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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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OKLAHOMA *v.* CASTRO-HUERTA

CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF OKLAHOMA

No. 21–429. Argued April 27, 2022—Decided June 29, 2022

In 2015, respondent Victor Manuel Castro-Huerta was charged by the State of Oklahoma for child neglect. Castro-Huerta was convicted in state court and sentenced to 35 years of imprisonment. While Castro-Huerta's state-court appeal was pending, this Court decided *McGirt* v. *Oklahoma*, 591 U. S. ___. There, the Court held that the Creek Nation's reservation in eastern Oklahoma had never been properly disestablished and therefore remained "Indian country." *Id.,* at ___. In light of *McGirt*, the eastern part of Oklahoma, including Tulsa, is recognized as Indian country. Following this development, Castro-Huerta argued that the Federal Government had exclusive jurisdiction to prosecute him (a non-Indian) for a crime committed against his stepdaughter (a Cherokee Indian) in Tulsa (Indian country), and that the State therefore lacked jurisdiction to prosecute him. The Oklahoma Court of Criminal Appeals agreed and vacated his conviction. This Court granted certiorari to determine the extent of a State's jurisdiction to prosecute crimes committed by non-Indians against Indians in Indian country.

Held: The Federal Government and the State have concurrent jurisdiction to prosecute crimes committed by non-Indians against Indians in Indian country. Pp. 4–25.

(a) The jurisdictional dispute in this case arises because Oklahoma's territory includes Indian country. In the early Republic, the Federal Government sometimes treated Indian country as separate from state territory. See *Worcester* v. *Georgia,* 6 Pet. 515. But that view has long since been abandoned. *Organized Village of Kake* v. *Egan,* 369 U. S. 60, 72. And the Court has specifically held that States have jurisdiction to prosecute crimes committed by non-Indians against non-Indians in Indian country. *United States* v. *McBratney,* 104 U. S. 621; see

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also *Draper* v. *United States,* 164 U. S. 240, 244–247. Accordingly, States have jurisdiction to prosecute crimes committed in Indian country unless preempted. Pp. 4–6.

(b) Under Court precedent, a State's jurisdiction in Indian country may be preempted by federal law under ordinary principles of federal preemption, or when the exercise of state jurisdiction would unlawfully infringe on tribal self-government. Neither serves to preempt state jurisdiction in this case. Pp. 6–20.

(1) Castro-Huerta points to two federal laws—the General Crimes Act and Public Law 280—that, in his view, preempt Oklahoma's authority to prosecute crimes committed by non-Indians against Indians in Indian country. Neither statute, however, preempts the State's jurisdiction. Pp. 7–18.

(i) The General Crimes Act does not preempt state authority to prosecute Castro-Huerta's crime. It provides that "the general laws of the United States as to the punishment of offenses committed . . . within the sole and exclusive jurisdiction of the United States . . . shall extend to the Indian country." 18 U. S. C. §1152. By its terms, the Act simply "extend[s]" the federal laws that apply on federal enclaves to Indian country. The Act does not say that Indian country is equivalent to a federal enclave for jurisdictional purposes, that federal jurisdiction is exclusive in Indian country, or that state jurisdiction is preempted in Indian country.

Castro-Huerta claims that the General Crimes Act does indeed make Indian country the jurisdictional equivalent of a federal enclave. Castro-Huerta is wrong as a matter of text and precedent.

Pointing to the history of territorial separation and Congress's reenactment of the General Crimes Act after this Court suggested in dicta in *Williams* v. *United States,* 327 U. S. 711, 714, that States lack jurisdiction over crimes committed by non-Indians against Indians in Indian country, Castro-Huerta argues that Congress *implicitly intended* for the Act to provide the Federal Government with exclusive jurisdiction over crimes committed by non-Indians against Indians in Indian country. But the text of the Act says no such thing; the idea of territorial separation has long since been abandoned; and the reenactment canon cannot be invoked to override clear statutory language of the kind present in the General Crimes Act. Castro-Huerta notes that the Court has repeated the *Williams* dicta on subsequent occasions, but even repeated dicta does not constitute precedent and does not alter the plain text of the General Crimes Act. Pp. 7–16.

(ii) Castro-Huerta's attempt to invoke Public Law 280, 67 Stat. 588, is also unpersuasive. That law affirmatively grants certain States (and allows other States to acquire) broad jurisdiction to prosecute state-law offenses committed by or against Indians in Indian country.

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18 U. S. C. §1162; 25 U. S. C. §1321. Castro-Huerta contends that the law's enactment in 1953 would have been pointless surplusage if States already had concurrent jurisdiction over crimes committed by non-Indians against Indians in Indian country. But Public Law 280 contains no language preempting state jurisdiction. And Public Law 280 encompasses far more than just non-Indian on Indian crimes. Thus, resolution of the narrow jurisdictional issue here does not negate the significance of Public Law 280. Pp. 16–18.

(2) The test articulated in *White Mountain Apache Tribe* v. *Bracker*, 448 U. S. 136, does not bar the State from prosecuting crimes committed by non-Indians against Indians in Indian country. There, the Court held that even when federal law does not preempt state jurisdiction under ordinary preemption analysis, preemption may still occur if the exercise of state jurisdiction would unlawfully infringe upon tribal self-government. *Id.,* at 142–143. Under *Bracker*'s balancing test, the Court considers tribal interests, federal interests, and state interests. *Id.,* at 145. Here, the exercise of state jurisdiction would not infringe on tribal self-government. And because a State's jurisdiction is concurrent with federal jurisdiction, a state prosecution would not preclude an earlier or later federal prosecution. Finally, the State has a strong sovereign interest in ensuring public safety and criminal justice within its territory, including an interest in protecting both Indian and non-Indian crime victims. Pp. 18–20.

(c) This Court has long held that Indian country is part of a State, not separate from it. Under the Constitution, States have jurisdiction to prosecute crimes within their territory except when preempted by federal law or by principles of tribal self-government. The default is that States have criminal jurisdiction in Indian country unless that jurisdiction is preempted. And that jurisdiction has not been preempted here. Pp. 21–25.

Reversed and remanded.

KAVANAUGH, J., delivered the opinion of the Court, in which ROBERTS, C. J., and THOMAS, ALITO, and BARRETT, JJ., joined. GORSUCH, J., filed a dissenting opinion, in which BREYER, SOTOMAYOR, and KAGAN, JJ., joined.