

OCTOBER TERM, 2017

VS.

Petitioner Darrell W. Frederick, respectfully requests this Court permit him to proceed *in forma pauperis* on his Petition for Writ of Certiorari to the Oklahoma Court of Criminal Appeals. Petitioner is without ample funds to file this Petition. (See attached *Amended Notice of Intent to Appeal*, Parts II and III, pgs. 2-4) See also Rule 1.14, *Rules of the Oklahoma Court of Criminal Appeals*, Okla. Stat. tit. 22, Ch. 18, App. (2011)).

Petitioner was previously found indigent in the District Court of Oklahoma County and was permitted to file without costs in the Oklahoma Court of Criminal Appeals.

ROBERT A. RAVITZ
Public Defender of Oklahoma County

By:



GINA K. WALKER (OBA No. 15132)

Assistant Public Defender

320 Robert S. Kerr

611 County Office Building

Oklahoma City, Oklahoma 73102

(405) 713-1550

COUNSEL FOR PETITIONER



IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,) Case No. CF-2011-1946
)
Plaintiff,) Appellate Case No. D-2015-15
)
) TYPE OF APPEAL
) **(X) Direct Appeal (felony)**
vs.) () Direct Appeal (misdemeanor)
) () Post Conviction (Capital
DARRELL WAYNE FREDERICK,) only; use sections I &
) IV of this form for the
Defendant.) Notice of Intent to Seek Review)
FILED IN DISTRICT COURT) **(X) CAPITAL**
OKLAHOMA COUNTY

JAN 13 2015

TIM RHODES
COURT CLERK

46

AMENDED

NOTICE OF INTENT TO APPEAL;

ORDER DETERMINING INDIGENCY, APPELLATE COUNSEL,
PREPARATION OF APPEAL RECORD, AND GRANTING TRIAL COUNSEL'S
MOTION TO WITHDRAW; COURT REPORTER'S ACKNOWLEDGEMENT; AND
NOTIFICATION OF APPROPRIATE APPELLATE COUNSEL, IF APPOINTED

I. NOTICE OF INTENT TO APPEAL

The Defendant was sentenced on the 5th day of January 2015, for:

<u>Crime(s)</u>	<u>Statute(s)</u>	<u>Sentence</u>
Ct. 1: murder in the first degree	Okla. Stat. tit. 21, § 701.7	Death
Ct. 2: assault with a dangerous weapon	Okla. Stat. tit. 21, § 645	25 years
Ct. 3: assault & battery (domestic abuse)	Okla. Stat. tit. 21, § 644	1 year

The Defendant intends to appeal the above conviction to the Oklahoma Court of Criminal Appeals pursuant to Okla. Stat. tit. 22, § 1051 (2011) and Okla. Stat. tit. 21, § 701.13 (2011). This Notice of Intent to Appeal and the Designation of Record, attached as Exhibit "A", pursuant to Rule 2.5(A) of the Rules of the Court of Criminal Appeals, Ch.18, App., of Title 22, was filed with the clerk of the trial court within ten (10) days of the date of the pronouncement

of the Judgment and Sentence in this case and constitutes a valid initiation of a direct appeal in accordance with the Court of Criminal Appeals Rule 2.1(B). The Defendant further requests that the original record and transcripts be prepared in accordance with the completed Designation of Record, attached as Exhibit "A".

James T. Rowan
JAMES T. ROWAN

- ☐ Retained
- ☒ Appointed
 - ☐ Individual
 - ☐ Oklahoma Indigent Defense System
 - ☒ Oklahoma County Public Defender
 - ☐ Tulsa County Public Defender

A true and correct certified copy of the Notice of Intent to Appeal and the Designation of Record with acknowledged receipt by the court reporter were mailed this ____ day of _____, 2015, to the Clerk of the Oklahoma Court of Criminal Appeals.

James T. Rowan
JAMES T. ROWAN

Assistant Public Defender
OBA No. 7789
320 Robert S. Kerr, Room 611
Oklahoma City, OK 73102
(405) 713-1550

II. APPLICATION FOR DETERMINATION OF INDIGENCE

In accordance with Rule 1.14 of the Rules of the Court of Criminal Appeals, 22 O.S., Ch.18, App., the Defendant submits that he is indigent and cannot pay the costs of an appeal. Counsel states:

- ☒ Indigence has been previously determined by this Court or its designee, and a pauper's affidavit in accordance with Rule 1.14(A) will be provided if this Court elects to review the Defendant's status.
- ☐ Indigence has not been previously determined by this Court or its designee, and a pauper's affidavit in accordance with Rule 1.14(A) is attached as Exhibit "C".

It is requested that appropriate counsel be appointed and transcripts be prepared at the expense of the State.

James T. Rowan
JAMES T. ROWAN

III. DETERMINATION OF INDIGENCE

Pursuant to Rule 1.14 of the Rules of the Court of Criminal Appeals, Ch.18, App., of Title 22, this Court finds the Defendant (X)IS ()IS NOT currently indigent.

THE COURT ORDERS:

A. Preparation of the Appeal Record:

1. A record of this case (X)IS ()IS NOT to be prepared at public expense.
2. The court reporter(s) listed below (X)SHALL () SHALL NOT be reimbursed at public expense out of the Court Fund of Oklahoma County for preparation of this record.

Name:	Kristin Taylor	Kim Lewin
Mailing Address:	321 W. Park Avenue Okla. City, OK 73102	321 W. Park Avenue Okla. City, OK 73102

Transcript Type:	<u>Jury Trial</u>
Transcript Date:	<u>November 3, 4, 5, 6, 7, 10, 12, 13, 2014</u>

Transcript Type:	<u>Motions</u>	<u>Sentencing</u>
Transcript Dates:	<u>July 29, 2014</u> <u>August 15, 2014</u>	<u>January 5, 2015</u>

3. The return to the trial court clerk all transcripts prepared at state expense during the course of the trial proceedings. These transcripts shall be returned within ten (10) day from the date of sentencing. See Rule 3.2(E).

B. IF INDIGENT:

1. James T. Rowan, trial counsel for the Defendant, timely completed this Notice of Intent to Appeal and has timely filed a Designation of Record.
2. The court reporters have been served with a copy of the Designation of Record.
3. Appropriate transcripts are ordered at public expense.
4. **Robert A. Ravitz**, ()CHIEF, CAPITAL DIRECT APPEALS DIVISION OF THE OKLAHOMA INDIGENT DEFENSE SYSTEM (if the case was tried as capital, regardless of sentence imposed) ()CHIEF OF THE GENERAL APPEALS DIVISION OF THE OKLAHOMA INDIGENT DEFENSE SYSTEM (if the case was tried as non-

capital)()PUBLIC DEFENDER OF TULSA COUNTY (X)**PUBLIC DEFENDER OF OKLAHOMA COUNTY** ()A PRIVATE ATTORNEY. **ADDRESS: 611 County Office Bldg, Oklahoma City, OK 73102, TELEPHONE: (405) 713-1550, is appointed to represented the Defendant on appeal.**

(The public defender of Tulsa County and Oklahoma County may only be appointed if that office represented the defendant at trial unless a conflict of interest exists as determined.)

5. Any Supplemental Designation of Record by the Oklahoma Indigent Defense System pursuant to Section 1362 of Title 22 must be filed and served upon the appropriate court reporter(s) within thirty (30) days from the date of appointment.

6. James T. Rowan, trial counsel for the Defendant, is permitted to withdraw as counsel of record.

7. Cases in which death penalty imposed: Kristi Christopher, Chief of the Capital Post-Conviction Division of the Oklahoma Indigent Defense System, is appointed to represent the defendant on the filing of an application for post-conviction relief in accordance with the provisions of §§ 1089 and 1356 of Title 22.

C. IF NOT INDIGENT:

1. N/A, trial counsel for the Defendant, timely completed this Notice of Intent to Appeal and has timely filed a Designation of Record.


2. The court reporter(s) has been served with a copy of the Designation of Record.

3. N/A, has entered his/her appearance and will represent the Defendant on appeal as retained counsel.

4. N/A, trial counsel for the Defendant, has filed a Motion to Withdraw as Counsel. The Motion is granted and trial counsel is permitted to withdraw as counsel of record.

IT IS SO ORDERED.

This Order signed this 15 day of January 2015.


TIMOTHY R. HENDERSON, District Judge

NOTE: A NOTICE OF INTENT TO APPEAL AND DESIGNATION OF RECORD MUST BE FILED WITHIN TEN (10) DAYS FROM THE DATE THE SENTENCE IS PRONOUNCED IN OPEN COURT WITH THE CLERK OF THE TRIAL COURT. THIS NOTICE AND DESIGNATION IS JURISDICTIONAL AND FAILURE TO TIMELY FILE CONSTITUTES WAIVER OF THE RIGHT TO APPEAL. A CERTIFIED COPY OF THIS NOTICE AND DESIGNATION SHALL ALSO BE FILED BY TRIAL COUNSEL WITH THE CLERK OF THE COURT OF CRIMINAL APPEALS WITHIN TEN (10) DAYS FROM THE DATE THE NOTICE IS FILED IN THE TRIAL COURT. NO TRIAL ATTORNEY MAY BE GRANTED PERMISSION TO WITHDRAW, IF THE DEFENDANT DESIRES TO APPEAL, UNLESS THESE DOCUMENTS ARE FILED. IF THE DEFENDANT DOES NOT WISH TO APPEAL THIS CONVICTION, TRIAL COUNSEL MUST FILE AN AFFIDAVIT SIGNED BY TRIAL COUNSEL AND ACKNOWLEDGED BY THE TRIAL JUDGE WITH THE CLERK OF THE DISTRICT COURT, BEFORE TRIAL COUNSEL IS ALLOWED TO WITHDRAW, ASSERTING THAT THE DEFENDANT HAS BEEN FULLY ADVISED OF HIS/HER APPEAL RIGHTS AND DOES NOT WISH TO PURSUE AN APPEAL OF THE CONVICTION. See Rule 1.14(D).

IV. COURT REPORTER'S ACKNOWLEDGMENT

- A. The Designation of Record, attached as "Exhibit A", was received on _____, 2015.
- B. IF NOT INDIGENT, satisfactory arrangements () have () have not been made for payment of the transcript cost. These financial arrangements were completed on _____, 2015. If payment has not been made/arranged, explain why:
- C. Number of trial and/or hearing days: _____.
- D. Estimated number of transcript pages: _____.
- E. Estimated completion date: _____.
- F. I acknowledge receipt of this document and understand I must prepare the record within the time limits prescribed by the Oklahoma Court of Criminal Appeals.

DATE: 1-13-2015


KRISTIN TAYLOR, Official Court Reporter

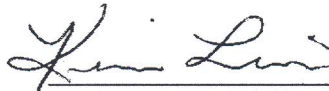
Kim Lewin

- A. The Designation of Record, attached as "Exhibit A", was received on 1-13, 2015.
- B. IF NOT INDIGENT, satisfactory arrangements () have () have not been made for payment of the transcript cost. These financial arrangements were completed on _____, 2015. If payment has not been made/arranged, explain why:
- C. Number of trial and/or hearing days: 301.
- D. Estimated number of transcript pages: 30.
- E. Estimated completion date: 3-13-15.

- F. I acknowledge receipt of this document and understand I must prepare the record within the time limits prescribed by the Oklahoma Court of Criminal Appeals.

DATE:

1-13-15



KIM LEWIN, Official Court Reporter

V. NOTIFICATION OF COUNSEL, IF APPOINTED

NOTE: No Designation of Record shall be accepted for filing by the trial court clerk unless it contains one of the following:

- A. A signed acknowledgment from the court reporter(s) who reported proceedings in a case indicating receipt of the request for transcript(s), the date received, and completed financial arrangements, or an order of the trial court directing the case be prepared at public expense; or,
- B. A signed statement by the attorney preparing the designation of record stating that transcripts have not been ordered and a brief explanation why. (Example, I, _____, attorney for the Appellant, hereby state that I have not ordered a transcript because: (1.) A transcript is not necessary for this appeal; (2.) No stenographic reporting was made.)

A true and correct certified copy of this Notice and Order and the Designation of Record were mailed this ____ day of _____, 2015, to () the Capital Direct Appeals Division, Oklahoma Indigent Defense System, 1660 Cross Center Drive, Norman, Oklahoma 73019; () the General Appeals Division, Oklahoma Indigent Defense System, P.O. Box 926, Norman, Oklahoma 73070-0926; () Public Defender of Oklahoma County, 611 County Office Building, 320 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102; () Public Defender of Tulsa County, 189 Courthouse, 500 South Denver Avenue, Tulsa, Oklahoma 74103; () _____, privately retained counsel.

Deputy Court Clerk, Oklahoma County

EXHIBIT "A"

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA**

THE STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CF-2011-1946
)	
DARRELL WAYNE FREDERICK,)	
)	
Defendant.)	

AMENDED
DESIGNATION OF RECORD ON APPEAL
(Capital Direct Appeal and Mandatory Sentence Review)

Defendant Darrell W. Frederick, requests the Court Clerk to prepare the original record for purposes of lodging an appeal in the Court of Criminal Appeals. The appeal time is to start from the 5th day of January, 2015, the date Judgment and Sentence was imposed by the District Court. Said original record shall contain the following material from the District Court file:

- 1) District Court Information (and all amendments, if any);
- 2) All motions, applications, notices, and requests filed on behalf of the State or Defendant and any orders or rulings of the Court thereon;
- 3) All first and second stage jury instructions proposed and/or drafted but not given (if any), and verdict forms given by the Court and all requested jury instructions and verdict forms by the State or Defendant – this is a jury trial, there should be jury instructions and signed verdict forms;
- 4) A copy of the Court's docket sheet in this case and any Court minutes referenced therein;
- 5) The Death Warrant, Judgment and Sentence, and Summary of Facts on sentencing;
- 6) Notice of Intent to Appeal with Designation of Record attached as Exhibit "A"; Order Determining Indigence, Appellate Counsel, Preparation of Appeal

Record, and Granting Trial Counsel's Motion to Withdraw; Court Reporter's Acknowledgment; and Notification of Appropriate Appellate Counsel, If Appointed.

- 7) All Amended or Supplemental Designations of Record, if any;
- 8) Capital Trial Judge's Report;
- 9) All documentary exhibits of State, Defendant, and/or Court if any;
- 10) All correspondence filed in the district court between all parties and any and all correspondence of the court to any party, if any;
- 11) Transcript of the Preliminary Hearing held on August 5, 2011 before Judge D. Fred Doak (***previously transcribed and 2 copies filed in the district court by Court Reporter Teresa St. Clair.***)

In addition to the above-numbered documents, the following portions of the record will be transcribed and assembled by the Court Reporters:


Voir dire examination, all pre-trial motion hearings, all hearings on competency, all in-camera hearings, trial docket call, all in-chamber conferences, any and all ex-parte records made outside the hearing of the jury, all opening statements and closing arguments of counsel; as well as all trial proceedings and evidence introduced at trial. The testimony of all witnesses both in the presence of the jury and out of the jury's presence; objections and exceptions, and arguments in support of the objections, exceptions and motions, including Motions for New Trial, as well as the sentencing transcripts, all of the above being stenographically reported. All documentary, physical, and photographic exhibits, including audio and video tape recordings, and any and all medical records or other records inspected in camera by the trial judge under seal or otherwise.



JAMES T. ROWAN

ACKNOWLEDGEMENT

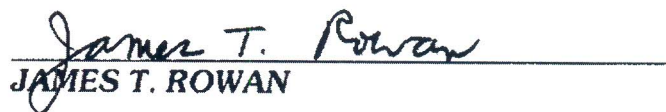
We, Kristin Taylor and Kim Lewin, Court Reporters for the above-styled and numbered case, do hereby acknowledge this request for transcripts this 13 day of January, 2015.


KRISTIN TAYLOR, Court Reporter


KIM LEWIN, Court Reporter

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Designation was served on the Oklahoma County District Attorney, and on Court Reporters Kristin Taylor and Kim Lewin, who took said proceedings before Judge Timothy R. Henderson. Dated this ____ day of January, 2015.


JAMES T. ROWAN

DESIGNATION OF PARTIES

ATTORNEYS FOR DEFENDANT

James T. Rowan, #7789
Timothy M. Wilson, #9747
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