

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
OKLAHOMA

Edward J. McGraw v. Sheriff Chris Morris and Unknown Deputy
Officers in their Official Capacities, and Board of County
Commissioners of Pittsburg County, Oklahoma

McGraw · No. 25-CV-335-DES · Decided April 16, 2026

SUMMARY

The Eastern District of Oklahoma grants defendants’ motion to dismiss a pro se 42 U.S.C. § 1983 action arising from a search of the plaintiff’s residence and his subsequent arrest. The court concludes that the officers acted under Choctaw Nation authority rather than under color of state law, depriving the court of subject-matter jurisdiction over the § 1983 claims. The court also deems the motion confessed based on the plaintiff’s failure to respond and dismisses the claims without prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of Oklahoma
WRITING FOR THE COURT	D. Edward Snow
JURISDICTION	United States District Court for the Eastern District of Oklahoma
DECIDED	April 16, 2026
DOCKET	25-CV-335-DES
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a pro se action under 42 U.S.C. § 1983 alleging Fourth Amendment violations arising from a search and arrest, along with an intentional infliction of emotional distress claim. Defendants moved to dismiss under Federal Rule of Civil Procedure 12(b)(1), (2), (5), and (6).
STANDARD OF REVIEW	For a facial Rule 12(b)(1) challenge, the court accepts the complaint's allegations as true and applies a review similar to Rule 12(b)(6). For a factual Rule 12(b)(1) challenge, the court may consider affidavits and other materials and need not presume the truth of the complaint's factual allegations. Even when a plaintiff fails to respond to a Rule 12(b)(6) motion, the court must examine the complaint to determine whether it states a claim.

TOPICS

subject matter jurisdiction

section 1983

tribal jurisdiction

motions to dismiss

civil procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Plaintiff's § 1983 claims could proceed when the challenged conduct was allegedly undertaken under Choctaw Nation authority rather than under color of state law.
2. Whether Defendants' motion to dismiss could be deemed confessed because Plaintiff failed to respond under the applicable local rules.
3. Whether the court was required to independently examine the complaint despite Plaintiff's failure to respond to the motion to dismiss.

HOLDINGS

1. A § 1983 action requires deprivation of a federally protected right by an actor acting under color of state law. Because the officers executed the search and arrest under Choctaw Nation authority rather than state authority, Plaintiff lacked the essential jurisdictional predicate for his § 1983 claims, and the court lacked subject-matter jurisdiction.
2. Because Plaintiff failed to respond within the period required by Local Rule 7.1(d), the court deemed Defendants' motion to dismiss confessed under Local Rule 7.1(g).
3. Even though Plaintiff failed to respond to the motion, the court was required to examine the complaint and determine whether it stated a claim upon which relief could be granted.

KEY QUOTATIONS

“Thus, “[a] § 1983 action is unavailable for persons alleging deprivation of constitutional rights under color of tribal law.””

“For the reasons set forth herein, the Court concludes that the search, seizure, and subsequent arrest of Plaintiff were carried out pursuant to tribal authority under a Choctaw Nation warrant, and not under color of state law as required to maintain a claim under 42 U.S.C. § 1983.”

FACTUAL BACKGROUND

Plaintiff, a Native American tribal member, alleged that officers unlawfully searched his residence and arrested him, violating the Fourth Amendment, and that the conduct caused intentional emotional distress. According to the motion materials, a cross-deputized Choctaw Nation and Pittsburg County officer executed a Choctaw Nation search warrant with two other cross-deputized deputies. Plaintiff was found with twelve firearms and was arrested under Choctaw Nation authority; the Choctaw Nation later charged him under its tribal code.

PROCEDURAL HISTORY

Plaintiff filed the complaint concerning a search of his residence and subsequent arrest. Defendants moved to dismiss, and Plaintiff did not respond within the time required by the local rules. Defendants then moved to deem the motion confessed. The court deemed the motion confessed, independently reviewed the complaint, granted the motion to dismiss, and dismissed the claims without prejudice for lack of subject-matter jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Bowdish v. Fed. Express Corp., 699 F. Supp. 2d 1306, 1326 (W.D. Okla. 2010)
- Issa v. Comp USA, 354 F.3d 1174, 1178 (10th Cir. 2003)
- Holt v. United States, 46 F.3d 1000, 1002-03 (10th Cir. 1995)
- Polk County v. Dodson, 454 U.S. 312, 315 (1981)
- David v. City & County of Denver, 101 F.3d 1344, 1353 (10th Cir. 1996)
- West v. Atkins, 487 U.S. 42, 49 (1988)
- Schaffer v. Salt Lake City Corp., 814 F.3d 1151, 1155 (10th Cir. 2016)
- Felder v. Casey, 487 U.S. 131, 141 (1988)
- United States v. Hopson, 150 F.4th 1290, 1299 (10th Cir. 2025)
- United States v. Wheeler, 435 U.S. 313, 322-23 (1978)
- McGirt v. Oklahoma, 591 U.S. 894, 898 (2020)
- Negonsott v. Samuels, 507 U.S. 99, 102-03 (1993)
- Ross v. Neff, 905 F.2d 1349, 1353 (10th Cir. 1990)
- Barrick v. Kasbaum, No. CIV-23-129-JFH-GLJ, 2025 WL 2993764, at *3 (E.D. Okla. July 9, 2025)
- Burrell v. Armijo, 456 F.3d 1159, 1174 (10th Cir. 2006)

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