

FILED

MAY 18 2020

CHOCTAW SUPREME COURT
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CHOCTAW TRIBAL COURT
MISSISSIPPI BAND OF CHOCTAW INDIANS

MISSISSIPPI BAND OF CHOCTAW INDIANS

APPELLEE

VS.

CAUSE NO. 2018-01

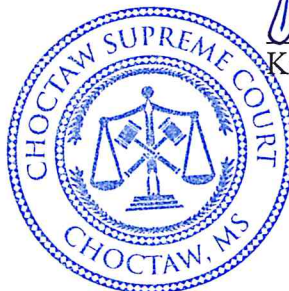
CHERIENA B. BEN

APPELLANT

MEMORANDUM ORDER OF REMAND

This interlocutory appeal filed on January 10, 2018, before this Court sought review of the criminal court's January 5, 2018 Order Denying Defendant's Motion to Dismiss for Failure to Charge an Offense. Defendant was seeking a dismissal of the charge of driving under the influence (DUI) as a common law offense. This Court granted the request for interlocutory appeal and issued a stay in criminal court cause number CR 2017-1488. At the time of this appeal, there was already pending before this Court two other direct appeals with this same underlying issue. This Court consolidated the two direct appeals and issued a decision answering this recurring question before the Court in *Davita McClelland v. Mississippi Band of Choctaw Indians*; *Angela Dianne Bell v. Mississippi Band of Choctaw Indians*, Mississippi Band of Choctaw Indians Supreme Court, SC 2017-04 (December 20, 2019) ("*McClelland/Bell*"). The parties in *McClelland/Bell* fully briefed and argued whether the Choctaw Code provided for a common law DUI and the Court detailed its findings in the opinion issued. This Court found that common law DUI is fully prosecutable under CC § 4-5-9 as a Class B offense in the first instance. *McClelland/Bell* thereby renders any further proceedings in this interlocutory appeal moot.

Based upon the foregoing, this case is remanded to the criminal court and the stay is lifted on further proceedings in CR 2017-1488.



[Signature]
Kevin Briscoe, Chief Justice

CERTIFICATE OF SERVICE

I, do hereby certify that I have this, the 18th day of May, 2020 cause to be forward by electronic mail, United States mail and/or hand delivered, a true and correct copy of the above and foregoing document to the below listed counsel of record.

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Jane Charles, Clerk of Court

