

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

PAMELA SMITH, Plaintiff - Appellant,	
v.	No. 20-5042
PACERMONITOR, LLC; OKLAHOMA ATTORNEY	(D.C. No. 4:20-CV-
GENERAL; TULSA COUNTY	00126-CVE-FHM)
DISTRICT ATTORNEY,	(N.D. Okla.)
Defendants - Appellees.	

ORDER AND JUDGMENT*

(Filed Sep. 18, 2020)

**Before LUCERO, BACHARACH, and MORITZ,
Circuit Judges.**

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G).* The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

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Pamela Smith appeals the district court's dismissal of her constitutional and state law claims for lack of subject-matter jurisdiction. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

I

In January 2000, Smith filed a lawsuit for claims arising from a sexual assault she allegedly suffered at the hands of a state employee while she was incarcerated at the Tulsa Community Correction Center. That case eventually resulted in a jury verdict against Smith. See Smith v. Cochran, 182 F. App'x 854 (10th Cir. 2006).

Years later, in May 2019, Smith filed suit against the Tulsa County District Attorney's Office, the Oklahoma Department of Public Safety, and the Oklahoma Attorney General, arguing the defendants failed to supervise and investigate her alleged assailant. Smith v. Oklahoma ex rel. Tulsa Cnty. Dist. Att'y Off, 798 F. App'x 319, 320 (10th Cir. 2020) ("the Western District case"). The defendants moved to dismiss and certified they had sent Smith a copy of their motion. Id. at 321. Smith denied having received the motion, so the district court ordered defendants to send her a second copy. Id. When Smith still failed to respond to the motion, the district court deemed the motion confessed. The district court also granted the motion based on other grounds, including timeliness and immunity Id. This court affirmed the dismissal on the grounds of timeliness and immunity but declined to address the

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district court’s ruling that the motion to dismiss had been confessed. *Id.* at 322.

In December 2019, Smith initiated this lawsuit in the Southern District of New York and the case was subsequently transferred to the Northern District of Oklahoma. The substance of Smith’s current claim is that the defendants violated her constitutional right to due process by conspiring to thwart her receipt and review of the motion to dismiss that was then granted against her. Smith also asserts a defamation claim against two of the defendants.

The district court dismissed the complaint *sua sponte* for lack of subject-matter jurisdiction. Because Smith’s constitutional claims were “meritless” and lacked any factual support, the district court concluded it had no subject-matter jurisdiction to consider them.¹

II

Federal Rule of Civil Procedure 12(b)(1) “allows a court to dismiss a complaint for lack of subject matter jurisdiction. If the district court did so without taking evidence, as the court did here, our review is *de novo*.” *Safe Streets All. v. Hickenlooper*, 859 F.3d 865, 877 (10th Cir. 2017) (quotation omitted). In the absence of evidence-taking, both we and the district court “must accept the allegations in the complaint as true.” *Id.* at

¹ The District Court dismissed Smith’s state law defamation claim on res judicata grounds. Alternatively, the district court declined to exercise supplemental jurisdiction over a state law claim after the federal claims were dismissed.

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878. A federal court may lack subject-matter jurisdiction if a federal claim is “so insubstantial, implausible, . . . or otherwise completely devoid of merit as not to involve a federal controversy.” Steel Co. v. Citizens for a Better Env’t, 523 U.S. 83, 89 (1998) (quotation omitted). The party asserting subject-matter jurisdiction bears the burden of establishing it. Safe Streets 859 F.3d at 878.

Smith’s claims are decidedly implausible. Her claim that the defendants conspired to hide the motion to dismiss does not square with the clear appearance of the motion to dismiss on the docket report and the availability of the motion from the clerk’s office. It is also hard to discern what motivation the defendants would have had to hide their motion to dismiss from Smith, given that the district court’s dismissal in the Western District case was easily affirmed on appeal.

Faced with the implausibility of her claims, Smith offers only scant evidence. She notes that the defendants did not file a certificate of mailing as they were instructed to do by the district court, but instead only certified that they had re-sent the motion to dismiss. Smith also argues that the Oklahoma Attorney General Office’s claim that it sent her a second copy of the motion to dismiss three days before the district court ordered it to do so indicates deceit—notwithstanding the Oklahoma Attorney General Office’s explanation that it sent a new copy as soon as it was notified that Smith had not received the first copy. Neither of these facts overcomes the facial implausibility of Smith’s claims.

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Moreover, Smith failed to allege in her complaint or explain on appeal how the defendants' purported failure to provide her with a copy of the motion to dismiss violated her due process right. Such an explanation would be difficult, given that Smith knew of the motion to dismiss more than a month before the district court ruled on it and that the district court's grant of the motion was affirmed on grounds unrelated to her failure to respond. Lacking connective tissue between the facts Smith alleges and the constitutional rights she contends were violated, we hold Smith has not met her burden of establishing subject-matter jurisdiction.²

III

AFFIRMED.

Entered for the Court

Carlos F. Lucero
Circuit Judge

² Because Smith's federal claims cannot be considered, the district court operated within its discretion by declining to exercise supplemental jurisdiction to consider Smith's defamation claim 28 U.S.C. § 1337(c)(3).

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

PAMELA SMITH.,)
Plaintiff,)
v.)
PACERMONITOR, LLC,) Case No. 20-CV-
OKLAHOMA ATTORNEY) 0126-CVE-FHM
GENERAL, and TULSA)
COUNTY DISTRICT)
ATTORNEY,)
Defendants.)

OPINION AND ORDER

(Filed Apr. 3, 2020)

Now before the Court is plaintiff's pro se complaint (Dkt. # 1). Plaintiff filed this case in the United States District Court for the Southern District of New York alleging claims relating to a conspiracy to deprive her of procedural due process in a separate lawsuit. Plaintiff also claims that defendants are engaged in a conspiracy to defame her in an attempt to discredit her allegations of sexual assault that date back approximately 20 years. The Southern District of New York transferred the case to this Court, and the Court has reviewed the complaint to determine if the Court has subject matter jurisdiction over plaintiff's claims.

In January 2000, plaintiff filed a lawsuit alleging that she was the victim of sexual assault while she was

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an inmate in the Tulsa Community Correction Center. Smith v. Department of Public Safety et al., 00-CV-035-TED-saj (N.D. Okla.). The case went to trial on plaintiff's claims against one defendant, Don Cochran, and the jury found in favor of Cochran. Dkt. # 91. Plaintiff appealed the adverse verdict, and the Tenth Circuit Court of Appeals rejected plaintiff's argument for a new trial. Dkt. # 110. In 2007, the United States Supreme Court denied plaintiff's petition for a writ of certiorari and it appeared that the case was closed. Dkt. # 112. In May 2019, plaintiff filed a new case in the United States District Court for the Western District of Oklahoma against the Tulsa County District Attorney's Office, the Oklahoma Department of Public Safety, and the Oklahoma Attorney General. Smith v. Tulsa County District Attorney Office, 19-CV-426-D (W.D. Okla.). Plaintiff was not represented by counsel. Plaintiff reasserted her allegations from her prior lawsuit and she alleged that the defendants failed to fully investigate her allegations of sexual assault for the purpose of prosecuting the alleged perpetrator. Defendants filed a motion to dismiss and plaintiff claimed that she was not served with a copy of the motion. The court directed defendants to send a copy of the motion to dismiss to the address listed on the docket sheet and extended plaintiff's time to respond to the motion. Dkt. # 7. Plaintiff failed to file a response and the court dismissed plaintiff's claims with prejudice. The Tenth Circuit affirmed the dismissal of plaintiff's claims on the basis that plaintiff's claims were untimely and defendants were immune from suit. Plaintiff alleges that the defendants conspired to deprive her of procedural due

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process in her Western District case by falsely representing that they had served her with a copy of the motion to dismiss. Dkt. # 1, at 11-17. She also claims that the Tulsa County District Attorney used his office to undermine or discredit plaintiff's allegations of rape and sexual assault. Id. at 18. Plaintiff seeks \$7 million in compensatory damages and \$3.3 million in punitive damages.

Federal courts are courts of limited jurisdiction, and there is a presumption against the exercise of federal jurisdiction. Merida Delgado v. Gonzales, 428 F.3d 916, 919 (10th Cir. 2005); Penteco Corp. Ltd. Partnership-1985A v. Union Gas System, Inc., 929 F.2d 1519, 1521 (10th Cir. 1991). The party invoking federal jurisdiction has the burden to allege jurisdictional facts demonstrating the presence of federal subject matter jurisdiction. McNutt v. General Motors Acceptance Corp. of Indiana, Inc., 298 U.S. 178, 182 (1930) ("It is incumbent upon the plaintiff property to allege the jurisdictional facts, according to the nature of the case."); Montoya v. Chao, 296 F.3d 952, 955 (10th Cir. 2002) ("The burden of establishing Subject-matter jurisdiction is on the party asserting jurisdiction."). The Court has an obligation to consider whether subject matter jurisdiction exists, even if the parties have not raised the issue. The Tenth Circuit has stated that "[f]ederal courts 'have an independent obligation to' determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party,' and thus a court may sua sponte raise the question of whether there is subject matter jurisdiction 'at any stage in the

litigation.’” Image Software, Inc. v. Reynolds & Reynolds Co., 459 F.3d 1044, 1048 (10th Cir. 2006).

A court reviewing a pro se plaintiff’s complaint must broadly construe the allegations of the complaint to determine if the plaintiff can state a claim upon which relief can be granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007); Haines v. Kerner, 404 U.S. 519, 520 (1972). The generous construction to be given a pro se litigant’s allegations “does not relieve the plaintiff of the burden of alleging sufficient facts on which a recognized legal claim could be based.” Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991). Notwithstanding a pro se plaintiff’s various mistakes or misunderstandings of legal doctrines or procedural requirements, “if a court can reasonably read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so. . . .” Id. A reviewing court need not accept “mere conclusions characterizing pleaded facts.” Bryson v. City of Edmond, 905 F.2d 1386, 1390 (10th Cir. 1990); see also Bell Atlantic Corp. v. Twombly, 550 US. 544, 555 (2007) (“While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff’s obligation to provide the grounds of [her] entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.”) (quotation marks and citations omitted). The court “will not supply additional factual allegations to round out a plaintiff’s, complaint or construct a legal theory on a plaintiff’s behalf.” Whitney v. New Mexico, 113 F.3d 1170, 1173-74 (10th Cir. 1997).

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Plaintiff's claims under 42 U.S.C. §§ 1983 and 1985 are primarily based on her allegations that the defendants filed a motion to dismiss her Western District case, but the motion was filed secretly and not placed on the docket sheet. Dkt. # 1, at 12. She claims that defendants engaged in a conspiracy to make it appear that she had been served with a copy of the motion to dismiss, but she alleges that her case was dismissed without the motion being served on her. Id. at 11. The Court has reviewed the docket sheet from plaintiff's Western District case and it clearly shows that the defendants filed a motion to dismiss on June 6, 2019. Smith v. Tulsa County District Attorney Office, 19-CV-426-D, Dkt. # 4 (W.D. Okla. June 6, 2019). Plaintiff was clearly aware of this motion to dismiss, because she sent a letter to the court clerk stating that knew of the motion to dismiss and had not received a copy of the motion. Smith v. Tulsa County District Attorney Office, 19-CV-426-D, Dkt. # 6 (W.D. Okla. June 21, 2019). In response to plaintiff's letter, the court extended plaintiff's deadline to respond to the motion to dismiss and directed defendants to mail another copy of the motion to plaintiff. Smith v. Tulsa County District Attorney Office, 19-CV-I-26-D, Dkt. # 7 (N.D. Okla. June 21, 2019). Defendants filed a certificate of service stating that they had complied with the order and plaintiff still failed to file a response to the motion.

The Court finds that plaintiff's claims based an alleged denial of procedural due process are meritless. Plaintiff alleges that defendants conspired to deprive her of notice of the motion to dismiss, but the docket

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sheet shows that the motion was placed on the public docket sheet. Even if there was such a conspiracy, it was wholly unsuccessful and she knew about the motion to dismiss for more than a month before it was granted. As noted by the Tenth Circuit plaintiff could have gone to the court clerk's office and personally requested a copy of the motion to dismiss, even if it had not been served on her. Smith v. Oklahoma ex rel. Tulsa County District Attorney Office, ___ F. App'x ___, 2020 WL 260951 *1 n.2 (10th Cir. Jan. 17, 2020). In other words, there was nothing secret about defendants' motion to dismiss and plaintiff could have personally requested a copy of the motion from the court clerk's office at any time. The key requirement of procedural due process in the context of judicial proceedings is that a party receive reasonable notice and an opportunity to be heard. In re C.W. Mining Co., 625 F.3d 1240, 1245 (10th Cir. 2010). Plaintiff admits that she had notice that the motion to dismiss was filed and she was given additional time to respond to the motion after she complained that she did not receive a copy of it. Plaintiff has not alleged facts suggesting that a violation of her right to procedural due process occurred, and her claims based on denial of her right to due process or conspiracy to deprive her of procedural due process are dismissed. The Court also notes that the Western District and the Tenth Circuit found that plaintiff's underlying claims were untimely and that defendants were immune from plaintiff's claims, and plaintiff has not suggested that she had colorable arguments which could have prevented the dismissal of her claims. Plaintiff also alleges a defamation claim

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against the Tulsa County District Attorney, but she made similar allegations in her Western District case and those claims were dismissed. It appears that she is seeking to relitigate a claim that has already been dismissed, and her defamation claim is also subject to dismissal.¹

IT IS THEREFORE ORDERED that plaintiff's complaint (Dkt. # 1) is **dismissed**. A separate judgment of dismissal is entered herewith.

DATED this 3rd day of April, 2020.

/s/ Claire V. Eagan
CLAIRES V. EAGAN
UNITED STATES
DISTRICT JUDGE

¹ The Court also notes that subject matter jurisdiction is premised on federal question jurisdiction, and her defamation claim is based on state law. The Court would decline to exercise supplemental jurisdiction over this claim, even if she could state a colorable defamation claim, because there are no federal claims remaining to be adjudicated.

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

PAMELA SMITH.,)
Plaintiff,)
v.)
PACERMONITOR, LLC,) Case No. 20-CV-
OKLAHOMA ATTORNEY) 0126-CVE-FHM
GENERAL, and TULSA)
COUNTY DISTRICT)
ATTORNEY,)
Defendants.)

JUDGMENT OF DISMISSAL

(Filed Apr. 3, 2020)

This matter has come before the Court for consideration and an Opinion and Order (Dkt. # 14) dismissing plaintiff's case for lack of subject matter jurisdiction has been entered. A judgment of dismissal of plaintiff's claims is hereby entered.

IT IS SO ORDERED this 3rd day of April, 2020.

/s/ Claire V. Eagan
CLAIRES V. EAGAN
UNITED STATES
DISTRICT JUDGE

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May 22, 2005

Dexter Winbish
Southern Christian Leadership Conference
591-A Edgewood Avenue
Atlanta GA 30312

RE: Pamela Smith

Dear Mr. Winbish:

This letter is being written at the request of the above referenced individual. Ms. Smith was a patient of mine from September 1998 to August 1999. During this time, she was incarcerated at the Eddie Warrior Correctional Center in Taft, Oklahoma. I worked with her there in my capacity as a psychology intern. She has asked me to write a narrative of my involvement in her case, and that is the purpose of this letter. I am enclosing a summary of my work with her that was submitted to my supervisor at the end of my internship in 1999. This same summary is also included in her Oklahoma Department of Corrections file.

I am not sure whether Ms. Smith has explained the circumstances of her current litigation to you, so I will simply say that she was raped by a state employee while she was an inmate in the Oklahoma correctional system. Any other details of this event that you may need can be obtained from her.

When I first met with Ms. Smith, she was exhibiting numerous symptoms of Posttraumatic Stress Disorder. Among these symptoms were intrusive distressing recollections of her experience, intense psychological

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distress at exposure to external cues, feelings of detachment and estrangement, restricted range of affect, irritability and outbursts of anger, difficulty concentrating, hypervigilance, and exaggerated startle response. Throughout the course of her treatment, she would experience almost all of the symptoms of this disorder, discussed these symptoms with my supervisor during the course of Ms. Smith's treatment, and he was definitely in agreement that the diagnosis of Post-traumatic Stress disorder was appropriate.

As her treatment progressed, her symptoms improve greatly, but she was somewhat re-traumatized by events that occurred during the investigation of her case. One very prominent example of this was when she was shown a salt shaker by one of the investigators in her case. This was a salt shaker with which she had been assaulted by the state employee, and the feelings that were aroused by this exposure were extremely distressing to her. This is exactly the type of occurrence that one would expect in a case of posttraumatic stress disorder.

Throughout the year that I worked with Ms. Smith, she continued to improve both because of her treatment and because of the fact that she seemed to feel empowered by pursuing the investigation into her case. I have had only limited contact with Ms. Smith since I finished my internship and since she has been released from incarceration. I am now currently a licensed psychologist in the State of Kansas, and I have participated as much as possible in her litigation to this point. As her therapist, I believe that I have done

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everything I can to assist her, but as a concerned citizen, I remain willing to do whatever I can to help correct what I believe to be a grave injustice. If you have questions that I may be able to answer, or if you need any additional information, please to not hesitate to contact me.

Sincerely,

Stephen Hoyer, Ph.D.
801 Spruce
Frontenac, KS 66763
(620) 232-1962
hoyer@pittstate.edu

Case Summary for Pamela Smith #159046
Prepared June 24, 1999

Ms. Smith was first seen by this intern on 9/29/98. This visit was precipitated by a phone call from Ms. Smith's case manager who stated that Ms. Smith had been sexually assaulted and was very distressed. During this initial visit, Ms. Smith was indeed very distressed, crying constantly and almost never even looking at this intern, instead sitting with her back facing the intern and looking out the window. She related that she had been coerced into a sexual abuse with a Department of Public Safety officer while she had been incarcerated at the Community Correctional Center in Tulsa. She stated that this abuse had lasted for approximately nine months and had ended when she was transferred to EWCC. The symptoms she was experiencing at that time were entirely consistent with those that would be expected of a victim of a sexual assault. Primary intervention at that time was to encourage Ms. Smith to tell her story and to reassure her that she was taking the proper steps in bringing this out into the open.

Ms. Smith was seen again the following day and has been seen a total of eighteen times over the past nine months including the initial visit. During the first several sessions, Ms. Smith dealt with the feelings associated with making her story public and the great difficulties she was having in telling her family about the situation. Her feelings of sadness and despair were clearly improving during this time, but as sessions continued into November and December of 1998, Ms.

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Smith began experiencing increasing feelings of anger because she felt the investigation into her case was not being properly handled. During this time period, Ms. Smith stated to this intern that she felt she could not deal with her deep feelings about what had happened to her until the investigation was resolved. Again, this anger was consistent with what would be expected in a sexual assault case, and it was discussed with Ms. Smith as such. Primary intervention at that time became providing Ms. Smith with emotional support as she contacted attorneys and public officials in an effort to move the investigation along.

It has only been in the most recent sessions that Ms. Smith has come to understand that her vigorous pursuit of her investigation has perhaps impeded her from dealing with the more emotional issues associated with her experiences, and she has begun to focus more attention on those issues. This would appear to represent appropriate therapeutic progress and to indicate that Ms. Smith is doing what she needs to be doing to effectively deal with her situation. Major focus of therapy at the present time is to help Ms. Smith identify the emotional issues that need attention and make a plan as to how those issues should be approached in therapy.

Throughout the course of therapy, Ms. Smith has been very cooperative and has shown appropriate dedication to the therapeutic process. Her progress has occurred at a pace and to a degree that is quite typical for someone who has been a victim of the type of assault she has endured. At the present time there is no

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reason to expect that this progress will not continue or that Ms. Smith would not be able, at some point, to put her experiences behind her.

Stephen Hoyer, Ph.D.
Psychology Intern

Terry Vinsant, Ph.D.
Licensed Psychologist

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

PAMELA SMITH, Plaintiff, Pro Se v. PACERMONITOR, LLC; OKLAHOMA ATTORNEY GENERAL; TULSA COUNTY DISTRICT ATTORNEY. Defendants.	Civil Action No: 19 CV 11849 <u>COMPLAINT</u> <u>JURY TRIAL</u> <u>DEMAND</u>
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NATURE OF THE ACTION

(Filed Dec. 26, 2019)

This is a case brought pursuant to the provisions of the Civil Rights Act of 1871, 42 U.S.C. §1983 and 42 U.S.C. §1985 to correct unlawful deprivation of rights and conspiracy to interfere with rights, intentional infliction of emotional distress, disparate treatment based on race, and defamation leading to the unconstitutional dismissal of the Complaint by Plaintiff Pamela Smith (“Ms. Smith” or “Plaintiff”) in *Smith v. Tulsa County District Attorney*, Case No. CIV-19-426D (W.D. Okla. July 26, 2019), obstruction of justice and conspiracy to interfere with the judicial process in the Plaintiff’s appeal currently before the United States Court of Appeal for the Tenth Circuit in *Smith v. Tulsa County District Attorney*, Case No. 19-6123 (hereinafter “*Smith v. Tulsa DA*”), and interfering with the judicial process in Plaintiff’s Relief From Judgment action

pursuant to Rule 60 of the Federal Rules of Civil Procedure currently before the United States District Court of Oklahoma for the Northern District in *Smith v. Dep't Pub. Safety*, Case No. CIV-00-35-C.J. (N.D. Okla. March 1, 2004). The Plaintiff who has been adversely affected by deprivation of rights, intentional infliction of emotional distress, ongoing denial of Constitutional Due Process rights under the Fourteenth Amendment, and twenty years of continuing conspiracy to interfere with rights, most recently perpetrated by PacerMonitor, LLC ("PacerMonitor" or "Defendant-PacerMonitor") and the Oklahoma Attorney General ("Oklahoma AG" or "Defendant-OklaAG"), as well as the ongoing public smear campaign by the Tulsa County District Attorney ("Tulsa DA" or "Defendant-TulsaDA") and Defendant-OklaAG to discredit and present Ms. Smith in a false light resulting in physical suffering, significant mental anguish, and damaging to Ms Smith's public reputation.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343.
2. This action is authorized and instituted pursuant to 42 U.S.C. §1983 and 42 U.S.C. §1985.
3. The actions, deprivation of rights, obstruction of justice, and conspiracy to interfere with rights commenced within the jurisdiction of the United States District Court for the Southern District of New York.

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4. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Plaintiff, Pamela Smith, is a former customer of Defendant-PacerMonitor and the Plaintiff in two civil actions against Defendant-OklaAG. Ms. Smith's address is P.O. Box 470261, Tulsa, Oklahoma 74147.

Defendant-PacerMonitor

6. Defendant-PacerMonitor is a Covenant Review, LLC Company registered to conduct business in the State of New York. Defendant-PacerMonitor's place of business in New York is 25 West 45th Street, Suite 1000, New York, NY 10036.

Defendant-OklaAG

7. The Oklahoma Attorney General is the State Attorney General for state of Oklahoma. The attorney general serves as the chief legal and law enforcement officer of the state of Oklahoma. Defendant-OklaAG's place of business in Oklahoma is 313 NE 21st Street, Oklahoma City, OK 73105.

Defendant-TulsaDA

8. The Tulsa County District Attorney is the chief prosecutor for the County of Tulsa in the state of Oklahoma. Defendant-TulsaDA's place of business in

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Oklahoma is 500 South Denver Ave., Suite 900, Tulsa, Oklahoma 74103.

9. Between the dates of May 09, 2019 to Present, Plaintiff has been engaged in litigation with Defendant-OklaAG and Defendant-TulsaDA; the causes of action herein arose during this time period, and the alleged illegal conduct occurred not only within this timeframe but back to the disappearance of evidence related to Plaintiff being raped by instrumentation, documented on a Defendant-TulsaDA form dated March 1999.

FACTS RELATING TO THE PATTERN OF
DEPRIVATION OF RIGHTS, CONSPIRACY TO
INTERFERE WITH RIGHTS, AND DEFAMATION

10. On May 9, 2019, Plaintiff filed a civil action in the United States District Court for the Western District of Oklahoma against Defendant-OklaAG, Defendant-TulsaDA, and the Oklahoma Department of Public Safety for violation of 42 U.S.C. § 1983 Violation of Civil Rights Under Color of State Law, Prosecutorial Misconduct, Intentional Infliction of Emotional Distress, and Negligence based on new evidence related to *Smith v. Dep't Pub. Safety*, Case No. CIV-00-35-C.J. (N.D. Okla. March 1, 2004) corroborating Plaintiff's claim of being denied the constitutionally protected right to full and fair opportunity to litigate.

11. The new evidence also implicated the defendants in the case in widespread corruption and cover-up regarding the disappearance of a glass salt shaker,

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documented on a Defendant-TulsaDA form, as the instrument used to sexually assault Ms. Smith with.

12. On June 6, 2019, Defendant-OklaAG, by ex parte communication, filed a motion to dismiss the Plaintiff's complaint with the U.S. District Court of Oklahoma Western District.

13. On June 21, 2019, Plaintiff submitted a letter to the U.S. District Court of Oklahoma Western District Clerk's office notifying the Court that she learned Defendant-OklaAG had filed a motion to dismiss her complaint from watching the news however had not received the motion from Defendant-OklaAG in accordance to Rule 12 of the Federal Rules of Civil Procedure.

14. On Monday, June 24, 2019, U.S. District Judge DeGuisti issued an Order instructing Defendant-OklaAG to send the Plaintiff a copy of the Motion to Dismiss and to submit to the Court a certificate of mailing within three business days.

15. On Monday, July 22, 2019, Defendant-OklaAG filed a falsified certificate of service with the District Court by ex parte communication, declaring to have mailed a copy of its Motion To Dismiss to the Plaintiff in accordance with the District Court Order of June 24, 2019.

16. The July 22, 2019 certificate of service entered in court by Defendant-OklaAG was dated June 21, 2019, three days before the June 24, 2019 District Court Order.

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17. The certificate of service purports being electronically signed on June 21, 2019, however documentation submitted to the district court in *Smith v. Tulsa County District Attorney*, Case No. CIV-19-426D (W.D. Okla. July 26, 2019) by Defendant-OklaAG containing the electronic signature, indicates the contents of the document was created on July 22, 2019, not June 21, 2019 as declared by Defendant-OklaAG under the penalties of perjury.

18. 18 U.S. Code § 1519 makes it a federal crime punishable with up to twenty years in prison to falsify or make false entry in any record or document with the intent to impede, obstruct, or influence the proper administration of any matter within the jurisdiction of any department or agency of the United States.

19. On July 26, 2019, U.S. District Judge DeGiusti granted Defendant-OklaAG's Motion to Dismiss the Plaintiff's complaint with prejudice based on the fraudulent July 22, 2019 certificate of service filing by Defendant-OklaAG.

20. On August 9, 2019, Plaintiff submitted a letter to the U.S. District Court of Oklahoma Western District Clerk's office notifying the Court that she still had not received the motion to dismiss her complaint from Defendant-OklaAG in accordance to Rule 12 of the Federal Rules of Civil Procedure.

21. On August 14, 2019, Plaintiff filed a notice appealing the District Court decision.

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22. On or about August 14, 2019, Plaintiff began utilizing Defendant-PacerMonitor's federal court case tracking software application available to the general public.

23. On September 25, 2019, Plaintiff filed her opening brief with the U.S. Court of Appeals for the Tenth Circuit alleging Defendant-OklaAG had not complied with Rule 12 of the Federal Rules of Civil Procedure and that Defendant-OklaAG had submitted fabricated evidence in the lower court proceedings to succeed in having the Plaintiff's complaint dismissed.

24. On or about October 11, 2019, Plaintiff signed up for Defendant-PacerMonitor's Plus Plan application service offering for \$49.00 per month, \$0.15 per page for downloads, and free searching for the purposes of tracking her case then before the Tenth Circuit Court of Appeals.

25. On October 23, 2019, Plaintiff submitted to the U.S. Court of Appeals for the Tenth Circuit in *Smith v. Tulsa DA* her initial motion to compel Defendant-OklaAG and Defendant-TulsaDA to produce corroborating evidence of mailings after Plaintiff learned Appellees entered a notice of appearance with the Tenth Circuit without mailing a copy of the notice to the Plaintiff; the same pattern of behavior exhibited in the lower court proceedings.

26. On October 25, 2019, Defendant-OklaAG filed a response brief with the U.S. Court of Appeals for the Tenth Circuit denying backdating the certificate of service submitted on July 22, 2019 nearly a month

after U.S. District Judge DeGuisti's June 24, 2019 order, and falsely alleging to have mailed the Plaintiff a copy of the motion to dismiss her complaint on June 21, 2019, three days before Judge DeGuisti's order.

27. On October 25, 2019, Plaintiff accessed her PacerMonitor account to retrieve the certificate of service docket entry filed by Defendant-OklaAG on July 22, 2019, however after viewing the docket list in her case against Defendant-OklaAG and Defendant-TulsDA, the July 22, 2019 docket entry was not available and appeared to have been deleted.

28. On November 1, 2019, Defendant-OklaAG submitted to the Tenth Circuit, a response to Plaintiff's motion to compel the Appellees to produce corroborating evidence of court filings Appellees purportedly mailed to Ms. Smith.

29. The November 1, 2019 court filing included affidavit testimony of Deonna Rowdon, a legal aide from the Office of the Defendant-OklaAG.

30. Ms. Rowdon's November 1, 2019 sworn affidavit falsely claims the certificate of service dated June 21, 2019, entered by Defendant-OklaAG on July 22, 2019 with the U.S. District Court of Oklahoma Western District had not been backdated and also purported to have audit. leggins from June 21, 2019 of the mailing.

31. The sole purpose and intent of Ms. Rowdon's November 1, 2019 affidavit was to help Mr. Williford cover-up the fact of having filed fabricated evidence in the district court.

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32. 18 U.S Code § 3 makes it a federal crime punishable with up to 15 years in prison for knowingly assisting an offender avoid punishment for his offense.

33. On November 8, 2019, the case administrator for Chief U.S. District Judge DeGuisti & U.S. District Judge Wyrrick for the U.S. District Court of Oklahoma Western District, emailed Ms. Smith the July 22, 2019 docket entry attachment, the certificate of service portable document format (PDF) file containing the electronic signature of Oklahoma Assistant Attorney General Jon Williford.

34. On November 15, 2019, Defendant-OklaAG filed a reply to the Plaintiff's opposition to Defendant-OklaAG's motion to dismiss her Rule 60 of the Federal Rules of Civil Procedure to the U.S. District Court of Oklahoma Northern District in *Smith v. Dep't Pub. Safety*, Case No. CIV-00-35-C.J. (N.D. Okla. March 1, 2004).

35. On November 20, 2019, KFOR 4 News in Oklahoma City reported public declarations by Defendant-OklaAG that depicted the Plaintiff in a false light resulting in criticism, damage to her reputation, and causing significant emotional distress.

36. On November 21, 2019, Plaintiff's information systems resources determined Defendant-PacerMonitor internal resources used the PacerMonitor application to conceal, block, or deny Ms. Smith's user profile from accessing the July 22, 2019 docket entry in *Smith v. Tulsa County District Attorney*, Case No. CIV-19-426D (W.D. Okla. July 26, 2019).

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37. 18 U.S. Code § 1519 makes it a federal crime punishable with up to twenty years in prison to conceal documents or tangible objects with the intent to impede or obstruct any matter within the jurisdiction of any department or agency of the United States.

38. 18 U.S. Code § 371 makes it a federal crime punishable with up to five years in prison if two or more persons conspire to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose.

39. On November 22, 2019, Plaintiff filed a motion in the United States District Court of Oklahoma, Northern District, requesting a federal judge to order a United Stated Department of Justice investigation into evidence implicating Defendant-OklaAG and Defendant-PacerMonitor with obstruction of justice.

40. On December 6, 2019, Defendant-TulsaDA made public declarations supporting false narratives perpetuated by Defendant-TulsaDA and Defendant-OklaAG damaging to the Plaintiff's reputation and resulting in public ridicule, significant physical and emotional distress.

FIRST CAUSE OF ACTION

**VIOLATION OF 42 U.S.C. § 1983
DEPRIVATION OF CIVIL RIGHTS**

41. The Fifth and Fourteenth Amendments to the U.S. Constitution unambiguously guarantee's

every person due process of law in civil and criminal matters.

42. The Fourteenth Amendment explicitly prohibits States from depriving its citizen's "of life, liberty, or property, without due process of law."

43. On May 9, 2019, Plaintiff filed a civil action in the United States District Court for the Western District of Oklahoma against Defendant-OklaAG, Defendant-TulsaDA, and the Oklahoma Department of Public Safety for violation of 42 U.S.C. § 1983 Violation of Civil Rights Under Color of State Law, Prosecutorial Misconduct, Intentional Infliction of Emotional Distress, and Negligence based on new evidence related to *Smith v. Dep't Pub. Safety*, Case No. CIV-00-35-C.J. (N.D. Okla. March 1, 2004) corroborating Plaintiff's claim of being denied the constitutionally protected right to full and fair opportunity to litigate.

44. The new evidence also implicated the defendants in the case in widespread corruption and cover-up regarding the disappearance of a glass salt shaker, documented on a Defendant-TulsaDA form, as the instrument used to sexually assault Ms. Smith with.

45. On June 6, 2019, Defendant-OklaAG, by ex parte communication, filed a motion to dismiss the Plaintiff's complaint with the U.S. District Court of Oklahoma Western District.

46. On June 21, 2019, Plaintiff submitted a letter to the U.S. District Court of Oklahoma Western District Clerk's office notifying the Court that she learned

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Defendant-OklaAG had filed a motion to dismiss her complaint from watching the news however had not received the motion from Defendant-OklaAG in accordance to Rule 12 of the Federal Rules of Civil Procedure.

47. On Monday, June 24, 2019, U.S. District Judge DeGiusti issued an Order instructing Defendant-OklaAG to send the Plaintiff a copy of the Motion to Dismiss and to submit to the court a certificate of mailing within three business days.

48. Defendant-OklaAG did not comply with the June 24, 2019 District Court Order by submitting to the court a certificate of mailing by June 27, 2019.

49. On Monday, July 22, 2019, Defendant-OklaAG filed a falsified certificate of service with the District Court by ex parte communication, declaring to have mailed a copy of its Motion To Dismiss to the Plaintiff in accordance with the District Court Order of June 24, 2019.

50. The July 22, 2019 certificate of service entered in court by Defendant-OklaAG was dated June 21, 2019, three days before the June 24, 2019 District Court Order.

51. The certificate of service purports being electronically signed on June 21, 2019 by Mr. Jon Williford in the Office of the Defendant-OklaAG.

52. Evidence obtained by the Plaintiff from the case administrator for Chief U.S. District Judge DeGiusti & U.S. District Judge Wyrick for the U.S. District Court of Oklahoma Western District, confirm

the certificate of service entered on July 22, 2019 by Defendant-OklaAG was electronically signed on July 22, 2019 and not June 21, 2019.

53. On July 26, 2019, U.S. District Judge DeGiusti granted Defendant-OklaAG's Motion to Dismiss the Plaintiff's complaint with prejudice based on the fraudulent July 22, 2019 certificate of service filing by Defendant-OklaAG.

54. Plaintiff was deprived of the constitutionally protected right to due process of law in *Smith v. Tulsa County District Attorney*, Case No. CIV-19-426D (W.D. Okla. July 26, 2019), as guaranteed by the Fifth and Fourteenth Amendments as a direct result of the July 22, 2019 falsified certificate of service court filing by Defendant-OklaAG.

SECOND CAUSE OF ACTION

VIOLATION OF 42 U.S.C. § 1985 CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS

55. On August 14, 2019, Plaintiff filed a notice appealing the District Court decision.

56. On or about August 14, 2019, Plaintiff began utilizing Defendant-PacerMonitor's federal court case tracking software application available to the general public.

57. On September 25, 2019, Plaintiff filed her opening brief with the U.S. Court of Appeals for the Tenth Circuit alleging Defendant-OklaAG had not

complied with Rule 12 of the Federal Rules of Civil Procedure and that Defendant-OklaAG had submitted fabricated evidence in the lower court proceedings to succeed in having the Plaintiff's complaint dismissed.

58. On or about October 11, 2019, Plaintiff signed up for Defendant-PacerMonitor's Plus Plan application service offering for \$49.00 per month, \$0.15 per page for downloads, and free searching for the purposes of tracking her case then before the Tenth Circuit Court of Appeals.

59. On October 25, 2019, Defendant-OklaAG filed a response brief with the U.S. Court of Appeals for the Tenth Circuit denying backdating the certificate of service submitted on July 22, 2019 nearly a month after U.S. District Judge DeGuisti's June 24, 2019 order, and falsely alleging to have mailed the Plaintiff a copy of the motion to dismiss her complaint on June 21, 2019, three days before Judge DeGuisti's order.

60. On October 25, 2019, Plaintiff accessed her PacerMonitor account to retrieve the certificate of service docket entry filed by Defendant-OklaAG on July 22, 2019, however after viewing the docket list in her case against Defendant-OklaAG and Defendant-TulsDA, the July 22, 2019 docket entry was not available and appeared to have been deleted.

61. On November 21, 2019, Plaintiff's information systems resources determined Defendant-PacerMonitor internal resources used the PacerMonitor application to conceal, block, or deny Ms. Smith's user profile from accessing the July 22, 2019 docket entry in

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Smith v. Tulsa County District Attorney, Case No. CIV-19-426D (W.D. Okla. July 26, 2019).

62. 18 U.S. Code § 1519 makes it a federal crime punishable with up to twenty years in prison to conceal documents or tangible objects with the intent to impede or obstruct any matter within the jurisdiction of any department or agency of the United States.

63. 18 U.S. Code § 371 makes it a federal crime punishable with up to five years in prison if two or more persons conspire to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose.

64. The use of the signature application offering of Defendant-PacerMonitor blocking, concealing, denying the Plaintiff access to the July 22, 2019 docket entry in her case against Defendant-OklaAG and Defendant-TulsaDA, directly benefiting the defendants is indicative of a relationship, collaboration, and agreement between the Defendants to interfere with the Plaintiff's constitutionally protected right to full and fair opportunity to litigate in the judicial proceedings currently before the United States Court of Appeal for the Tenth Circuit in *Smith v. Tulsa DA*.

THIRD CAUSE OF ACTION

**VIOLATION OF 42 U.S.C. § 1985 CONSPIRACY
TO INTERFERE WITH CIVIL RIGHTS**

65. On October 23, 2019, Plaintiff submitted to the U.S. Court of Appeals for the Tenth Circuit in *Smith v.*

Tulsa DA her initial motion to compel Defendant-OklaAG and Defendant-TulsaDA to produce corroborating evidence of mailings after Plaintiff learned Appellees entered a notice of appearance with the Tenth Circuit without mailing a copy of the notice to the Plaintiff; the same pattern of behavior exhibited in the lower court proceedings.

66. On November 1, 2019, Defendant-OklaAG submitted to the Tenth Circuit, a response to Plaintiff's motion to compel the Appellees to produce corroborating evidence of court filings Appellees purportedly mailed to Ms. Smith.

67. The November 1, 2019 court filing included affidavit testimony of Deonna Rowdon, a legal aide from the Office of the Defendant-OklaAG.

68. Ms. Rowdon's November 1, 2019 sworn affidavit falsely claims the certificate of service dated June 21, 2019, entered by Defendant-OklaAG on July 22, 2019 with the U.S. District Court of Oklahoma Western District had not been backdated and also purported to have audit loggings from June 21, 2019 of the mailing.

69. The sole purpose and intent of Ms. Rowdon's November 1, 2019 affidavit was to help Mr. Williford cover-up the fact of having filed fabricated evidence in the district court.

70. 18 U.S. Code § 3 makes it a federal crime punishable with up to 15 years in prison for knowingly assisting an offender avoid punishment for his offense.

71. 18 U.S. Code § 371 makes it a federal crime punishable with up to five years in prison if two or more persons conspire to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose.

72. The actions of Mr. Williford and Ms. Rowdon individually and collectively interfere with Ms. Smith's constitutionally protected right to full and fair opportunity to litigate in the judicial proceedings currently before the United States Court of Appeal for the Tenth Circuit in *Smith v. Tulsa DA*.

FOURTH CAUSE OF ACTION

**CONSPIRACY TO DEFAME DENYING PLAINTIFF
CONSTITUTIONAL RIGHT TO LIFE, LIBERTY,
AND PURSUIT OF HAPPINESS**

73. On November 20, 2019, KFOR 4 News in Oklahoma City reported public declarations by Defendant-OklaAG that depicted the Plaintiff in a false light resulting in criticism, damage to her reputation, and causing significant emotional distress.

74. On December 6, 2019, Defendant-TulsaDA made public declarations supporting false narratives perpetuated by Defendant-TulsaDA and Defendant-OklaAG for more than two decades, damaging to the Plaintiff's reputation and resulting in public ridicule, significant physical and emotional distress.

75. The December 6, 2019, public comments by the current Tulsa County District Attorney Steve

Kunzweiler attempted to use, the corrupted Grand Jury proceedings ordered by the District Court of Tulsa County, State of Oklahoma case number CJ 2004 04931, to undermine and discredit the Plaintiff's claims of being raped by instrumentation.

76. The December 6, 2019, public declarations by Defendant-TulsaDA are consistent with false narratives spawned from the 2004 Grand Jury proceedings and indicative of, inter-agency collaboration between Defendant-OklaAG and Defendant-TulsaDA damaging to the Plaintiff's public reputation.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that this Court:

- A. Declare the conduct engaged in by Defendants to be in violation of Plaintiff's civil rights.
- B. Declare the Defendants conspired to interfere with Plaintiff's civil rights.
- C. Find that Plaintiff was the target of more than two decades of conspiracy by Defendants to discredit and present Ms. Smith in a false light causing damage to her public reputation, physical, and mental well-being.
- D. Grant judgment to Plaintiff in the amount of \$7,000,000.00 in compensatory damages, with pre- and post-judgment interest.

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E. Grant judgment to Plaintiff in the amount of \$8,300,000,000.00 for punitive damages, with pre- and post-judgment interest. Punitive damages must be significant to provide the proper motivation for corporate decision-makers and state legislatures to eliminate cultures of corruption as exhibited by the Defendants.

F. Grant such further relief as the court deems necessary and proper in the public interest.

G. Grant Plaintiff any costs of this action, including reasonable attorney fees, expert witness fees, and litigation costs.

JURY TRIAL DEMAND

Plaintiff requests a jury trial on all questions of fact raised in the Complaint.

CERTIFICATION

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

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(4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Respectfully submitted,

Dated: 12/16/2019

/s/ Pamela Smith

Pamela Smith
P.O. Box 470261
Tulsa, Oklahoma 74147
918.991.3314
pamelasmithfoundation@
yahoo.com

Although the volume of information we receive from concerned members of the public prevents us from responding individually to every Report, be assured that we will carefully consider the information you have provided us to determine whether there is a matter for this Office to investigate. Should we determine that your Report raises a matter within the jurisdiction of this Office to investigate and that further information from you is necessary for our investigation, you will be contacted. This Office does not resolve individual consumer complaints.

NOTE FOR INTERNATIONAL SUBMISSIONS

We review for any appropriate action all submissions we receive. However, to avoid interference with the sovereignty of foreign nations, we do not respond to or acknowledge submissions from mailing addresses outside of the United States.

Does this Report Pertain to an Ongoing Case?

Yes No Not Sure

If Yes, Please Provide the Following Case Information:

Case Title and Docket Number (if known): Smith v. Tuslsa County District Attorney, docket 19-6123 (Tenth Circuit Courth of Appeals)

Please clearly describe the violation of federal criminal laws that you would like to bring to our attention.

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Include as much information as possible; including the dates, places and nature of incident, and contact information for any witnesses (do not send original documents):

This case involves violations of 18 USC Sec. 1519, 18 USC Sec. 3, 18 USC Sec. 1621 and 18 USC Sec. 371.

On 7/22/19, Jon Williford entered a falsified certificate of service in U.S. District Court Western District of Oklahoma.

11/2019, Ms. Smith, a customer of PacerMonitor, LLC, used its software to conceal the falsified certificate from Smith, to the benefit of Mr. Williford.

On 11/1/19, Deonna Rowdon provided false affidavit testimony covering up for Mr. Williford's falsified certificate, after the fact.

Are You a Victim of this Alleged Crime?

Yes No Not Sure

Are You Aware of Any Other Victim(s)?

Yes No Not Sure

If Yes, Please List Other Victim(s): _____

Are You Represented by an Attorney in this Matter?

Yes No

If Yes, Please Provide Attorney Contact info:

Name: _____ Phone: _____

Address: _____

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Have You Filed a Lawsuit Concerning this Matter?

Yes No

If Yes, Please Provide the Following Case information:

Case Title and Docket Number: _____

Name and Address of Court: _____

Status of Court Case (pending, dismissed, settled): _____

Have You Previously Filed a Report about this Matter with this Office or Any Other Federal, State or Local Agency(s)?

Yes No If Yes, Date Filed: _____

Contact Person: N/A Agency: _____

Status of Previous Report: _____

By submitting this form you certify that all of the statements made in this report (including continuation pages and addendum) are true complete, and correct, to the best of your knowledge. You understand that a false statement of a material fact is a criminal offense. (18 U.S.C. Section 1001).

Signature: /s/ Pamela Smith Date: 12/16/2019

**IMPORTANT NOTE REGARDING THE
PRESERVATION OF YOUR LEGAL RIGHTS:**

Submitting a Report to this Office has no effect on any statute of limitation that might apply to any claim you may have. By submitting a Report

to this Office, you have not commenced a lawsuit or other legal proceeding, and this Office has not initiated an investigation or lawsuit regarding the subject of your Report. If you seek to sue for money or other relief, you should contact a private attorney to represent you in court.

Mail this completed report to:

United States Attorney's Office
Southern District of New York
Attn: Civilian Crime Reports Unit (Criminal Division)
One St. Andrew's Plaza
New York, NY 10007

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

PAMELA SMITH,

Plaintiff,

v.

STATE OF OKLAHOMA,
ex rel., DEPARTMENT
OF PUBLIC SAFETY,

Defendant.

No: 4:00-cv-00035

MOTION TO ORDER
U.S. DEPARTMENT
OF JUSTICE INVESTIGATION

PLAINTIFF'S MOTION TO ORDER U.S. DEPARTMENT OF JUSTICE INVESTIGATION INTO EVIDENCE IMPLICATING THE OKLAHOMA ATTORNEY GENERAL AND PACERMONITOR, LLC FOR OBSTRUCTION OF JUSTICE

(Filed Nov. 22, 2019)

The Plaintiff Ms. Pamela Smith now comes pursuant to 18 U.S. Code § 1519, with this Motion To Order a U.S. Department Of Justice investigation into evidence implicating the Office of the Oklahoma Attorney General and PacerMonitor, LLC located at 19 West 34th Street, Suite 1000, New York, NY 10001, in obstruction of justice with the intent to impede, obstruct, and influence the proper administration of the matter before this Court. The evidence brings to, light a small glimpse into the egregious nature and depth of the scandal, denying the Plaintiff the right of full and fair opportunity to litigate her claim.

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Ms. Smith is a registered user of the PacerMonitor application, a full-featured platform that is integrated with the courts data management systems and used for tracking and researching federal bankruptcy, district, and appellate court cases. The application is uniquely identified by its design and useful screen displays, and is well utilized throughout the legal community.

BACKGROUND

On September 25, 2019, the Plaintiff submitted an opening brief with appendix to the United States Court of Appeals for the Tenth Circuit, case number 19-6123, PAMELA SMITH v. STATE OF OKLAHOMA, ex rel., TULSA COUNTY DISTRICT ATTORNEY OFFICE; STATE OF OKLAHOMA, ex rel., DEPARTMENT OF PUBLIC SAFETY; OKLAHOMA ATTORNEY GENERAL. It would be through this court filing that the Plaintiff first revealed her use of the PacerMonitor application. (See Exhibit A)

The matter before the Tenth Circuit hinges on the Oklahoma Attorney General's Office non-compliance with Rule 12 of the Federal Rules of Civil Procedure for failure to respond to the Plaintiff's Complaint and then submitted a falsified certificate of service on July 22, 2019 that alleged mailing Ms. Smith its Motion to Dismiss her Complaint on June 21, 2019, to the U.S. District Court of Oklahoma for the Western District purporting compliance with Rule 12.

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On October 25, 2019, Defendants filed the Respondent's brief denying non-compliance with Rule 12 and also indicated Ms. Smith's allegations the Defendants had filed a false certificate of service on July 22, 2019, were unfounded.

While preparing to file a reply brief to the Defendants October 25, 2019 response brief, Smith learned the July 22, 2019 docket entry was no longer available to her and appeared to have been removed from the PacerMonitor application. To the best of Ms. Smith's knowledge, any such action in PacerMonitor, would have originated from the court systems.

On November 8, 2019, Ms. Smith was able to secure the certificate of service (docket entry 8) filed by Mr. Williford on July 22, 2019, from the U.S. District Court Western District of Oklahoma. (See Exhibit B-1) A review of the properties associated with the content of that filing show that the document was created on July 22, 2019, not June 21, 2019 as alleged by Mr. Williford. (See Exhibit B-2)

On November 21, 2019, Ms. Smith would learn that her inability to access the July 22, 2019 evidence in PacerMonitor, was directly related to her user profile in PacerMonitor. When Smith is logged in the PacerMonitor application, the certificate of service from July 22, 2019 is unavailable and appears to have been deleted. (See Exhibit C-1) However, when reviewing the same case, from the same computer device without being logged in to the PacerMonitor application, the certificate of service from July 22, 2019 is

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clearly visible. (See Exhibit C-2) Test scenarios were conducted using several computer machines, laptops, and mobile devices. In each test, when not logged in the PacerMonitor application, the July 22, 2019, certificate of service is visible and when logged in the PacerMonitor application using Ms. Smith's log in information, the July 22, 2019 docket entry is unavailable indicative of software applications security features used by systems administrators and information technology security professionals to control which users have access to what objects on a given platform.

Conclusion

The evidence presented to this Court bring to light, Mr. Williford falsified a certificate of service on July 22, 2019 and lied to multiple courts including this Court about the evidence. The evidence presented to this Court bring to light that functionality features of the PacerMonitor application were invoked against Ms. Smith for the sole purpose of impeding the administration of justice, concealing falsified evidence, and preventing Ms. Smith from accessing evidence applicable to her case. The evidence presented to this Court expose the exact same behaviors by the Defendants that is the basis for the Plaintiff's Rule 60 Relief from Judgment that is before this Court.

For the forgoing reasons, the Plaintiff respectfully requests this Court to order an investigation by the United States Department of Justice, into evidence

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implicating the Office of the Oklahoma Attorney General and PacerMonitor, LLC. a Covenant Review company, for obstruction of justice.

Respectfully submitted,

Dated: 11/22/19

/s/ Pamela Smith
Pamela Smith
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Tulsa, Oklahoma 74147
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yahoo.com

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

PAMELA SMITH,

Plaintiff,

v.

STATE OF OKLAHOMA,
ex rel., DEPARTMENT
OF PUBLIC SAFETY,

Defendant.

No: 4:00-cv-00035

PLAINTIFF'S OPPOSITION TO DEFENDANTS
MOTION TO DISMISS
PLAINTIFF'S RULE
60(B) MOTION FOR
RELIEF FROM FINAL
JUDGMENT

PLAINTIFF'S OPPOSITION TO DEFENDANTS
MOTION TO DISMISS PLAINTIFF'S RULE 60(B)
MOTION FOR RELIEF FROM FINAL JUDGMENT

(Filed Nov. 8, 2019)

In its motion to dismiss Plaintiff's Motion for Relief From Final Judgment pursuant to Rule 60(b)(2) and Rule 60(b)(3) of the Federal Rules of Civil Procedure, the Defendant overlooks the core purpose of Rule 60(b), congressional intent, and United States Supreme Court precedent for the rule.

MATTER BEFORE THE COURT

The Plaintiff, Ms. Pamela Smith seeks relief pursuant to Rule 60(b)(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b) and pursuant to Rule 60(b)(3) fraud (whether

previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party.

The new evidence before this Court directly challenges the Defendants claim that Ms. Smith was afforded a full and fair opportunity to litigate and brings to light other key evidence critical to *Smith v. Dep’t Pub. Safety*, CIV-00-35-C,J., that was once in the possession of Oklahoma law enforcement, that the Oklahoma Attorney General alleged was never found.

The Supreme Court has suggested that Rule 60(b) is inherently meant to allow courts to “accomplish justice.”¹ If there ever was a case that is well suited for relief from a final judgment, *Smith v. Dep’t Pub. Safety*, CIV-00-35-C,J., is that case. However, the Court has also noted—if they have lent nothing else to our understanding of Rule 60(b)(4)—that “Rule 60(b)(4) strikes a balance between the need for finality of judgments and the importance of ensuring that litigants have a full and fair opportunity to litigate a dispute.”²

¹ See *Klapprott v. United States*, 335 U.S. 601, 614-15 (1949) (“In simple English, the language of the ‘other reason’ clause, for all reasons except the five particularly specified, vests power in courts adequate to enable them to vacate judgments whenever such action is appropriate to accomplish justice.”); *Griffin v. Swim-Tech Corp.*, 722 F.2d 677, 680 (11th Cir. 1984) (“Rule 60(b) has vested the district courts with the power ‘to vacate judgments whenever such action is appropriate to accomplish justice.’” (quoting *Klapprott*, 335 U.S. at 615)).

² *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367, 1380 (2010); cf. *Stoll v. Gottlieb*, 305 U.S. 165, 171-72, 175 (1938) (“Where adversary parties appear, a court must have the power to determine whether or not it has jurisdiction. . . . After a

OPPOSITION TO DEFENDANT'S FACTUAL BACKGROUND

In *Smith v. Dep't Pub. Safety*, CIV-00-35-C,J., Ms. Smith was not allowed to testify depicting her encounter with her assailant as rape, nor was she allowed to use the word "rape" in court. This was a direct result of the Oklahoma Attorney General claim that state investigations found no evidence corroborating Plaintiff's claim that she was raped by Mr. Donald Reed Cochran with a glass salt shaker.

The evidence before this Court negates the false narrative presented by the Defendant in *Smith v. Dep't Pub. Safety*, CIV-00-35-C,J. and rises to the level of gross injustice that demands departure from observance of the doctrine of res judicata.³ Ms. Smith was not allowed to use the word "rape" in *Smith v. Dep't Pub. Safety*, CIV-00-35-C,J. yet the Tulsa County District Attorney History File Inquiry form (Exhibit A) clearly indicates "rape by instrumentation". The form also indicates the glass salt shaker that was put up the victim's vagina was shown to the victim by Oklahoma Highway Patrol Trooper George Randolph, also negating the false narrative presented by the Defendant in *Smith v. Dep't Pub. Safety*, CIV-00-35-C,J.

party has his day in court, [such a] determination [by the Court] [is] conclusive upon the parties before it. . . .").

³ See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 244 (1944) ". . . injustices which, in certain instances, are deemed sufficiently gross to demand a departure" from adherence to the doctrine of res judicata.

The new evidence (Exhibit A) raises the question, what happened to the glass salt shaker used to rape the Plaintiff, that was once in the possession of the Defendants and that the Defendants falsely claimed was not found during its investigations? A reasonable person could conclude that the glass salt shaker used in the rape of the Plaintiff, with the Plaintiff's DNA all over it, was destroyed by the Defendant and replaced with the false fraudulent narrative presented in *Smith v. Dep't Pub. Safety*, CIV-00-35-C.J. Destruction of evidence is a crime under 18 U.S. Code § 1519, punishable by a fine, up to 20 years in prison, or both.

In the matter of *Smith v. Tulsa County District Attorney*, case number 196123 currently before the U.S. Court of Appeals for the Tenth Circuit, recent activities involving the Oklahoma Attorney General have brought to light, destruction of evidence and fraud upon the court related to the proceedings in *Smith v. Tulsa County District Attorney*, CIV-19-426-D.

Evidence before the Tenth Circuit shows the Defendants did not comply with basic federal rules during the lower court proceedings, defaulted pursuant to Rule 12 of the Federal Rules of Civil Procedure, then attempted to cover-up the default by filing fabricated evidence to the lower court while in contempt of a June 24, 2019, District Court Order. A copy of the Plaintiff's most recent brief and evidences presented to Tenth Circuit is submitted to this Court as evidence highlighting the ongoing corruption the Plaintiff continues experiencing related to her pursuit of justice. (See Exhibit B)

CONCLUSION

In view of the foregoing, it is respectfully submitted that the motion should be denied.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Dated: 11/8/19

/s/ Pamela Smith
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yahoo.com

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

PAMELA SMITH,)
Plaintiff,)
v.) Case No. CIV-19-426-D
STATE OF OKLAHOMA)
ex rel. TULSA COUNTY)
DISTRICT ATTORNEY)
OFFICE, *et al.*,)
Defendants.)

ORDER

Before the Court is Defendants' Motion to Dismiss [Doc. No. 4], filed pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiff Pamela Smith, who is appearing *pro se*, has made no timely response to the Motion within the extended time period provided by the Order of June 24, 2019 [Doc. No. 7]. The Court expressly cautioned Plaintiff in the Order of the consequence of failing to respond in a timely manner. Under the circumstances, the Court finds in the exercise of its discretion that the Motion should be deemed confessed pursuant to LCvR7.1(g).

Further, for the reasons fully set forth in the Motion and supporting brief, the Court finds that the Complaint fails to state a claim upon which relief can be granted. All of Plaintiff's claims based on conduct of Donald Cochran while she was as an inmate of the Oklahoma Department of Corrections in 1997 and

1998 are barred by the final judgment entered in *Smith v. Dep’t Pub. Safety*, Case No. CIV-00-35-C, J. (N.D. Okla. March 1, 2004), *aff’d sub nom. Smith v. Cochran*, 182 F. App’x 854 (10th Cir. 2006).¹ Also, neither the State of Oklahoma nor its agencies or departments are subject to suit under 42 U.S.C. § 1983, and all of Plaintiff’s claims are time barred by operation of the applicable statutes of limitations.² Finally, any individual-capacity claims that might be brought against the Tulsa County District Attorney or the Oklahoma Attorney General are barred by prosecutorial immunity.

IT IS THEREFORE ORDERED that Defendants’ Motion to Dismiss [Doc. No. 41 is GRANTED. This action is DISMISSED with prejudice to refiling.³ A separate judgment of dismissal shall be entered.

¹ The Court may properly consider matters subject to judicial notice. *See Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007); *Gee v. Pacheco*, 627 F.3d 1178, 1186 (10th Cir. 2010); *Pace v. Swerdlow*, 519 F.3d 1067, 1073 (10th Cir. 2008).

² “[I]f the allegations [of a complaint] show that relief is barred by the applicable statutes of limitations, the complaint is subject to dismissal for failure to state a claim.” *Vasquez Arroyo v. Starks*, 589 F.3d 1091, 1096-97 (10th Cir. 2009) (internal quotation omitted).

³ “A dismissal with prejudice is appropriate where a complaint fails to state a claim under Rule 12(b)(6) and granting leave to amend would be futile.” *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1219 (10th Cir. 2006); *accord Full Life Hospice, LLC v. Sebelius*, 709 F.3d 1012, 1018 (10th Cir. 2013) (leave to amend should be freely granted, but amendment may be denied when it would be futile).

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IT IS SO ORDERED this 26th day of July, 2019.

/s/ Timothy D. DeGiusti
TIMOTHY D. DeGIUSTI
Chief United States
District Judge

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

PAMELA SMITH,)
Plaintiff,)
v.) Case No. CIV-19-426-D
STATE OF OKLAHOMA)
ex rel. TULSA COUNTY)
DISTRICT ATTORNEY)
OFFICE, *et al.*,)
Defendants.)

ORDER

Before the Court is a To Whom This May Concern" letter [Doc. No. 6] received from Plaintiff Pamela Smith, who is appearing in this *case pro se*. Ordinarily, this Court does not rule on informal correspondence. A request for judicial action-must be made by filing a motion that conforms to the Federal Rules of Civil Procedure and this Court's Local Civil Rules, which require a case name, a title, and a clear statement of the relief sought. A *pro se* party must "follow the same rules of procedure that govern other litigants." *See United States v. Green*, 886 F.3d 1300, 1307 (10th Cir. 2018) (quoting *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005) (internal quotation omitted)).

Liberally construing the letter, however, the Court understands Plaintiff to say that she somehow learned of Defendants' Motion to Dismiss without receiving a copy of it and she is concerned the Court will dismiss

her case without a response. Accepting Plaintiff's representation as true, the Court will direct Defendants to mail Plaintiff another copy of their Motion.

Pursuant to LCvR7.1(g): "Any motion that is not opposed within 21 days may, in the discretion of the court, be deemed confessed." Under the circumstances, the Court will, exercise its discretion to lengthen Plaintiff's time in which to respond to the Motion and, on this one occasion, will *sua sponte* grant Plaintiff an extension of time. Any future request for additional time must be made by filing a motion that conforms to LCvR7.1(h).¹

IT IS THEREFORE ORDERED that Defendants are directed to send a copy of their Motion to Dismiss [Doc. No. 4] to Plaintiff at her address of record, and to file a certificate of mailing within three business days from the date of this Order. The deadline for Plaintiff to file a response to the Motion is extended to July 18, 2019.

IT IS SO ORDERED this 24th day of June, 2019.

/s/ Timothy D. DeGiusti
TIMOTHY D. DEGIUSTI
UNITED STATES
DISTRICT JUDGE

¹ The Courts' local rules are available on the internet at:
http://www.okwd.uscourts.gov/wp-content/uploads/local_rules_6-22-2018A.pdf

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**PAMELA SMITH, an individual
Plaintiff,**

v.

**STATE OF OKLAHOMA, ex rel.,
TULSA COUNTY DISTRICT
ATTORNEY OFFICE; STATE
OF OKLAHOMA, ex rel.,
DEPARTMENT OF PUBLIC
SAFETY; OKLAHOMA
ATTORNEY GENERAL.**

Defendants.

**Case No.:
CIV 19 426D**

COMPLAINT

(Filed May 9, 2019)

COMES NOW, the Plaintiff, Pamela Smith, Pro Se, in the above-styled action and files her Complaint for Damages and respectfully shows the Court the following:

I. JURISDICTION

1. This action arises under 42 U.S.C. § 1983.
2. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1343.
3. All Defendant's actions and omissions that are alleged herein occurred within Oklahoma County, State of Oklahoma, and within this judicial

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district, thus jurisdiction is proper in the Western District of Oklahoma.

4. Plaintiff fully complied with 51 O.S. § 151, the Oklahoma Governmental Tort Claims Act. Plaintiffs filed notice of a claim on April 22, 1999. Plaintiff received denial of the tort claim on September 1, 1999. An original suit was timely commenced within 180 days.

II. VENUE

5. This action properly lies in the Western District of Oklahoma, pursuant to 28 U.S.C. § 1331(b), because the claims arose in this judicial district.

III. PARTIES

6. For the times pertinent herein, Plaintiff Pamela Smith (“Smith”) was in the custody of the Oklahoma Department of Corrections. When the acts and/or omissions alleged herein occurred, Smith was an inmate at Tulsa Community Correction Center in Tulsa County, State of Oklahoma.
7. Defendant Department of Public Safety (“DPS”), is a department of the State of Oklahoma.
8. Defendant Tulsa County District Attorney (TCDA) is a Department of the State of Oklahoma.
9. Defendant Oklahoma Attorney General is a Department of the State of Oklahoma.

IV. FACTS

10. Smith was an inmate at Tulsa Community Correctional Center ("TCCC") from November 1997 to August 1998.
11. While at TCCC Smith worked in a janitorial capacity at the Department of Public Safety ("DPS"), primarily at the DPS office located at 575 East 36th Street North in Tulsa.
12. Shortly after beginning her job at DPS, Donald Cochran, a DPS employee, commented to Smith regarding the size of her breasts. Cochran also told Smith she needed to do something to prove he could trust her. Within a few days of making these comments, Cochran engaged in sexual intercourse with Smith.
13. Several incidents of sexual intercourse and fellatio between Cochran and Smith occurred from November 1997 through January 1998.
14. On or about February 18, 1998, Smith informed Ed Spencer ("Spencer"), a DPS supervisor, about Cochran giving her a condom and making sexual comments to her.
15. Spencer never took action to prevent further incidents of sexual intercourse between Cochran and Smith.
16. Cochran engaged in sexual intercourse with Smith several more times from March 1998 through May 1998.
17. In April 1998, Cochran used a glass salt shaker to achieve intercourse with Smith.

18. In August 1998, Smith was transferred back to Eddie Warrior Correctional Center in Taft, Oklahoma.
19. On March 3, 1999, an information sheet regarding the rape of Smith by Cochran was denied by the Tulsa County District Attorney prior to an investigation performed.
20. In 1999, Department of Public Safety investigator, Lt. George Randolph, had Smith identify the glass salt shaker that was utilized by Cochran in April of 1998.
21. On May 9, 2001 Smith filed a complaint against Donald Cochran.
22. In 2004, a Grand Jury was impaneled to determine whether sufficient evidence exist to bring charges against Donald Cochran.
23. The Honorable Thomas Gillett disqualified the TCDA and Oklahoma Attorney General Office from acting in the capacity of legal adviser.
24. Judge Gillert's order was disregarded by the Oklahoma Attorney General's office who appointed Gene Haynes, the acting District Attorney for Craig, Mayes, and Rogers counties in 2004 to act as legal adviser to the Grand Jury.
25. When Lt. Randolph was called to testify to the Grand Jury, he failed to produce the glass salt shaker.
26. The glass salt shaker that Smith identified in 1999 was never seen again.

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27. Mr. Haynes did not call any witnesses regarding the rape of Smith.
28. Smith was not provided medical treatment for the injuries that occurred in April 1998, from the glass salt shaker penetrating her vagina.
29. Smith has endured severe physical pain and emotional distress, in addition, Smith has suffered fear, embarrassment, humiliation, anger, and mental anguish.

FIRST CAUSE OF ACTION

**VIOLATION OF 42 U.S.C. § 1983:
VIOLATION OF CIVIL RIGHTS UNDER
COLOR OF STATE LAW**

30. Plaintiff realleges and incorporates paragraphs 1-29 above as if fully set forth herein and further alleges as follows:
31. Smith was coerced by Cochran, a DPS employee, to have sexual intercourse.
32. As a U.S. citizen, Smith is entitled to all the rights, privileges, and immunities secured by the Constitution and the law of the United States.
33. Defendant Department of Public Safety's employee Donald Cochran, subjected Smith to constitutional deprivations without justification or cause, thus violating Smith's right to those liberties secured by the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution.

34. The acts and/or omissions of Defendants have caused Smith to suffer severe and debilitating emotional distress, physical pain, mental anguish, and humiliation.
35. The acts and/or omissions of Defendants were willful, wanton, and malicious, amounting to a total disregard for Smith's civil rights, thus giving rise to punitive damages.
36. WHEREFORE, Plaintiff pray this Court to declare the conduct engaged in by Defendants to be in violation of Smith's civil rights, and judgment against Defendants for compensatory and punitive damages. Plaintiff also pray for prejudgment interest, an assessment of damages to compensate for any tax consequences of this judgment, and the costs of this action, to be taxed against Defendants, and an award of all other proper relief deemed just and equitable by this Court.

SECOND CAUSE OF ACTION:

PROSECUTORIAL MISCONDUCT

37. Plaintiff realleges and incorporates paragraphs 1-36 above as if fully set forth herein and further alleges as follows:
38. An information sheet regarding the rape if Smith by DPS employee Cochran sent to the TCDA was denied prior to an investigation performed.
39. Tim Harris met with Smith on or about February 14, 2004, to request Smith obtain the glass salt shaker because he lacked the resources.

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40. In 2004, the Grand Jury was not fully informed, nor was all evidence presented, for the Grand Jury to make an impartial and educated decision.
41. The Attorney General failed to follow Judge Gillert's ruling regarding disqualification and appointed a close member of the District Attorney Council and accomplice to lead the Grand Jury.
42. WHEREFORE, Plaintiff pray this Court to award Plaintiff actual, compensatory, and punitive damages in an amount to be determined at trial, award Plaintiff her costs, and grant such other relief as the Court may deem just and proper.

THIRD CAUSE OF ACTION

**INTENTIONAL INFILCTION
OF EMOTIONAL DISTRESS**

43. Plaintiff realleges and incorporates paragraphs 1-42 above as if fully set forth herein and further alleges as follows:
44. Donald Cochran's use of his position of authority and power over Smith to illicit sexual favors in violation of 21 O.S. § 1111(7) was extreme and outrageous conduct going beyond all possible bounds of decency.
45. Cochran intentionally and recklessly caused severe emotional distress to Smith beyond that which any reasonable person could or should be expected to endure.

46. Smith's emotional distress is so severe she is still in treatment for the trauma precipitated by Cochran's extreme and outrageous conduct.
47. The inaction, acts, and omissions of the DPS, TCDA, and the Attorney General is also extreme and outrageous, going beyond all bounds of decency.
48. The intentional and reckless inaction, acts, and omissions of DPS, TCDA, and the Attorney General caused, and still causes, Smith severe emotional distress beyond that which any reasonable person can or should be expected to endure.
49. WHEREFORE, Plaintiff pray this Court to award Plaintiff actual, compensatory, and punitive damages in an amount to be determined at trial, award Plaintiff her costs, and grant such other relief as the Court may deem just and proper.

FOURTH CAUSE OF ACTION

NEGLIGENCE

50. Plaintiff realleges and incorporates paragraphs 1-49 above as if fully set forth herein and further alleges as follows:
51. The above sets forth a cause of action against DPS, TCDA, and the Attorney General for Negligence for refusing to fully investigate the crime against Smith.
52. The acting Grand Jury legal adviser failed to present evidence of the rape of Smith by Donald Cochran.

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53. WHEREFORE, Plaintiff pray for this Court to award Plaintiff actual, compensatory, and punitive damages in an amount to be determined at trial, award Plaintiff her costs and grant such other relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Pamela Smith

Pamela Smith

P.O. Box 470261

Tulsa, OK 74147

918-991-3314

PamSmithOk@gmail.com

Pro Se

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26-CVE-FHM Document 21 Filed 05/0[Illegible]
Document: 010110345025 Date Filed

DUPLICATE

Court Name: Northern District Oklahoma
Division: 4
Receipt Number: TOK047258
Cashier ID: deross
Transaction Date: 05/06/2020
Payer Name: PAMELA SMITH

NOTICE OF APPEAL/DOCKETING FEE

For: PAMELA SMITH
Amount: \$505.00

CASH

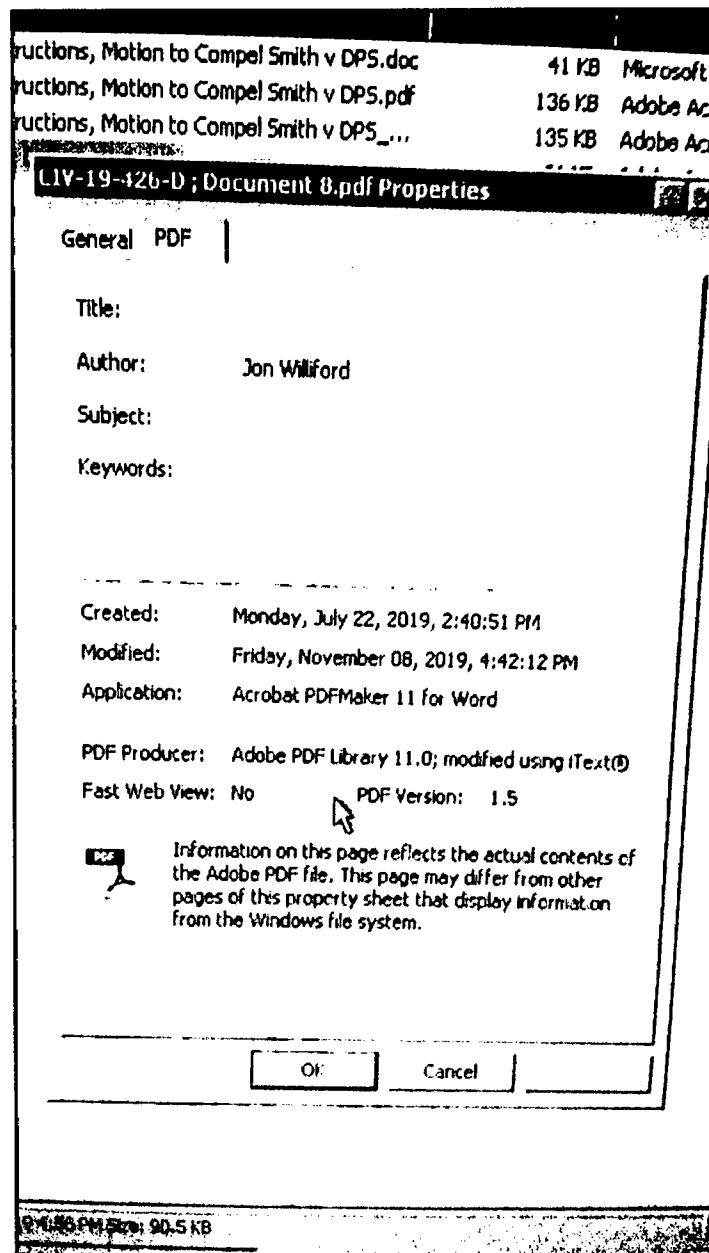
Amt Tendered: \$505.00

Total Due: \$505.00
Total Tendered: \$505.00
Change Amt: \$0.00

20-cv-126-CVE-FHM

“Only when bank clears the check, money order, or verifies credit of funds is the fee or debt officially paid or discharged, a \$53 fee will be charged for a returned check.”

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PF1submit PF1previous PF1alias=1
PF1print PF1xref ClearIndra
* * * NO MORE DETAIL RECORDS * * *

T.M. EVANS - 40M

Liz Egan 720

glass salt shaker put up
v vagina. Shown to v by DHP
teacher George Randolph.

23.

Exhibit 2

AFFIDAVIT OF DEEONA ROWDEN

STATE OF OKLAHOMA §
 §
COUNTY OF OKLAHOMA §

1. I am a Legal Assistant employed by the Oklahoma Attorney General's office.
2. I have been assigned to work on the present matter since the time it came into our office in June 2019.
3. It is one of my job duties and responsibilities to send out the mailings required to be sent out.
4. As part of this duty and requirement, I maintain logs of every item of mail I send out.
5. It is my routine practice and habit to maintain written logs of every item I send out in the U.S. Mail.
6. I have reviewed these logs in preparation for signing this Affidavit.
7. It is my routine practice and habit to mail items as indicated on the Certificate of Service, if such mailing is indicated.
8. Upon review, and based upon my memory, I mailed the Appellees' Motion to Dismiss to Appellant's identified address on June 6, 2019.
9. Upon review, and based upon my memory, I mailed the Appellees' Motion to Dismiss to

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Appellant's identified address on June 21, 2019. This mailing was done due to the letter filed by Appellant claiming to not have received the earlier June 8, 2019 mailing.

10. Upon review, and based upon my memory, I mailed the Appellees' Entry of Appearance to Appellant's identified address on August 30, 2019.
11. No mailing, nor any certificate of mailing, has been backdated or falsified.

FURTHER AFFIANT SAYETH NOT.

/s/ Deeona Rowden
Deeona Rowden
Legal Assistant
Oklahoma Attorney
General's Office

Subscribed and sworn before me this 1st day of November, 2019.

/s/ Donna G. Hope
Notary Public

My Commission Expires:

[SEAL]

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U.S. POSTAL SERVICE	CERTIFICATE OF MAILING
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE- POSTMASTER	
Received From: <hr/> <hr/>	
One piece of ordinary mail ad- dressed to: <hr/> <hr/> <hr/>	

Affix fee here
in stamps or
meter postage
and post mark.
Inquire of
Postmaster
for current
fee.

PS Form 3817, January 2001

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PAMELA SMITH
P. O. Box 470261
Tulsa, Oklahoma 74147

November 11, 2020

[Northern district of Oklahoma]
UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

Case: 20-5042
Case: 19CV11849
CIV-0126-CVE-FHM
(Filed 19, 2020) U. S. District Court
Southern District
New York, New York
Case No. CIV-19-426 D

Pamela Smith
Vs.
Pacer Monitor LLC,
Oklahoma Attorney General
Tulsa County District Attorney

Dear Magistrate Judge James L. Cott,

I am Pamela Smith, victim of rape and assault. I was violated at the Department of Public Safety, 575 East 36st Street North, Tulsa, Oklahoma. I was abused by a State Driver Examiner by the name of Donald Reed Cochran, Sr. I was violated so many times by this rapist, and the state officials ignored Pamela Smith's cry for justice for over twenty-three (23) years.

I have petitioned your court with a civil rights violation lawsuit, suing these litigants above. I am

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asking for your help to request the Department of Justice and the FBI to bring a federal investigation on the state of Oklahoma for abuse of power, destruction of evidence, such as glass salt shaker, that the victim was assaulted with, with DNA evidence, tampering with evidence, tampering with federal witnesses, back dating certificate, (John Wiliford, Assistant Attorney General) falsifying evidence in the district court, which is 18 U. S. Code & 3 makes it a federal crime punishable. with up to 15 years in prison for knowingly assisting an offender avoid punishment for his offense. They destroyed 2 polygraphs that was administered to the victim, Pamela Smith (October 18, 1998 and-January or February of 1999). Medical records, prison field file totally destroyed. Both were administered at Eddie Warrior Correctional Center at Taft, Oklahoma. One was administered by Oklahoma Highway Patrol. The other one by Department of Correction (Ken Woodrum), Internal Affairs for Department of Correctional.

These are the targets of this request for a federal investigation from Washington D.C. Bureau:

- Donald Reed Cochran, Sr., Houston, Texas
- Drew Edmondson, former Attorney General
- Tim Harris, for district attorney, Tulsa County
- Kevin Ward, former Department of Public Safety Director

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- Lt. George Randolph #22, Oklahoma Highway Patrol Investigator. He also retrieved the glass salt shaker at Department of Public Safety, 535 East 36 St No.
- Ron Ward, Department of Corrections Director
- Ed Spencer, Supervisor for. Department of Public Safety
- Steve Kunzweiler, Tulsa County District Attorney
- Mike Hunter, Attorney General
- Governor Brad Henry
- Governor Kevin Stitt
- OSBI
- U. S. Attorney Trent Shore/David O'Malley
- Jerrod Leaman, U. S. Attorney, Eastern District, Muskogee, Oklahoma
- James Carpenter, former Oklahoma Highway Patrol Trooper
- FBI Paul Kilman
- Candance Rowe, victim
- Yvonne Sanders (Patrick), grandmother to Candance
- Florida Calloway, mother to Candance
- Dr. Steven Hoyer, treated Pamela Smith
- Sherry Todd, assistant Attorney General under Drew Edmondson

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- Angela Berlin, assistant Attorney General under Drew Edmondson
- Katie McClain, Esther Vaughn and Carmillia Clincy, DOC workers that were threatened as a federal witnesses by the Attorney General's office, Drew Edmondson, not to come to federal court in the northern district to testify.
- Liz Egan, Tulsa Sex Crime Division
- Gene Haynes, former district attorney, Claremore, Oklahoma, conducted the miscarriage of justice grand jury in Tulsa County in December, 2004. Handpicked by Drew Edmondson to conduct grand jury. Drew Edmondson was recused from any legal advice to the grand jury.
- Miller Newman, former state president, NAACP, McAlester, Oklahoma.
- Jon Willford, assistant attorney the new elected attorney general, Mike Hunter
- Scott Watkins, Department of Public Safety
- Renee Watkins, former deputy warden, Eddie Warrior, Taft Oklahoma.
- Toni Mallory, law enforcement
- Debbie McHaffey, former warden, Eddie Warrior, Taft, Oklahoma
- Lisa Tipton Davis, former assistant attorney general to Drew Edmondson, represented Donald Reed Cochran, Sr., threatened federal witnesses, removed herself off the case, stated she knew Donald Reed Cockran, Sr.

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was guilty, removed herself from the case and became Governor Brad Henry's personal attorney.

/s/ Pamela Smith
Pamela Smith, Victim, Pro-se
Pamela Smith Foundation
My Turning Point Program
P.O. Box 470261
Tulsa, OK 74147

Cc: U. S. Attorney Office
Southern District of New York

Attachment: The intake sheet from the Tulsa County District Attorney Office delivered by Lt. George Randolph #22, Oklahoma Highway Patrol after Pamela Smith, victim, identified the glass salt shaker (1999).

[Nov 11, 2020
Frances Jordan, Notary Public
My Commission expires 2/28/21
#01001469 [SEAL]]

[Pamela Smith
P.O. Box 470261
Tulsa, Okla 74147
918-991-3314]

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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the Day of 11/19, 2020

/s/ Pamela Smith

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Filed December 10, 2020

[Northern District
Case # 20-5042
Case # 19cv1189
Case # civ-0126-CVE-FHM]

Pamela Smith
P.O. Box 470261
Tulsa, Oklahoma 74147
918.991.3314
[pamelasmithfoundation@
yahoo.com](mailto:pamelasmithfoundation@yahoo.com)

October 1, 2019

Office of the Governor
Attn: The Honorable J. Kevin Stitt
Oklahoma State Capitol
2300 N Lincoln Blvd.
Oklahoma City, Oklahoma 73105

RE: Request For Outside Independent Special Prosecutor

Dear Governor Stitt:

I am following up with your Office regarding the matter in PAMELA SMITH v. STATE OF OKLAHOMA, ex rel., TULSA COUNTY DISTRICT ATTORNEY OFFICE; STATE OF OKLAHOMA, ex rel., DEPARTMENT OF PUBLIC SAFETY; OKLAHOMA ATTORNEY GENERAL currently before the United States District Court of Appeals for the Tenth Circuit.

By now you should have received copies of the opening brief and evidence presented to the Tenth Circuit outlining the ongoing challenges and difficulties I continue to experience as a result of ongoing undeniable criminal activity perpetrated by Oklahoma state agencies including tampering with evidence, perjury, obstruction of justice, and perverting the course of justice. As recently as July 22, 2019, the Office of the Oklahoma Attorney General submitted a fraudulent

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filings to the United States District Court for the Western District of Oklahoma under penalties of perjury, a clear violation of federal law.

Such occurrences of injustice and corruption are not uncommon to me as I have fought such fraud and dishonesty in the state of Oklahoma for more than 20 years and have reached out numerous times to authorities with investigative jurisdiction for assistance. To date, the Tulsa County District Attorney, Oklahoma Attorney General, United States Attorney, and Federal Bureau of Investigations inside the borders of this state have proven uninterested and incapable of conducting full, fair, and impartial criminal investigations regarding any of my complaints.

Therefore, I am officially calling on your Office to pursue assigning an outside special prosecutor to investigate these agencies for the corruption related to the destruction of the glass salt shaker used by a state employee to sexually assault me with.

In advance, thank you for your time and attention to this matter.

Regards,

/s/ Pamela Smith

Pamela Smith
