

No. 19-8303

IN THE

SUPREME COURT OF THE UNITED STATES

WADRESS HUBERT METOYER, JR.,

Petitioner,

v.

DELYNN FUDGE, ET AL.,

Respondent.

On Petition For A Writ Of Certiorari

To The United States Court of Appeals

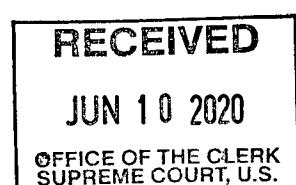
For the Tenth Circuit

REQUEST TO FILE SUPPLEMENTAL BRIEF TO WRIT OF CERTIORARI

PURSUANT TO U.S. SUP. CT. RULE 15, 28 U.S.C.A.

WADRESS H. METOYER, JR., #88275  
NFCC  
1605 E. MAIN ST.  
SAYRE, OKLAHOMA 73662.

Pro Se Litigant



## QUESTION PRESENTED

1. Did Oklahoma's Truth-in-Sentencing Act/Laws originally mandate by Oklahoma House Bill #1213, cited as: Title 57, O.S. Supp. 1997, § 332.7., and now presently mandated by Oklahoma House Bill #2286, cited as: Title 57, O.S. Supp. 2018, § 332.7., Clearly, impose an obligation and duty on the Oklahoma Pardon and Parole Board by the Oklahoma Legislature, to establish and administer a procedure for persons in the custody of the Oklahoma Department of Corrections for a crime committed prior to July 1, 1998, for reconsideration of persons denied parole and procedure for determining what sentence a person eligible for parole consideration would have received pursuant to Section 6, 598, 599, 600 and 601, Chapter 133, O.S.L. (1997) Applicable Matrix. According to precise Statutory Language "Shall" connoting a requirement imposing a mandatory duty, which should be reviewed pursuant to this Court's recent decision in **Kingdomware**, 579 U.S. At \_\_\_\_\_, 136 S.Ct. At 1977 (Decided April 27, 2020) Reversed and Remanded.

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## CONSTITUTION AND STATUTORY AUTHORITIES

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**Other:**

House Bill #1213, c. 133, § 133, 26, emerg. Eff. July 1, 1997 (Amended by laws 1997; Appendix A, and House Bill #2286, Amended by laws 2018, c. 117, § 2, eff. date November 1, 2018/cited as; 57, O.S. Supp. 2018, § 332.7., Section, 598, 599, 600 and 601, Chapter 133, O.S.L. (1997); Appendix B, and Oklahoma's District Court order entered by District Court Judge Virgil C. Black; Appendix C.

## **JURISDICTION STATEMENT**

Petitioner Wadress H. Metoyer, Jr., appearing Pro Se, respectfully request this Honorable Court, the Supreme Court of the United States allow him to Supplement his Petition for Writ of Certiorari in Wadress Metoyer, Jr., v. Delynn Fudge, in Her Individual and Official Capacity as Executive Director of the Oklahoma Pardon and Parole Board, et al filed on April 6, 2020 and placed on the April 19, 2020 docket as Case No. 19-8303 for constitutional violation. 14<sup>th</sup> Amendment – due process of law.

Due to this Court's recent decision in *Kingdomware*, 579 U.S. At \_\_\_\_, 136 S.Ct. At 1977, this Court granted certiorari on April 27, 2020, twenty-one (21) days after petitioner's filing and eight (8) days after the docketing of his case, that the Supreme Court Justice Sotomayor, held: (1) Risk corridors statute directly created a payment obligation; and (3) Risk corridors statute was fairly interpreted as mandating compensation for damages, so that insurer's payment claims fell within Tucker's Act's waiver of immunity of United States. (Reversed and Remanded). See U.S. Sup. Ct. Rule, 28 U.S.C.A. 15, giving this Court jurisdiction.

## **STATEMENT FOR SUPPLEMENTAL BRIEF**

Petitioner argued and Presented to the United States District Court for the Western District of Oklahoma, Case No. CIV-19-406-SLP and, to the United States Court of Appeals for the Tenth Circuit, Case No. 1924 that he had a Statutory Liberty Interest Right protected by the due process clause of the 14th Amendment to certain mandatory procedures during his parole consideration and reconsideration proceedings mandated by the statutory language, phrases, intent, design, provisions and context connoting a requirement signed to Oklahoma's Truth-in-Sentencing Act/Laws Statutes, Title 57, O.S. Supp. 1997-2018, § 332.7., and its subsections for persons crimes committed prior to July 1, 1998, creating an obligation and duty to the Oklahoma Pardon and Parole Board (PPB) to determine "what sentence he would have received pursuant to the provision mandated upon Oklahoma's Applicable Matrix" with references to the provisions of Sections 6, 598, 599, 600 and 601, Chapter 133, O.S.L. (1997), Applicable Subsection 332.7.O., Supp. 2018, which were denied by the PPB in violation of due process of law, when the PPB failed it's obligation and duty pursuant to mandatory language "Shall" presented in Oklahoma's newly enacted Truth-in-Sentencing Act/Laws for his crime committed prior to July 1, 1998, Effective date November 1, 2018.

Petitioner argued and relied on Oklahoma's House Bill #1213 cited as: Title 57, O.S. Supp. 1997, § 332.7 and its applicable subsections which provides for his crime committed prior to July 1, 1998, certain mandatory procedures, such as:

A. For a crime committed prior to July 1, 1998, any person in the custody of Department of Corrections "Shall" be eligible for consideration for parole who has:

1. Completed serving one-third (1/3) of the sentence;

B.1. Any inmate who has parole consideration dates calculated pursuant to section A of this section "Shall" be considered at the earliest such date.

2. The Department of Corrections and the Pardon and Parole Board "Shall" promulgate rules for the implementation of section A of this section. The rules "Shall" include, but not be limited to, procedures for reconsideration of persons denied parole under this section and procedure for determining what sentence the person would have received under the applicable matrix. Please read also subsection D.1. For a crime committed on or after July 1, 1998, which states: For any person convicted of a crime in Schedule A, which was the "only" subsection repealed from House Bill #1213 Oklahoma's Truth-in-Sentencing Act/Laws in 1998. See Appendix "A" attached.

Petitioner also argued and relied on Oklahoma Truth-in-Sentencing Act/Laws Amended by laws 2018, Oklahoma House Bill #2286, c. 117 § 2 Effective date November 1, 2028, cited as 57, O.S. Supp. 2018, § 332.7., which mandated in its applicable subsections:

A. For a crime committed prior to July 1, 1998, any person in the custody of the Department of Corrections "Shall" be eligible for consideration for parole at the earliest of the following dates:

1. Has completed serving one-third (1/3) of the sentence;

D.1. At the initial hearing the Pardon and Parole Board "Shall" review the completed report submitted by the staff of the Board and "Shall" conduct a vote regarding whether, based upon that report, the Board decides to consider the person for parole at a subsequent meeting of the Board;

F. Any person in the custody of the Department of Corrections for a crime committed prior to July 1, 1998, who has been considered for parole on a docket created for a type of parole consideration that has been abolished by the Legislature "Shall" not be considered for parole except in accordance with this section.

G. The Pardon and Parole Board "Shall" promulgate rules for the implementation of subsection A, B and C of this section. The rules "Shall" include, but not be limited to, procedures for reconsideration of persons denied parole under this section and procedure for determining what sentence a person eligible for parole consideration pursuant to subsection A of this section would have received under the applicable matrix.

O. All references in this section to matrices or schedules "Shall" be construed with reference to the provisions of Sections 6, 598, 599, 600 and 601, Chapter 133, O.S.L. (1997), revived, enacted and mandated by effective date November 1, 2018.

#### **REASON FOR GRANTING SUPPLEMENTAL BRIEF TO PETITION**

This Court should grant petitioner's request to supplement his petition to this Court's recent decision under **Kingdomware**, 579 U.S. At \_\_\_, 136 S.Ct. At 1977, Decided April 27, 2020, twenty-one (21) days after the filing of his petition on April 6, 2020 and eight (8) days of his docketing on April 19, 2020, because this Court examine, analyzed and held in **Kingdomware**, *supra* that the Statutory Language "shall" connoting a requirement "when," as in the case here, Congress distinguishes between "may" and "shall," it is generally clear that "shall" imposes a mandatory duty.

Petitioner claim for review before this Court to examine, analyze and consider the Statutory Language as a whole "shall" as imposing an obligation and mandatory duty by the Oklahoma Legislature in House Bill #1213/57, O.S. Supp. 1997, § 332.7 and its applicable subsections A.1.B.1.2 (1997 version) and House Bill #2286 Cited as: 57, O.S. Supp. 2018, § 332.7 and its subsections A.1.D.1.F.G., and O. (2018 version) within its original statutory language, intent, purpose, design, obligation and duty to the Oklahoma PPB to determine "what sentence a person's crime committed prior to July 1, 1998, in the custody of Department of Corrections would have received pursuant to the applicable matrix provision in Oklahoma's Truth-in-Sentencing Act/Laws mandated by § 332.7.G., and Sections 6, 598, 599, 600 and 601, Chapter 133, O.S.L. (1997) Applicable Subsection 332.7.O., creating an "Indeterminate Sentencing Range" for a control supervised parole, for a Schedule A crime, within 18 to 60 years and a "Sentence and Release" for a maximum sentence of 60 years for discharge by accumulated earned credits pursuant to section 138 of Title 57, during inmate's consideration and/or reconsideration for parole. § 332.7.G.

Because, the United States District Court for the Western District of Oklahoma and the Tenth Circuit Court of Appeals failed to fully analyze, examine and make an interpretation as a whole within the statutory language mandated in Oklahoma's Truth-in-Sentencing Act/Laws, cited as: 57, O.S. Supp. 1997-2018, § 332.7., and its subsections directing, the Oklahoma PPB to "establish and administer" its statutory

obligations and duties requirements, imposed by clear statutory language "shall" as a whole in its context, purpose and intent, connoting a mandatory duty enacted by the Oklahoma Legislature, who renders the laws in the State of Oklahoma, to the Oklahoma PPB to be "established and administered" and not to be denied in its parole process, to applicant's for parole consideration and/or reconsideration for parole for their crimes committed prior to July 1, 1998, in violation of their protected Liberty Interest Right to due process of law, according to the precise statutory language and formula, to what sentence they/he would have received pursuant to the applicable matrix, giving way to a mandatory sentencing and control release procedure to an "Indeterminate Sentencing Guidelines" mandated pursuant to Sections 6, 598, 599, 600 and 601, Chapter 133, O.S.L. (1997), effective date November 1, 2018, as adopted for "purpose" pursuant to State's requirement under the provisions of 42 U.S.C.A. § 13701 (1) (B) (2) (3) and §13704 (a) (1) (A) (C) (i)., to the United States Government.

See Appendixes Attachments (A) House Bill #1213/57, O.S. Supp. 1997, § 332.7.A.1.B.1.2. , (B) House Bill #2286/57, O.S. Supp. 2018, § 332.7.A.1.D.1.F.G. , and (C) Copy of Order Denying Petition for Re-Sentencing Under House Bill #1213, Case No. CR-95-3229, in the State District Court of Oklahoma County, by District Court Judge Virgil C. Black, in his analyze, examination of the statutory Language and intent pursuant to § 332.7.B.2./House Bill #1213 and § 332.7.G., as a whole, within his interpretation in August, 1997.

## CONCLUSION

For these reasons above, this Court, the United States Supreme Court's recent decision in *Kingdomware, Supra*, on point with Petitioner's Statutory Language Violation and non-interpretation of "Shall" imposing a mandatory duty and obligation on the Oklahoma Pardon and Parole Board connoting a requirement enacted by the Oklahoma Legislature to "establish and administer", to petitioner's parole process procedures, as mandated by Statutory language as a whole, for his crime committed prior to July 1, 1998, during his consideration and/or reconsideration for parole, to what sentence he would have received pursuant to Oklahoma's Truth-in-Sentencing Act/Laws Applicable Matrix, which was denied in violation of his due process protection afforded by 14<sup>th</sup> Amendment. Petitioner's Request to Supplemental Brief to his petition for writ of certiorari to the United States Court of Appeals for the Tenth Circuit for relief should be granted.

RESPECTFULLY SUBMITTED,

*Wadress H. Metoyer Jr.*  
Wadress H. Metoyer, Jr. #88275

Date: April 26, 2020

**CERTIFICATE OF MAILING**

I certify that a true correct copy of Request for Supplemental Brief was mailed this 26 day of May, 2020 to Office of the Attorney General, Attorney General Mike Hunter, 313 NE 21<sup>st</sup> Street, Oklahoma City, Oklahoma 73105.

*/s/ Wadress H. Metoyer, Jr.*  
Wadress H. Metoyer, Jr. #88275  
North Fork Correctional Center  
1605 E. Main St.  
Sayre, Oklahoma 73662

&lt;&lt; OK ST T. 57 § 332.7 &gt;&gt;

SECTION 23. AMENDATORY 57 O.S. 1991, Section 332.7, as last amended by Section 26 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 332.7 A. For a crime committed prior to July 1, 1998, any person in the custody of the Department of Corrections shall be eligible for consideration for parole who has:

1. Completed serving one-third ( $\frac{1}{3}$ ) of the sentence;
2. Reached at least sixty (60) years of age and also has served at least fifty percent (50%) of the time of imprisonment that would have been imposed for that offense pursuant to the applicable Truth in Sentencing matrix; provided, however, no inmate serving a sentence for crimes listed in Schedules A, S -1, S-2 or S-3 or serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph;
3. <<-For->> <<+Been sentenced for+>> an offense that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3<<,->> <<+and has+>> served eighty-five percent (85%) of the midpoint of the time of imprisonment that would have been imposed for that offense pursuant to the applicable matrix; <<+provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph;+>> or

4. <<-For->> <<+Been sentenced for+>> an offense that is listed in any other schedule, served seventy-five percent (75%) of the midpoint of the time of imprisonment that would have been imposed for that offense pursuant to the applicable matrix<<+; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph+>>.

B. 1. Any inmate who has parole consideration dates calculated pursuant to <<-Section->> <<+subsection+>> A of this section shall be considered at the earliest such date. Any inmate who has been considered for parole and was denied shall not be reconsidered for parole within one (1) year, except by the direction of the Pardon and Parole Board.

2. The Department of Corrections and the Pardon and Parole Board shall promulgate rules for the implementation of subsection A of this section. The rules shall include, but not be limited to, procedures for reconsideration of persons denied parole under this section and procedure for determining what sentence the person would have received under the applicable matrix.

C. For persons in the custody of the Department of Corrections for a felony committed prior to July 1, 1998, the Pardon and Parole Board shall not recommend to the Governor any person who has been convicted of three or more felonies arising out of separate and distinct transactions, with three or more incarcerations for such felonies, unless such person shall have served the lesser of at least one-third ( $\frac{1}{3}$ ) of the sentence imposed, or ten (10) years; provided that whenever the population of the prison system exceeds ninety-five percent (95%) of the capacity as certified by the State Board of Corrections, the Pardon and Parole Board may, at its discretion, recommend to the Governor for parole any person who is incarcerated for a nonviolent offense not involving injury to a person and who is within six (6) months of his or her statutory parole eligibility date.

D. For a crime committed on or after July 1, 1998:

1. Any person convicted of a crime in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 shall be eligible for parole consideration after serving eighty-five percent (85%) of the sentence of imprisonment imposed unless the sentence has been discharged by accumulated credits pursuant to Section 138 of this title;

2. Any person convicted of a crime in any other schedule shall be eligible for parole consideration after serving seventy-five percent (75%) of the sentence of imprisonment imposed subject to the accumulation of credits pursuant to Section 138 of this title; or

3. A person who is sixty (60) years of age or older, who has not been sentenced to life without parole or death and who has not been convicted of a crime listed in Schedule A, S-1, S-2 or S-3, shall be eligible for parole consideration after the person has served at least fifty percent (50%) of any imposed sentence of incarceration.

<<+The provisions of this subsection shall not apply to any person sentenced to life imprisonment without parole.+>>

APPENDIX "A"



Title 57. Prisons and Reformatories

Oklahoma Statutes Citationized

Title 57. Prisons and Reformatories

Chapter 7 - Pardons and Paroles

Section 332.7 - Persons Eligible for Consideration for Parole - Inquiry - Recommendation to Governor

This Statute Will Go Into Effect

On: 11/01/2018

See Historical Data for Current Version

Cite as: 57 O.S. § 332.7 (OSCN 2018)

A. For a crime committed prior to July 1, 1998, any person in the custody of the Department of Corrections shall be eligible for consideration for parole at the earliest of the following dates:

1. Has completed serving one-third (1/3) of the sentence;
2. Has reached at least sixty (60) years of age and also has served at least fifty percent (50%) of the time of imprisonment that would have been imposed for that offense pursuant to the applicable matrix, provided in Sections 598 through 601, Chapter 133, O.S.L. 1997; provided, however, no inmate serving a sentence for crimes listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133, O.S.L. 1997, or serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph;
3. Has reached eighty-five percent (85%) of the midpoint of the time of imprisonment that would have been imposed for an offense that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 of Section 6, Chapter 133, O.S.L. 1997, pursuant to the applicable matrix; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph; or
4. Has reached seventy-five percent (75%) of the midpoint of the time of imprisonment that would have been imposed for an offense that is listed in any other schedule, pursuant to the applicable matrix; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph.

B. For a crime committed on or after July 1, 1998, and before November 1, 2018, any person in the custody of the Department of Corrections shall be eligible for consideration for parole who has completed serving one-third (1/3) of the sentence; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this subsection.

C. For a crime committed on or after November 1, 2018, any person in the custody of the Department of Corrections shall be eligible for parole after serving one-fourth (1/4) of the sentence or consecutive sentences imposed, according to the following criteria:

1. A person eligible for parole under this subsection shall be eligible for administrative parole under subsection R of this section once the person serves one-fourth (1/4) of the sentence or consecutive sentences imposed; provided, however, no inmate serving a sentence of life imprisonment without parole, a sentence for a violent crime as set forth in Section 571 of this title or any crime enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes shall be eligible for administrative parole.
2. A person eligible for parole under this subsection shall be eligible for parole once the person serves one-fourth (1/4) of the sentence or consecutive sentences imposed; provided, however, no inmate serving a sentence of life imprisonment without parole is eligible for parole.

APPENDIX "B"

persons eligible for Consideration for Parole - Inquiry - Recommend... <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CaseID>  
parole. However, the Pardon and Parole Board shall not be required to consider for parole any person who has completed the time period provided for in this subsection if the person has participated in a riot or in the taking of hostages, or has been placed on escape status, while in the custody of the Department of Corrections. The Pardon and Parole Board shall adopt policies and procedures governing parole consideration for such persons.

M. Any person in the custody of the Department of Corrections who is convicted of an offense not designated as a violent offense by Section 571 of this title, is not a citizen of the United States and is subject to or becomes subject to a final order of deportation issued by the United States Department of Justice shall be considered for parole to the custody of the United States Immigration and Naturalization Service for continuation of deportation proceedings at any time subsequent to reception and processing through the Department of Corrections. No person shall be considered for parole under this subsection without the concurrence of at least three members of the Pardon and Parole Board. The vote on whether or not to consider such person for parole and the names of the concurring Board members shall be set forth in the written minutes of the meeting of the Board at which the issue is considered.

N. Upon application of any person convicted and sentenced by a court of this state and relinquished to the custody of another state or federal authorities pursuant to Section 61.2 of Title 21 of the Oklahoma Statutes, the Pardon and Parole Board may determine a parole consideration date consistent with the provisions of this section and criteria established by the Pardon and Parole Board.

O. All references in this section to matrices or schedules shall be construed with reference to the provisions of Sections 6, 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

P. Any person in the custody of the Department of Corrections who is convicted of a felony sex offense pursuant to Section 582 of this title who is paroled shall immediately be placed on intensive supervision.

Q. A person in the custody of the Department of Corrections whose parole consideration date is calculated pursuant to subsection B or C of this section, and is not serving a sentence of life imprisonment without parole or who is not convicted of an offense designated as a violent offense by Section 571 of this title or any crime enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes shall be eligible for administrative parole under subsection R of this section.

R. The Pardon and Parole Board shall, by majority vote, grant administrative parole to any person in the custody of the Department of Corrections if:

1. The person has substantially complied with the requirements of the case plan established pursuant to Section 512 of this title;
2. A victim, as defined in Section 332.2 of this title, or the district attorney speaking on behalf of a victim, has not submitted an objection;
3. The person has not received a primary class X infraction within two (2) years of the parole eligibility date;
4. The person has not received a secondary class X Infraction within one (1) year of the parole eligibility date; or
5. The person has not received a class A Infraction within six (6) months of the parole eligibility date.

S. Any person granted parole pursuant to subsection R of this section shall be released from the institution at the time of the parole eligibility date of the person as calculated under subsection B or C of this section.

T. No less than ninety (90) days prior to the parole eligibility date of the person, the Department shall notify the Pardon and Parole Board in writing of the compliance or noncompliance of the person with the case plan and any infractions committed by the person.

U. The Pardon and Parole Board shall not be required to conduct a hearing before granting administrative parole pursuant to subsection R of this section.

V. Any person who is not granted administrative parole shall be otherwise eligible for parole pursuant to this section.

W. Any person who is granted administrative parole under subsection R of this section shall be supervised and managed by the

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA  
THE STATE OF OKLAHOMA, )  
Plaintiff, )  
vs. ) CASE NO. CF-95-3229  
ROBERT A. PARTLO, )  
Defendant, )

**ORDER DENYING PETITION  
FOR RE-SENTENCING UNDER HB1213**

This matter comes on pursuant to the Defendant's Petition for Re-sentencing under HB1213. The Defendant alleges that his/her sentence is controlled by general provisions of the Oklahoma Statutes and not by the more specific provisions of HB1213. Defendant contends that he/she should be granted relief based upon two issues. They are as follow:

ISSUE I Specific provisions control over general provisions, and,

ISSUE II The Truth-in-Sentencing Act established a state created liberty interest relieving the Defendant from the disproportionate sentences imposed under general provisions and his/her present sentence is harsh and extreme in comparison to the punishment for the offense under the Act.

The Defendant acknowledges that the Oklahoma Legislature has charged the Department of Corrections with the responsibility and authority to promulgate rules and regulations to implement the act. In addition, the D O C and the Pardon and Parole Board are to establish procedures to apply the Act to defendants which have been sentenced prior to July 1, 1998. The Defendant alleges that the D O C is refusing to comply with the Act in the re-calculation of sentences.

The Court finds that the Act does not authorize the District Court to modify the sentences, but instead, directs the Department of Corrections and the Pardon and Parole Board to develop procedures for modifying the sentences given to inmates prior to July 1, 1998. This being the case, the failure of the Department of Corrections and/or the Pardon and Parole Board to administer the Act is an issue to be resolved by the Oklahoma Supreme Court subject to a proper action being filed. (See Mahler v. State, 783 P 2d 973 (Okl Cr 1989))

IT IS SO ORDERED.

DATED this 19th day of August, 1997

*Virginia C. Black*  
VIRGINIA C. BLACK, DISTRICT JUDGE

**CERTIFIED COPY  
AS FILED OF RECORD  
IN DISTRICT COURT**

SEP 11 2019

PICK WARREN COURT CLERK  
Oklahoma County

*APPENDIX "C"*

*Pick Warren*

No. 19-8303  
IN THE  
SUPREME COURT OF THE UNITED STATES

WADRESS HUBERT METOYER, JR.,

Petitioner,

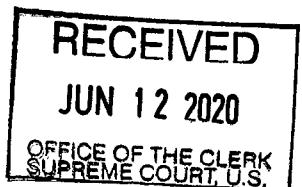
v.

DELYNN FUDGE, ET AL.,

Respondent.

**SUPPLEMENTAL AUTHORITIES TO SUPPLEMENTAL BRIEF RULE 15**

Pursuant to this Court's recent decision in *Kingdomware*, 579 U.S. \_\_\_\_ at, 136 S.Ct. at \_\_\_\_ 1977 (Decided April 27, 2020) Reversed and Remanded in addressing same claim as Petitioner now before this Court on: "Interpretation of "Statutory Language", "Statutory Intent", "Statutory Provisions" and, purpose, as a whole, according to precise Statutory Language "Shall" connoting mandatory requirements and imposing mandatory duties." Petitioner claim pursuant to Title 57, O.S. Supp. 1997-98, § 332.7 (A) (1) (B) (2)/House Bill #1213 (1997) and Supp. 2018, § 332. (7) (A) (1) (D) (1) (F) (G) and (O)/House Bill #2286 (2018) mandated by Oklahoma Truth-in-Sentencing Act/Laws within its Mandatory Language "Shall" for crimes committed prior to July 1, 1998, creating "a Protected Statutory Framework" in meeting State's requirements pursuant to 42 U.S.C.A § 13701 (1) (B) (2) (3) and § 13704 (a) (1) (A) (C) and (i). Under these provisions, it was the role of Oklahoma Legislature to prescribe "an Indeterminate Sentencing Range System and Guidelines" for the purpose of: (1) Eligibility date for consideration for parole; (2) Procedure for consideration for parole; (3) Procedure for reconsideration for persons denied parole under this section; and (4) Procedure to "establish" and "administer" a determination for what sentence a person eligible for parole consideration pursuant to Subsection A of the section would have received under the Statutory Provision Applicable Matrix mandated under Section 6, 598, 599, 600 and 601, Chapter 133, O.S.L. (1997), as meeting State's requirement pursuant to 42 U.S.C.A § 13701 (1) (B) (2) (3) for the PPB, to impose an indeterminate sentencing range defined by statute for a control parole release within the statutory range connected to crimes committed prior to July 1, 1998. Unless, the maximum of the



indeterminate sentence has been discharged by accumulated earned credits pursuant to Section 138 of Title 57, O.S., requiring a discharged.

See, Statutory Intent's History presented in House Bill 1213 (D) (1) for crime committed on or after July 1, 1998 in relation to same intent for § 332.7 (B) (1) (1997) being Statutory History, Intent, Language and purpose. See also, **Sharp v. Tulsa City, Election Bd.**, 1994 OK 104, ¶ 11, 890 P.2d 836, 840: "When considering the interaction between two statutory provision, they "are to be construed so as to render them consistent with one another.

Accordingly, we must "reconcile the different provisions of statutes, as far as practicable, to make them not only consistent and harmonious, but also to give intelligent effect to each." When the Legislature enacts two provisions regulating the same subject matter and those provisions appears to conflict, this court should give effect to both, if doing so does not defeat Legislature intent pursuant to § 332.7 (F) (G) and (O). See **Walker v. State**, 1998 OK CR 14, ¶ 6, 953 P.2d 354, 356. Generally speaking, the statutory framework presented in 332.7 (G) mandatory language consist of several "command words" "Shall" explicitly, directing as a whole duties and requirements to be administered by the PPB, to implement "an Indeterminate Sentencing Range System Guidelines" procedure for persons crimes committed prior to July 1, 1998, explicitly giving, the PPB statutory power to implement and apply applicable matrix. **Kingdomware, supra**.

This means, pursuant to this authority, the Legislature empowered the PPB to "establish" and "administer" a procedure determination separate from the requirements of Subsection 332.7 (A) (3) · eligibility dates for consideration for parole. This conclusion is further reinforced by reference to History of House Bill 1213, which created Subsections 332.7 (B) (2) (D) (1) and now reinforced by § 332.7 (F) (G) and (O) to House Bill 2286. Petitioner's determination should have been 18 to 60 years, for his Schedule A crime (1<sup>st</sup> degree murder) under Section 6, Chapter 133, O.S.L. (1997) for persons convicted of a part 1 violent crime, the State's requirements pursuant to 42 U.S.C.A. § 13701 (1) (B) for a control supervised parole release within the statutory range defined by Statutory Language and Statutory Intent to provisions and procedures under State's Truth-in-Sentencing Act/Laws establishing a prison term under State's sentencing and release guidelines for parole and/or discharge pursuant to an indeterminate sentencing § 332.7 (G) (O) and earned credits § 138.

Thereby placing these particular statutory language provisions and procedures directly after the general parole eligibility date to be determined, applied and administered for persons crimes committed prior to July 1, 1998, effective date November 1, 2018. See 2020WL 1304649 (Okla. A.G.) Office of the Attorney General, State of Oklahoma, Attorney General Opinion No. 2020-5, decided March 13, 2020,

whereas, the Attorney General discussed and concluded that: "the Legislature created a new grant of authority that is separate from the requirements of Section 332.7., this conclusion is further reinforced by reference to the History of House Bill 2286, which created Section 332.21, as if made its way through the Legislature process. **See State ex rel., Cartwright v. Georgia – Pac-Corp.**, 1982 OK 148, ¶ 34, 663 P.2d 718, 724 ("Any doubt about the meaning of a statute may be resolved by reference to its history."), **State ex rel., Rucker v. Tapp**, 1963 OK 37, ¶ 14, 380 P.2d 260, 265 ("In determining what meaning should be given" to particular statutory language, "we may properly resort to the history of [the statute]").

As it was being considered by the Legislature, several iterations of H.B. 2286 (A) (2), § 332.7 (A) (2) included a shorter provision that would have created a parole option for "aging prisoners". See, e.g., H.B. 2286 as Section 332.7(G) and (O) which created a sentence options for consideration and reconsideration for parole based on an "Indeterminate Sentencing Range System and Guidelines" for a "Control Parole Release" within the Statutory Range of Sentencing in reference to § 332.7 (O) and, a "Sentencing" and "Release" discharge by accumulated earned credits. The PPB have several statutory mandatory duties and requirements such as: (1) to make an impartial investigation and study of applicant; (2) to review the completed report/application; (3) to include "what mandatory indeterminate sentencing range petitioner's crime prior to July 1, 1998 would have received under applicable matrix; (4) to be made part of completed report submitted by the staff of the Board and based on that report, (5) the PPB by statutory language "Shall" was required to examine into the "merits" of said report/application; (6) to conduct by "majority vote" to decide to consider parole based upon "Mandatory Indeterminate Sentencing Range" pursuant to the provisions and procedures mandated by statutory languages, giving the PPB authority by "command" and "requirement" "Shall" to make recommendation to the Governor all persons deem worthy of clemency based on all the above mandatory requirements and duties. See Title 57, O.S. Supp. 2013, § 332.2 (A), 57, O.S. Supp. 2018, § 332.7 (A (1) (D) (1) (F) (G) (O) and Section 10 of Article VI of Oklahoma Constitution. Petitioner have been denied these statutory commands, requirements and duties in violation of due process of law. 14<sup>th</sup> Amendment "Liberty Interest Right" and this Court's recent decision in **Kingdomware, supra**.

RESPECTFULLY SUBMITTED,

*/s/ Wadress H. Metoyer Jr.*  
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