

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRANDEN DONNELL THOMPSON,

Defendant.

MEMORANDUM & ORDER

23-cr-161 (HG)

HECTOR GONZALEZ, United States District Judge:

Before the Court is the Government's unopposed motion *in limine* seeking a pretrial determination that, as a matter of law, 1512 North Umbrella Avenue, Broken Arrow, Oklahoma 74012 and 4513 W 187th St. S, Mounds, Oklahoma 74047 are within the boundaries of the Muscogee (Creek) Nation, and therefore within Indian Country, as defined by 18 U.S.C. § 1151(a). ECF No. 52 (Unopposed Motion).

The Tenth Circuit has recognized that “[a]s a general matter, the trial court decides the jurisdictional status of a particular property or area and then leaves to the jury the factual determination of whether the alleged crime occurred at the site.” *United States v. Roberts*, 185 F.3d 1125, 1139 (10th Cir. 1999). Thus, a trial court “acts appropriately when it makes the jurisdictional ruling a particular tract of land or geographic area is Indian Country, and then instructs the jury to determine whether the alleged offense occurred there.” *Id.*

The government—as the party invoking the court's jurisdiction—bears the “burden of persuading this court by a preponderance of the evidence that the court has jurisdiction.” *United States v. Bustillos*, 31 F.3d 931, 933 (10th Cir. 1994). Title 18, section 1151 defines “Indian Country,” in relevant part, as “all land within the limits of any Indian reservation under the jurisdiction of the United States Government.” 18 U.S.C. § 1151. The government submits for

the Court's review an image and a link to a map of the Muscogee (Creek) Nation showing that 1512 North Umbrella Avenue, Broken Arrow, Oklahoma 74012 and 4513 W 187th St. S, Mounds, Oklahoma 74047 are located within the Muscogee (Creek) Nation's Reservation boundaries. ECF Nos. 52-1, 52-2. The map is sufficient to demonstrate by a preponderance of the evidence that 1512 North Umbrella Avenue, Broken Arrow, Oklahoma 74012 and 4513 W 187th St. S, Mounds, Oklahoma 74047—the alleged locations of the charged crime—are within the limits of the Muscogee (Creek) Nation and are therefore within Indian Country. A jury, however, must determine whether the alleged crimes occurred at these locations.

Accordingly, the Government's unopposed motion *in limine*, see ECF No. 52, is GRANTED.

SO ORDERED.

/s/ Hector Gonzalez
HECTOR GONZALEZ
United States District Judge

Dated: Brooklyn, New York
January 26, 2024