*, 2010 OK 4, ¶ 6.

IV. MERITS

12. The Governor’s authority to negotiate and enter into compacts with Indian tribes is statutory—not constitutional. 74 O.S. § 1221(C)(1); 3A O.S. § 280. And legality is a condition precedent to tribal gaming compacts. As such, any attempt by the Executive Branch to legislate by means of entering into gaming compacts prohibited by state law violates Articles 4, Sections 1 and 36 of the Oklahoma Constitution.

13. Further, such action violates the Governor’s independent constitutional duty to cause “all laws of the State to be faithfully executed.” OKLA. CONST. art. 6, § 8.

14. Finally, by neglecting to follow either of the statutory processes for legislative approval (*see* 3A O.S. § 281 and 74 O.S. § 1221), but nonetheless submitting the Agreements to the DOI for approval, Governor Stitt has unilaterally and without authority attempted to bind the State of Oklahoma to new law of his own creation.

**V.
CONCLUSION**

For the reasons stated above and for the reasons set forth in the accompanying Brief in Support, Petitioners ask this Court to assume original jurisdiction and to declare that the Governor was without the authority to enter into the Agreements on behalf of the State and that the Agreements do not validly bind the State.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of June 2020, a true and correct copy of the foregoing was mailed by Certified Mail, Return Receipt Requested and electronic mail to the following:

The Honorable J. Kevin Stitt
Governor, State of Oklahoma
Oklahoma State Capitol
2300 North Lincoln Boulevard, Room 212
Oklahoma City, OK 73105


