Supreme Court
of the Osage Nation
FILED NOV 16 2026
By

IN THE SUPREME COURT OF THE OSAGE NATION
OSAGE NATION RESERVATION
PAWHUSKA, OKLAHOMA

IN RE: ONCA 26-64

EXECUTIVE BRANCH OF THE OSAGE NATION OF OKLAHOMA

Petitioner,

v.

LEGISLATIVE BRANCH OF THE OSAGE NATION OF OKLAHOMA

Respondent.

Case No. SCO-2026-0001

NOTICE AND PETITION FOR DECLARATORY JUDGMENT

Separation of powers, this Court has held, "is not a doctrine, but an affirmative mandate within our constitution."[1] The Constitution says the branches "shall be separate and distinct," and that none may "exercise any power properly vested in" another.[2]

ONCA 26-64 crosses that line. It commands that the laptops, computer equipment, and educational materials from Daposka Ahnkodapi, a former Osage Nation school, "shall be distributed" to the Osage Nation Foundation "within forty-eight (48) hours."[3] No provision of the Constitution expressly authorizes Congress to order the Executive Branch to hand over, or

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[1] *Standing Bear v. Pratt*, No. SCO-2016-01, slip op. at 19 (Osage Nation Sup. Ct. Aug. 11, 2017).
[2] Osage Const. art. V, § 2.
[3] ONCA 26-64, § 1(A)–(B).

otherwise dispose of, equipment and materials from a former Executive Branch program. Yet ONCA 26-64 does just that, interfering with the "supreme executive power of the Osage Nation," which the Constitution vests in the Principal Chief.[4] Congress picked the recipient, set the deadline, and dictated the condition. It did so over the Principal Chief's veto and without any request from the Foundation's board, which the Constitution shields from officials who would "improperly influence the deliberations, administrations, or decisions of established board or commission proceedings."[5] This Court has recognized that the Constitution prohibits Congress from "usurping another branch's responsibilities via legislation."[6] ONCA 26-64 is that usurpation. Petitioner, the Executive Branch of the Osage Nation, through Principal Chief Joe Tillman, therefore gives notice and petitions this Court under 3 ONC § 5-108 and the Court's Rule *In re: Petitions for Declaratory Judgment Filed under 3 ONC 5-108* (Sept. 2019) for a declaration that ONCA 26-64 is unconstitutional and void.

JURISDICTION, VENUE, AND WAIVER OF IMMUNITY

1. This Court has original jurisdiction "over actions for declaratory judgment between the Legislative and Executive Branches of the Osage Nation, filed by either party against the other, to resolve disputes over interpretation of the language or provisions contained in the Osage Constitution." 3 ONC § 5-108(A); *see also* Osage Const. art. VIII, § 2 (Supreme Court may "exercise such other jurisdiction as may be conferred by statute"); 3 ONC § 5-101.

2. This petition is filed by the Executive Branch against the Legislative Branch and seeks declaratory relief alone, as 3 ONC § 5-108(D) permits. It falls squarely within the Court's

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[4] Osage Const. art. VII, § 1.
[5] *Id.* art. X, § 8.
[6] *Standing Bear v. Whitehorn*, No. SCO-2015-01, slip op. at 11 (Osage Nation Sup. Ct. Mar. 8, 2016).

original jurisdiction. *Standing Bear v. Pratt*, No. SCO-2016-01, slip op. at 5 (Osage Nation Sup. Ct. Aug. 11, 2017).

3. Venue lies with the Supreme Court of the Osage Nation. Declaratory Judgment Act Rule 3.

4. The sovereign immunity of the Osage Nation and of its elected officials in the Legislative and Executive Branches is waived for actions filed in this Court for declaratory judgment under 3 ONC § 5-108. 3 ONC § 5-108(C).

PARTIES

5. Petitioner is the Executive Branch of the Osage Nation, acting through Principal Chief Joe Tillman.

6. Respondent is the Legislative Branch of the Osage Nation, the Osage Nation Congress, whose presiding officer is Speaker Alice Goodfox.

CIRCUMSTANCES GIVING RISE TO THE CONSTITUTIONAL QUESTIONS

7. Daposka Ahnkodapi was an Osage Nation school program operated within the Executive Branch under the Secretary of Language, Culture, and Education. It closed on or around August 5, 2026. The laptops, computer equipment, and educational materials used for academic instruction there are in the possession and control of the Executive Branch.

8. On September 10, 2026, the 10th Osage Nation Congress enacted ONCA 26-64, "An Act To give the computer equipment utilized for academic instruction at Daposka Ahnkodapi to the Osage Nation Foundation; and to establish an alternate effective date," by a vote of 12 in favor and 0 against.

9. Section 1(A) of ONCA 26-64 provides: "All laptops, computer equipment and educational materials utilized for academic instruction at Daposka Ahnkodapi prior to its abrupt closure shall be distributed to the Osage Nation Foundation or its designated representative. All laptops and electronic equipment shall include the education data left on them prior to closure of the school, and shall not be wiped or have a manufacturer reset performed before distribution."

10. Section 1(B) provides: "The laptops, computer equipment and educational materials shall be distributed to the Foundation within forty-eight (48) hours of the effective date of this Act."

11. Section 2 makes the Act "effective upon signature of the Principal Chief or upon signature of the Speaker of the Osage Nation Congress following legislative override," an alternate effective date adopted by a 12–0 vote.

12. The Osage Nation Foundation is a tribally chartered nonprofit created by Charter, ONCA 08-10, as amended by ONCA 09-67, 15 ONC § 11-102. Its five-member Board of Directors is appointed by the Principal Chief and confirmed by Congress, reports quarterly to the Principal Chief, and has "complete control over the conduct of Foundation affairs," including the power to receive property on the Foundation's behalf. Charter §§ 6(b), 6(c)(v), 7(c), 9(a). The Foundation holds only those assets of the Nation formally assigned or leased to it in writing. *Id.* § 4.

13. On September 15, 2026, Principal Chief Tillman timely vetoed ONCA 26-64 under Article VII, section 11 and Article VI, section 14 and returned it to Congress with a statement of objections. The veto message objected that the Act violates Article V, section 2 and Article X, section 8, and contravenes this Court's decisions in *Standing Bear v. Whitehorn*, No. SCO-2015-01 (Osage Nation Sup. Ct. Mar. 8, 2016), and *Standing Bear v. Pratt*, No. SCO-2016-01.

14. On September 18, 2026, Congress overrode the veto by a vote of 10 to 2, and the Speaker signed the Act following the override. ONCA 26-64 became law and took effect on that same day.

15. The Executive Branch and the Legislative Branch dispute whether the Constitution permits Congress to enact ONCA 26-64. That dispute requires interpretation of Articles V, VII, and X of the Osage Constitution and is ripe for decision.

CONSTITUTIONAL QUESTIONS PRESENTED

Pursuant to Declaratory Judgment Act Rule 2(1), Petitioner states the following constitutional questions and asks the Court to certify them under Rule 4:

Question 1. Whether ONCA 26-64, which directs the Executive Branch to distribute the laptops, computer equipment, and educational materials of a former Executive Branch school program to a designated recipient within forty-eight hours, is a constitutionally permissible exercise of Congress's legislative authority, consistent with Article V, sections 1 and 2 (Separation of Powers) and Article VII, sections 1 and 5 (Executive Branch) of the Osage Nation Constitution.

Question 2. Whether ONCA 26-64, which directs that equipment, materials, and education data be distributed to the Osage Nation Foundation without any request, deliberation, or decision by its Board of Directors, improperly influences the "deliberations, administrations, or decisions" of an established board in violation of Article X, section 8 (Independence of Boards and Commissions), read together with Article V, section 2 and Article VII, section 5.

RELIEF REQUESTED

Petitioner respectfully asks the Court to declare that ONCA 26-64 violates Article V, sections 1 and 2, Article VII, sections 1 and 5, and Article X, section 8, of the Osage Nation Constitution, and is unconstitutional and void.

Dated: 16 November 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of November 2026, a true and correct copy of the above document was sent via certified mail, return receipt requested, and electronic mail to the following:

Speaker Alice Goodfox
OSAGE NATION CONGRESS
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