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Reclaiming Our Reservation: Mvskoke Tvstvvnke Hoktvke Tuccenet (Etem) Opunayakes

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RECLAIMING OUR RESERVATION: MVSKOKE TVSTVNVKE HOKTVKE TUCCENET (E TEM) OPUNAYAKES¹

THIS IS AN EDITED TRANSCRIPT OF A SERIES OF CONVERSATIONS ABOUT THE MCGIRT
DECISION IN NOVEMBER 2020 BETWEEN MVSKOKE CITIZENS ROSEMARY MCCOMBS
MAXEY, JENNIFER FOERSTER, AND SARAH DEER.

Sarah:

I am so happy that we have time to have some “women’s talk” about the *McGirt* decision² and what it means for the future of the Muscogee (Creek) Nation (MCN) and the Mvskokvke (Mvskoke people). I come to this conversation, in many ways, as an outsider. I was raised in Wichita, Kansas—I have never lived in Oklahoma, and any allotments my ancestors may have had fell into non-Indian hands decades ago. My Mvskoke heritage comes from my patrilineal side, and both my grandfather (Isaac “Kelso” Deer) and father (Montie Deer) instilled in me a sense of duty and responsibility to speak out about all things political—but in particular, to know the history of the Southeastern tribal nations and the stories of removal. When I was a child, my father was very active in the Wichita urban Indian community, serving on the board of directors for the Mid-American All-Indian Center in Wichita and the Hunter Health Clinic. As an attorney, my father dedicated a significant portion of his *pro bono* work to represent impoverished Native families in the Wichita region. So, the ethics of integrity and service to Native people were values that were modeled for me. As a Mvskoke adult who did not grow up immersed in Mvskoke culture I struggle with how to situate myself in the work to support MCN sovereignty, particularly when it comes to land. But both of you have intimate connections to the reservation land. Can you talk about your personal, familial connections with Mvskoke reservation land?

Jennifer:

I’m a direct descendant of Lewis Perryman who was the son of Benjamin Perryman, who served as a Second chief of the Western Creeks until he died in 1835. Lewis and several of his brothers came on the first Macintosh party, which was a “voluntary” relocation, in 1827, and Benjamin went on the third. There was a belief that these families were abandoning traditional ways by voluntarily going west, but I also see, and have

1. Translation: Mvskoke Warrior Women Three (to each other) speak.

2. *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020).

learned, different stories. In particular, that possibly in this new place, we can actually create something that is not so embroiled with the madness, the growth that was happening in the South. There was a promise that in this new territory, this new region, people could carry one peacefully and no longer have to be bothered by white encroachment. There was a hope that in this new place, people could actually protect and maintain tradition and cultural identity because they weren't being so persistently invaded. So, there was a sense of hope coming west that something could actually be established, and I like to hold onto that idea, as a descendant of one of the founding families of Tulsa.

Growing up it was so significant to me, knowing that my family on my mother's side, the Perryman family, was so central to Tulsa and that Tulsa is so central to our family. I grew up in a military family and lived mostly in Europe but was able to come back to Oklahoma, to Jenks, in the summers and live with my grandparents. Their place was on my grandma's allotment land and right next to the Perryman Ranch, which was founded in 1898 as a big cattle ranch. George Beecher Perryman, who was a son of Lewis, was known as the "Cattle King" of Tulsa. He died shortly after they moved to the ranch, but his spouse, Rachel Perryman, lived there until the 1930s. Rachel Perryman has been honored in the Tulsa Historical Society Hall of Fame. She was known as "Aunt Rachel" and the story is she raised between twenty and thirty children as adoptees. There's so much history around that ranch and with the Perryman's, so when my cousin, Monetta Trepp, purchased the ranch from some of the family members and turned it into historical preservation site, the intent was really for Tulsa to recognize that the founding family of the city was a Creek family, which also means that Tulsa and the surrounding area is Creek land. While I knew this history, growing up, I began to notice how very little public evidence or acknowledgement there is of this history, of the stories of the early days of what is now Tulsa, evidence of all the Native people relocated to here who had to rebuild. There is some evidence around Tulsa, like in the Perryman Cemetery and some plaques here and there, but it doesn't seem to translate into action or people's humility, in terms of how they live in Tulsa and think about people and place.

I grew up moving around, as a military family. My dad was also from a military family, so he grew up moving around as well. I remember having interesting conversations with both my parents about the meaning of land, homeland, home, that sort of thing. From my mom, it was very clear. Even though she left Oklahoma, it was still home. It was where all of our relatives on her side of the family lived and still live; it was where we had land and had stories on and from that land. I always felt like, no matter where we traveled in the world, there was a place that I could always count on. Because I grew up traveling, I learned to adapt to adaptation and to finding new homes in new, multi-cultural environments almost annually. But knowing our family history in Oklahoma, and knowing those stories, and knowing who I'm connected to, has always been a part of that feeling of security, of having a place to return to, a place where you know you're from.

Rosemary:

My maternal grandmother Agnes Catch and two of her children, received adjacent

allotments³ of 160 each. This was circa 1901 or 1902. My mother and her sister were born after the allotment era closed so they had no land. They treated the 480 acres as joint property although the federal and county governments regarded the allottees as the individual owners. As the siblings grew up, married, and grew old, grandmother Agnes died, they rearranged themselves and redistributed the acreage among themselves. My mother inherited eighty acres of her mother's allotment and eighty acres of her oldest sister's allotment. She married my father and he moved here. I was born to this union and I grew up here (southeast of Dustin, formerly known as Watsonville, I.T.) After I graduated from college and wandered around, married, raised my own family, then my husband and I moved back to this allotment in 1999 to retire and follow the traditions that were left for us. I raise chickens and my husband raises Hereford cattle like my parents did. This allotment is alive and full of stories.

Sarah:

It is indeed full of stories! I have been so fortunate to be welcomed in your home each summer for week-long language immersion sessions over the last decade. When I was researching the best way to learn Mvskoke, our mutual friend Marcus Briggs-Cloud introduced us. I have so enjoyed spending time with you and your family on the allotment, learning language, stickball, bow shooting, basketry, and patchwork! You are so generous with your time as a fluent speaker and teacher of Mvskoke language. Can you help us understand the language that Mvskoke people use to describe treaties, reservations, and allotments? I'm always interested about how concepts can be "lost" through translation.

Rosemary:

For our discussion, I've spent some time thinking about my paternal grandmother, who's the only grandmother that I knew. She didn't speak English. And so I'm remembering that *Ekvn' Tvcke* was one of those catch-all words. Literally, "the ground has been cut up." The term could be used as boundaries around a territory, state, district, allotment, homestead. Other relevant Mvskoke terms include:

Pum ekvnyv tate—Our former lands in the Southeast.

Nene Stemerkety—The Pitiful Road (Trail of Tears)

Ekvnyv ah-vn-warhoyvte—Individual Allotment (the land cut for me.)

Etenfvccety—Treaty

Etem kvsvmet etenfvccetv—To create a treaty (The two parties (groups of leaders) agreed to enter into an agreement).

These terms are what my grandmother used to help me understand which lands she was talking about. In the sequence of events of her story, she began with *Pum ekvnyv tate* and moved through the removal. *Etem kvsvmet etenfvccetv* was regarding the leaders agreeing and making a Big Agreement which I now take to mean the removal treaty known as the "Treaty of Indian Springs" (1825)⁴ signed by some members of Creek Nation

3. General Allotment Act, Pub. L. No. 49-105, 24 Stat. 388 (codified at 25 USC 331 et seq.); Curtis Act, Pub. L. No. 55-517, 30 Stat. 495 (1898) (extending allotment policy to the Five Civilized Tribes).

4. Treaty of Indian Springs, 7 Stat. 237 (Feb. 12, 1825).

to trade our homelands for *Ekvn Tvcke*, *Indian Territory* where we had not been before. Before she received her allotment she spoke of a place where Mvskoke people lived. She referred to it as Mellette (McIntosh County) where her parents had been placed and perhaps where she was born. She referred to the allotted lands of her family members as land where nobody had lived before. Even today, her allotment is a pretty rugged place. My maternal grandmother told similar stories to my mother and her siblings. These were repeated to me. There is the sense of continuity of Mvskoke communities who lived in proximity to one another from the time before removal even until now. Today, we would continue to use the phrase *etem vkvsvmet etenfvccecakvtes* to describe agreeing to a treaty, including the 1866 treaty which was upheld by the decision in McGirt.

Sarah:

I know that allotments throughout the reservation were stolen, swindled, and sold⁵—can you say anything about your family’s experience?

Rosemary:

A lot of transformations have taken place in my lifetime regarding land, land usage, selling and buying, and land ownership, beginning with the unscrupulous nature of guardianships where allotments were sold out from under the Mvskoke people to relocations off the allotments to major cities, which took its toll on land ownership. The allotment era ended in 1906, a generation like my parents, and many didn’t have assigned lands. Rather they inherited allottees’ lands, many with undivided interests. This meant it was difficult to establish a home base if blended families didn’t have the same goal of preserving the land. If a sibling wanted her part of the inheritance sold, then a division order was executed. It became easier to sell off parcels of land and the area Bureau of Indian Affairs (BIA) facilitated it. On my paternal side’s case, my grandfather sold part of his allotment to pay for his son’s illness and surgery. Similar cases like this led to the dispossession of lands. In spite of those incidences, many people I know still come down here to look at the allotment that once was in their family. It’s like me going back to Alabama and Georgia to our “*Ekvn Tvcke Tate*” with a great deal of nostalgia and longing because in a way you can’t get that land back. My growing up years through middle age, my parents instilled in me the importance of keeping the lands, including the minerals. They said, “you know, there’s your grandpa’s land, your grandmother’s, and there’s my land.” It’s helpful to be an only child as far as inheritance goes and to pass on the importance of land and responsible ownership to my sons.

Sarah:

Growing up on the reservation in your youth in the 1950s, did people talk about treaties, removal, and reservations? I know in public schools in Kansas in the 1970s, we didn’t really learn anything about tribal nations. It actually wasn’t even until law school

5. See, e.g., GERTRUDE BONNIN, CHARLES FABENS & MATTHEW SNIFFEN, 1 OKLAHOMA’S POOR RICH INDIANS: AN ORGY OF GRAFT AND EXPLOITATION OF THE FIVE CIVILIZED TRIBES—LEGALIZED ROBBERY (1924).

that I fully understood what a reservation really means.

Rosemary:

The hallmarks of being a Mvskoke person is truth telling, honor bearing, and hardworking. We assumed that non-Mvskoke persons valued these things, too. So, when my grandmother talked about when the leaders of the Mvskoke and the United States met and agreed “*Etem vkvsvmet etenfyvcecakvtes*” on this land exchange, she and I believed it was so. It wasn’t until much later that I got access to the tools of critical analysis! So, we question who these leaders were and what their motivations were for this land exchange.

To answer your question, did I hear about the 1866 treaty while I was growing up? Yes, I heard about it as something that was valid and truthful, and I heard about it as a treaty that was “abolished” when Oklahoma became a state. As an elementary school student, I participated in the school plays that celebrated the birthday of the state of Oklahoma, November 16, 1907.⁶ It was explained to us as school children that Oklahoma and Indian Territory “married” each other. Being subject to stage fright I don’t remember much about the substance of the play, but at the irony of the performance, the Indian students and the White students were told to jump over a broom as a symbol of marriage. As far as I know this was not of either of our traditions. We concluded the play dancing around a make-belief fire and singing the Mvskoke hymn “*Heheluyvn.*” Then, everyone in the auditorium stood and we sang “Oklahoma.”

So, on the one hand, we knew about the treaty. We lived on the reservation. On the other hand, we were led to believe we would never see the treaty honored. It’s something the United States doesn’t do. It wasn’t until the 1970s when words and concepts like “sovereignty” and “self-determination” took on new meaning. New generations of thinkers, activists, writers, prophets, and dreamers begin to serve in places of leadership throughout our Nation.

Sarah:

It sounds like indoctrination by the school system—your nation’s treaty was “abolished”—without any explanation or analysis! Let’s turn to the 2019 *Murphy* case⁷ and the 2020 *McGirt* cases⁸ themselves. There were actually two cases; the first, *Murphy* case was a tie vote.⁹ I can’t remember exactly when I first heard about the *Murphy* case, but it was sometime after the 10th Circuit Court of Appeals issued their opinion. It was probably an email from a colleague who said: “hey—you need to read this—the 10th Circuit says the 1866 treaty between the Mvskoke Nation and the United States is still valid!”¹⁰ I was shocked—absolutely shocked. Even in *law school* we talked about Oklahoma as being “different” from states with reservations. When our current MCN constitution was drafted, the very first lines talk about the jurisdictional reach of the MCN

6. Oklahoma Enabling Act, Pub. L. No. 59-234, 34 Stat. 267.

7. *Royal v. Murphy*, 138 S. Ct. 2026 (2018) (decided in 2020 as a companion case to *McGirt* as *Sharp v. Murphy*, 140 S. Ct. 2412 (2020)).

8. *McGirt*, 140 S. Ct. 2452.

9. *Royal*, 138 S. Ct. 2026.

10. *Murphy v. Royal*, 875 F.3d 896 (10th Cir. 2017).

to the reservation as it existed in 1900.¹¹ So the MCN has never relinquished its claim to the entire reservation. But Oklahoma and the federal government did not share this perspective. So that's where the legal story begins—was Murphy wrongly prosecuted by the state? The 10th circuit said yes. Since the 1866 reservation has never been disestablished, the land base of the reservation still constitutes “Indian Country.”¹² So reading the 10th Circuit opinion in *Murphy* was inspiring and exciting—and a little nerve-racking. How did you hear about the case?

Rosemary:

Sarah, remember us driving and stopping by the place where Patrick Murphy murdered George Jacobs? The crime took place within ten miles of my home in 1999, the year before I moved back to Oklahoma. My late mother, on our way to church, seemed to enjoy pointing out the place where the murder took place. Today, the site is marked by a cellphone tower. I had no idea that this event marked the beginning of an arduous and meaningful journey for our Nation/Reservation. You, Sarah, are certainly one of those who brings knowledge and experience into my life. I likely would have missed this whole discussion of the 1866 Treaty and its potential for being brought to the Supreme Court if it were not for you. Our conversations, your sharing the Amicus Brief you and Mary Kathryn Nagle had written¹³ and submitted, telling me where online I could find SCOTUS proceedings. I read all those like I was studying for a major exam!

Sarah:

And then we decided to actually go to Washington D.C. to witness the oral arguments in *Murphy*. I asked if you wanted to come with me. I had attended the Dollar General¹⁴ oral arguments back in 2015 and that was the first time I attended oral arguments, so I knew a few tips/tricks of the trade in waiting in the long lines and security procedures. But I didn't want to go alone—and I'm so thankful you decided to come!!

Rosemary:

Of course I would go with you to the oral arguments at the Supreme Court.

Sarah:

We got up pretty early (4:00am) in late November to stand in line with other folks to witness the oral arguments. We knew that getting in line in the middle of the night was the only way we could assure we'd be admitted since the case was such a big deal. That was one cold morning!

11. MUSCOGEE (CREEK) NATION TRIBAL CONST. (available at <http://www.creeksupremecourt.com/mcn-constitution/>).

12. Indian country defined under 18 U.S.C. § 1151 (2006).

13. Brief of *Amici Curiae* National Indigenous Women's Resource Center, et al., *Carpenter v. Murphy*, 139 S. Ct. 626 (2018) (No. 17-1107).

14. *Dollar Gen. Corp. v. Miss. Band of Choctaw Indians*, 136 S. Ct. 2159 (2016).

Rosemary:

The experiences of that cold morning in front of Supreme Court, lining up at 4:30 in the morning, meeting up with the Mvskoke young people (Jay Fife, Ashley Fixico, Krystian Sisson) from their respective colleges and work. Eight o'clock and opening the doors could not have come soon enough. Finally, we were let in only to wait another hour to go into the chambers. There in front of us were seated our Chief James Floyd and his entourage. I enjoyed watching the staff of the Justices set up the dais for them as much as I appreciated the arguments.

Sarah:

The arguments seemed to go so quickly given the hours we had spent in line waiting. I was frustrated to hear the attorney representing Oklahoma essentially “brag” for twenty minutes about all the things Oklahoma had done in the early 20th century to try to destroy the Mvskoke Nation.¹⁵ There was no sugarcoating, no humility, no compassion, no empathy. Just a laundry list of all the harm that Oklahoma had done to tribal nations.

Rosemary:

For me, growing up on the Mvskoke reservation, I was not particularly shocked or surprised by that line of arguments. It just kind of fit in the overall Oklahoma history experience. To me Oklahoma's attorney sounded “so normal.” She presented her case sounding just like any other Oklahoma citizen might. So, the attorney for Oklahoma was playing into that narrative that was very familiar to me.

And then when the attorneys for Murphy and the MCN presented their arguments, they were very well-versed in what they needed to say and understood colonialism. The Nation's attorney, Riyaz Kanji, did a wonderful job of explaining our side.¹⁶ It was really quite illuminating and also kind of helped me deal with my past acceptance of the way things are. What I knew about the past and bringing it into the present with empowerment, sovereignty, and activism was a gift. That is part of our life now. Mr. Kanji presented a well-thought-out, concise argument to the contrary and filled with hope and exception for a Nation that could rise to the occasion and respond in a positive way. After the arguments were presented and they adjourned, I appreciate how much you helped me understand the proceedings. And we had to walk away and wait for the Supreme Court to issue a judgement. But what a dramatic day! I want to go back to you and the young people in attendance that day. You all gave me such hope and excitement about these days and for the future days of the MCN. Did you experience this event where you had submitted a brief as “just another day in the life of Sarah Deer?” Or was it more than that?

Sarah:

MUCH more than that. *Murphy* and *McGirt* are the high points as a legal scholar—the work that has given me the most satisfaction and joy. Cherokee attorney and playwright

15. Transcript of Oral Argument at 46, *McGirt*, 140 S. Ct. 2452 (No. 18-9526).

16. Transcript of Oral Argument at 27, *McGirt*, 140 S. Ct. 2452 (No. 18-9526).

Mary Kathryn Nagle first invited me to help write a brief for her client, the National Indigenous Women’s Resource Center (“NIWRC”) in the Dollar General case back in 2015 (a case that also ended in a tie with no decision issued).¹⁷ We have since filed a number of additional SCOTUS amicus briefs along the same lines. Our goal is to represent the interests of Native women, particularly victims of gender-based violence. We believe that Native women are safer when tribal nations have the authority to protect them from harm. So that’s one of the consistent themes in these briefs. For me, as a Mvskoke citizen from outside of Oklahoma, I feel strongly that I have an ongoing obligation to work *pro bono* on cases like *Murphy* and *McGirt* as a way of signaling my commitment and dedication to the Mvskoke reservation. It was the first time I felt that I was really doing something substantive to contribute to the Mvskoke people. I knew I had something to offer, and it fit well into my skill-set.

So, of course, as we know, the *Murphy* case ended in a 4-4 tie with Neil Gorsuch recusing himself.¹⁸ All of that work, writing briefs, standing in the freezing cold—only to get no decision after waiting months! But then the Court took another case with the very same legal question—and that, of course, is the celebrated *McGirt* decision.¹⁹ We knew that Gorsuch would probably not recuse himself from the *McGirt* case, so we could hopefully get a decision that wasn’t a tie vote! We weren’t able to travel to D.C. for the Supreme Court arguments in *McGirt* due to COVID pandemic—but we could listen live to the arguments on May 11, 2020. We heard basically the same arguments from the *Murphy* case—because the legal question was exactly the same—so no real surprise there. And then of course we waited for weeks and then got the ruling on July 9, and I think I might have been the person to tell you that we won. I don’t know, it’s kind of a blur because it was such a great day. How did you feel when you learned of the decision?

Rosemary:

I waited and waited with you. Each day that you followed the decisions made by the Supreme Court, you texted “Not today,” I knew we had more waiting to do. Finally, July 9, 2020, you texted, “We won.” For me, it was a sense of shock, but with jubilation. So often I assumed the decision would not be in our favor, but I also hoped and wondered what would happen within the MCN Reservation. How would we celebrate and how would we meet the challenges to come?

Sarah:

Thanks to social media and email listservs, I am well versed in how all the Indian law professors and attorneys reacted with elation! How did your local community respond to the decision?

17. *Dollar Gen. Corp.*, 136 S. Ct. 2159 (A per curiam judgment was issued stating: “The [underlying] judgment is affirmed by an equally divided Court”).

18. *Sharp*, 140 S. Ct. 2412; *Carpenter*, 139 S. Ct. 626.

19. *McGirt*, 140 S. Ct. 2452.

Rosemary:

When *McGirt* started being talked about in the media, I began to interact with different people responding to the perspectives they were hearing about. From our White neighbors and merchants I heard everything from “What yawl gonna do with all that land?” to “Are we going to have to move?” It’s hard not to over-analyze what they are really asking, but when you hear the governor and see him take a “divide and conquer” stance, I also realize my neighbors are echoing what they are hearing, not what they are experiencing in our life together. (Then there are our representatives in Congress). The state wants to take the lead and cause the MCN to react to their plans and designs. The MCN is a generous participant in Oklahoma, particularly out here on the reservation. The county roads we live on, the rural water lines, the educational resources, health care facilities undergird, subsidize what the state and counties provide, and its shared with non-MCN people. The MCN is a sovereign, knowledgeable, and resourceful Nation who has many operating programs and plans in place, and given time and opportunity, the Nation/Reservation will plot out its future, but it now has to spend time defending itself against politicians and bureaucrats.

Our citizens need time to absorb the need for reasonable and responsible responses to what we need to do. Many of us have not thought about the implications of a new way of thinking, moving from our reliance on the state to decide and model for us the way of governance to deciding for ourselves how we respond to difficult issues. I think about needing to restore our values and traditions in governance, not replicating the punitive ways of governing as modeled by colonial governments.

Sarah:

In late July, our Principal Chief David Hill invited me to serve on the Mvskoke Reservation Protection Commission.²⁰ I am so honored to be part of this effort. It’s clear that many non-Mvskoke people want to “fix” the *McGirt* decision by having Congress formally disestablish the reservation.²¹ In my role on the Commission, I am engaged in problem-solving and fact-gathering with other volunteer citizens. I believe that we can reach the full potential of the *McGirt* decision and once again govern our entire reservation rather than just the few thousand acres that were still considered Indian country before *McGirt*. It’s an exciting time, but it’s also very stressful.

Jennifer, what does this decision mean to you? You are a master with words and Gorsuch’s decision was so well-written that I wanted to get your take on it. Can an appellate opinion be poetic?

Jennifer:

This court decision is meaningful to me because it says yes, this is a promise that

20. Exec. Order No. 20-03 (July 29, 2020), <https://www.mcn-nsn.gov/wp-content/uploads/2020/07/Executive-Order-No.-3-Mvskoke-Reservation-Protection-Commission.pdf>.

21. Sheridan Betts, *OCAPA urges Congress to provide post-McGirt fairness, certainty and unity*, OCPA (Oct. 8, 2020), <https://www.ocpathink.org/post/ocpa-urges-congress-to-provide-post-mcgirt-fairness-certainty-and-unity>.

was made. And there was a lot of hope wrapped up in that promise. Not only did the promise turn out empty, but it was a cover-up for the thousands upon thousands of lost lives, lost homes, the suffering and trauma as a result of the forced relocation.

Sarah:

McGirt has been a bright spot in an otherwise very distressful 2020. This has been a very difficult year for so many people, but yet we have this Supreme Court victory.

Jennifer:

It's interesting that this decision happened to coincide with this time. This is already such a dramatic time knowing how much harder our Native and BIPOC communities are hit by COVID, so much more than the general white public.²² And on top of that, that it happened during this political atmosphere, when the tensions in our society right now, and in Oklahoma, especially, are so high. There's the tensions of race, which has come about in some of the proceedings about the Freedmen and citizenship.²³ And there's the tensions around deficit. The deficit of care, not having access to care, not having access to safety equipment. There's this excess of money that is sent out through the CARES Act²⁴, for example, yet it's paired with the deficit of real care or guidance as to how to distribute that money in a way that's most effective. I feel like the proceedings and aftermath of this decision holds all of these tensions within it, and I wonder how different this would be in a different period of time.

Sarah:

Has the *McGirt* decision offered some hope for you and your family?

Jennifer:

It is a deeply human condition to need the security of land, which is our survival, our food and water, and to know that we're able to work with the land for this survival. This history of losing space and place is embedded in us, so when we are given a new space, we say, okay, let's adapt and survive and begin to call this place our caretaker, begin to caretake this place in return.

Rosemary:

For me, that's where survival is. If the world, as my parents said, comes crashing in on you, you have this place to come back to; you have the freedom to go and do whatever it is that you want to do and come back here and pick up your responsibilities and raise some chickens.

22. Deidre McPhillips, *COVID-19's Tragic Effect on America Indians: A State-by-State Analysis*, U.S. NEWS (Oct. 7, 2020), <https://www.usnews.com/news/healthiest-communities/articles/2020-10-07/a-state-by-state-analysis-of-the-impact-of-covid-19-on-native-americans>.

23. *Cherokee Nation v. Nash*, 724 F. Supp. 2d 1159 (N.D. Okla. 2010).

24. CARES Act, 116 Pub. L. No. 136, 134 Stat. 281 (2020).

Sarah:

What do you think about the future of the Mvskoke people and what the *McGirt* decision means long-term?

Jennifer:

I think it presents, in my mind, the opportunity—and the hope—to encourage people of the Creek Nation to come together. This has always been a need and has always been a real struggle, as with any nation that has gone through many variations of identity. Before the relocation and then after the relocation, and then with Oklahoma statehood, there have been so many variations on what the idea of Creek Nation is—who's a part of it and who isn't—and how tribal towns interact with the tribal government. So, here's an opportunity to come together, and to create sovereignty, to make the decisions of how to work together as a people in a place, and not just metaphorically. The actuality of a reservation requires those decisions to be made.

I think back on some of my relatives and how many were involved in nation-making here in Tulsa, as chiefs and as postmasters, translators, and cattle ranchers. I believe that when we all were trying to rebuild a nation here, to establish a home again and to survive, that beyond survival there was a hope to recreate ourselves in a way that was positive and fair and just. And of course, that's my own insertion of that history, that's my hope. And so, I see this case as a new opportunity for that, that we really do have the ability to recreate ourselves as a more sovereign, equitable Nation. And it's not just about the boundaries, but it's also about the fact of this case being acknowledged, and this acknowledgement gives us this opportunity.

Before my Grandpa passed away, there were so many suitors knocking on his door asking to buy his land, and it basically became the crux of family conversation for the last years of his life. He was terribly worried about it because he didn't want to sell it. But he knew that every day that went by it was depreciating, because Jenks was growing, and they would eat up the land with easements anyway. It was a real stressor for our family, and I grappled deeply with my own decisions about living in and owning land in Oklahoma, about how I could help keep this land when I wasn't making the commitments to live on it and take care of it. While I speak about the importance of the reservation, I live in San Francisco. Our land in Oklahoma are now subdivisions. Yet I have this responsibility to my relatives. I feel very beholden to my family history—people in my family were translators, hymn-writers, linguists; people were also chiefs in the Nation, the city's first post-master, ranchers, diplomats, and then there's Rachel, who was such an icon in our family's history, a resilient caretaker of more than twenty children, who took care of that ranch for thirty years after her husband died and was a fierce protector of her family and the community around her family. I think about all the people in my family and the contributions they made to the Creek Nation. So, while I don't live there, I think that's why I still feel so strongly about this land, about the soundness of the reservation, about the importance of this promise that was never officially revoked. Too many people in my family fought for the continuation of the Nation for me to sit back and say it doesn't matter. I may live out here on the West Coast, but my family lives there, my family stories live there. And our Nation lives there.

Rosemary:

Since the Supreme Court decision was handed down in the midst of the COVID-19 pandemic, I have not been able to gather with my closest women friends to discuss what we think about the decision and its implications for our Nation/Reservation, I am able only to hear from a few. Mostly, the interaction has been positive. Our leaders are resourceful. We also think of them as trustworthy, and they won't sell us out. They can negotiate from a position of strength. We think the ruling is a game changer, and the outcome will be a stronger, healthier nation. There is a chorus of one of our Mvskoke hymns that can be interpreted broadly to encourage us in times like these.

Cehotosakvres, cenaorakvtes, Momis komet, awacken o-vpeyvkvres, hvlwen.

Do not be weary, do not be troubled. Keep striving, you all come. Let us go toward the high goal.

BIOS

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