

FILED

JUN 23 2016

CHOCTAW SUPREME COURT
BY *[Signature]*
COURT CLERK 1:39pm

IN THE TRIBAL SUPREME COURT OF THE
MISSISSIPPI BAND OF CHOCTAW INDIANS

MISSISSIPPI BAND OF CHOCTAW INDIANS

VS.

NUMBER SC2016-06

YUNNEL WILLIS

DEFENDANT

NOTICE OF APPEAL


COMES NOW, Kevin J. Payne, Special Prosecutor, by and through the Office of the Attorney General of the Mississippi Band of Choctaw Indians and file this, Notice of Appeal to the Supreme Court, from the Judgment, final Order, and all adverse rulings and orders rendered against the Mississippi Band of Choctaw Indians, by the Choctaw Tribal Court of the Mississippi Band of Choctaw Indians, by the Honorable Peggy Gibson on May 26, 2016. A copy of said Order rendered in the Choctaw Tribal Court Criminal Cause number 2016-299 is attached as Exhibit "A."

The Tribe would respectfully submit that the Jury was erroneously instructed on the law relating to Driving Under The Influence of Intoxicating Liquor contained in Choctaw Tribal Code §4-5-9. Further, the Tribe would aver that the Jury was specifically instructed that the Tribe was required to prove an alcohol concentration of .10 even when presented with the undisputed fact that the defendant refused to submit to a Breath Alcohol Test. In light of the Tribe's adoption of the Mississippi Traffic Rules as set forth in §4-5-10 this ruling forecloses all avenues of prosecution that would normally be viable under the theory of "common law DUI" as established by *Mississippi Band of Choctaw Indians vs. Donovan Allen*, S.C. 2013-03. The current state of the Trial Court's interpretation of the law creates a result wherein a person could not be prosecuted for such an offense if they refuse to take the offered test.

The Tribe would respectfully request that this Honorable Court consider an expedited review of the Trial Court's Order due to the ruling being contradictory to prior accepted court procedure, tribal code interpretations and accepted applications of law, combined with its negative impact on future cases involving similar circumstances.

Respectfully submitted, this the 23rd day of June 2016.

MISSISSIPPI BAND OF CHOCTAW INDIANS
Office of the Attorney General



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CERTIFICATE OF SERVICE

I certify that on this the 23rd day of June 2016 that I delivered an electronic copy of the above Notice of Appeal to:

Honorable Peggy Gibson
Choctaw Tribal Criminal Court Judge
PGibson2@choctaw.org

Honorable Kevin Brady
kevin.brady@choctaw.org

Dated June 23, 2016



Kevin J. Payne
Special Prosecutor
Mississippi Band of Choctaw Indians
Office of the Attorney General