

IN THE 20-5454  
SUPREME COURT OF THE UNITED STATES

AUGUST TERM 2020

NO. 20-6000

(D.C. NO. 5:19-CV-00801-D)

(W.D. OKLA)

MARK SHIELDS

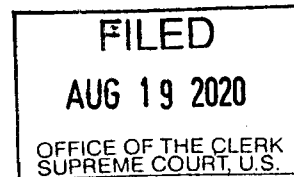
PETITIONER

ORIGINAL

- against -

R.C. SMITH WARDEN

RESPONDENT



PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

PETITIONER MARK SHIELDS, resides at the

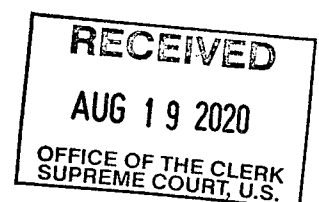
LAWTON CORRECTIONAL FACILITY

8607 S.E. FLOWERWOOD, Rd

LAWTON OKLA 73501

4-A-217

135551



## QUESTIONS PRESENTED

First, Whether a specified § 332.7 c-1, stage-1, Eligibility Review, 'initial hearing', can be considered a actual product of a Mandated Initial Individualized Parole Consideration hearing, OR just a Eligibility Review that determines whether the person will be considered at a subsequent Parole Consideration hearing, may not seem to be a vexing sentencing issue, but it affects thousands of Pre-1997 sentenced offenders who have been systematically and arbitrarily deprived of a mandated initial individualized Parole hearing, beseeches the Dilemma of this court to protect our Constitutional Rights.

Second, Can the state omit an entire category of punishment mandated by statute, until, they change the fundament for the application, to a disadvantageous eligibility requirement, recommendation for parole before the application of the calculation of Parole Consideration dates, for pre-1997 sentenced offenders.

Third, Whether the new crime victims law, two stage parole process,<sup>1</sup> give greater discretion to the Board to defer an initial Parole Consideration hearing,<sup>2</sup> and whether the change in frequency in rescheduling an offender,<sup>3</sup> and whether the system actually provides any opportunity between deferral periods,<sup>4</sup> and whether the change in factors to be considered in deciding whether an offender is released on parole,<sup>5</sup> and whether the calculation of parole consideration dates by the Board, are all ex post facto violations to Pre-1997 Term to life offenders whose crimes were committed before the enactment of THE TWO STAGE PAROLE PROCESS.

Fourth, by omitting an entire category of punishment specifically designed and mandated by statute, for a specific class of offenders, can the state thereby summary deprive petitioner petitioner and all similarly situated pre-1997 term to life offender the application of earned credits, without any due process.

Five, is it punishable to be DENIED ACCESS TO THE COURTS.

## PARTIES

Petitioner is an inmate at the LAWTON CORRECTIONAL and REHABILITATION FACILITY, in LAWTON OKLA

8607 S.E. FLOWER MOUND ROAD LAWTON OKLA 73501

Respondent,

is R.C. SMITH, warden of THE LAWTON CORRECTIONAL and REHABILITATION FACILITY, LAWTON OKLA.

8607 S.E. FLOWER MOUND ROAD, LAWTON OKLA 73501

# TABLE OF CONTENT

|                                                             |   |   |   |   |                     |
|-------------------------------------------------------------|---|---|---|---|---------------------|
| Questions Presented                                         | o | o | o | o | Pages               |
| PARTIES Involved                                            | o | o | o | o | Page                |
| TABLE OF CONTENT                                            | o | o | o | o | Pages 4 through 6   |
| TABLE OF AUTHORITIES                                        | o | o | o | o | Pages 7 through 8   |
| CIRCUIT CASES CITED                                         | o | o | o | o | Pages 9 through 10  |
| DECISIONS Below                                             | o | o | o | o | Page 11             |
| CONSTITUTIONAL AND<br>STATUTORY PROVISIONS                  | o | o | o | o | Page 12             |
| JURISDICTION                                                | o | o | o | o | Page 13             |
| COMBINED STATEMENT OF CASE<br>AND REASONS FOR GRANTING WRIT | o | o | o | o | Pages 14 through 21 |

FIRST Argument: PETITIONER HAS BEEN  
DEPRIVED OF AN INITIAL PAROLE CONSIDERATION  
HEARING, AND EVER SINCE OF A PAROLE  
CONSIDERATION HEARING

o o o o Pages 22 through 27

SECOND Argument: PETITIONER HAS BEEN  
DEPRIVED OF HIS INTEREST OF THE SUPERSEDEDAS  
ACT, 57 § 332.7.(1997) FOR THE CALCULATION  
OF PAROLE CONSIDERATION DATES.

o o o o Pages 28 through 32

THIRD Argument : THE CRIME VICTIMS LAW

TWO STAGE PAROLE PROCESS IS A

EX POST FACTO VIOLATION

o o o o Page 33 through 38

FOURTH Argument : PETITIONER HAS BEEN

DEPRIVED OF THE APPLICATION OF CREDITS

o o o o Pages 39 through 45

FIFTH Argument : PETITIONER HAS BEEN

DENIED ACCESS TO THE COURTS

o o o o Pages 46 through 48

APPENDIX ~ A ~

SUPPLEMENTAL REPORT AND RECOMMENDATION

EXHIBIT

A-1 through A-<sup>9</sup>~~18~~

WESTERN DISTRICT OF OKLAHOMA ~ ORDER

EXHIBIT

A-10 through A-20

WESTERN DISTRICT OF OKLAHOMA ~ JUDGMENT

EXHIBIT

A-21

APPENDIX ~ B ~

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

ORDER

DENYING CERTIFICATE OF APPEALABILITY

EXHIBIT

B-1 through B-5

APPENDIX ~ C ~

PHILLIPS V. WILLIAMS

FOR GOVERNMENT ACT

EXHIBIT

C-1 through C-7  
Page -5

APPENDIXS ~ D ~

|                                      |         |                  |
|--------------------------------------|---------|------------------|
| PETITIONERS CONSOLIDATED RECORD CARD | EXHIBIT | D-1 through D-11 |
|--------------------------------------|---------|------------------|

|                                     |         |                   |
|-------------------------------------|---------|-------------------|
| PETITIONERS JUDGMENT AND SENTENCING | EXHIBIT | D-12 through D-16 |
|-------------------------------------|---------|-------------------|

APPENDIXS ~ E ~

|                                               |         |                 |
|-----------------------------------------------|---------|-----------------|
| THE OKLAHOMA STATE COURTS NETWORK - documents | EXHIBIT | E-1 through E-3 |
|-----------------------------------------------|---------|-----------------|

|                  |        |         |                 |
|------------------|--------|---------|-----------------|
| TITLE 57 § 332.7 | (2020) | EXHIBIT | E-4 through E-8 |
|------------------|--------|---------|-----------------|

APPENDIXS ~ F ~

|                                      |         |                 |
|--------------------------------------|---------|-----------------|
| ENROLLED HOUSE BILL 2616, April 1998 | EXHIBIT | F-1 through F-4 |
|--------------------------------------|---------|-----------------|

|                                     |         |                 |
|-------------------------------------|---------|-----------------|
| ENROLLED HOUSE BILL 1009, June 1999 | EXHIBIT | F-5 through F-7 |
|-------------------------------------|---------|-----------------|

APPENDIX ~ G

BOBBY W. COLLINS CASE OF THE  
WESTERN DISTRICT COURT

|                  |         |     |
|------------------|---------|-----|
| UNPUBLISHED OPIN | EXHIBIT | G-1 |
|------------------|---------|-----|

APPENDIX ~ H ~

|                                 |         |                  |
|---------------------------------|---------|------------------|
| ACCESS TO COURT CLAIM DOCUMENTS | EXHIBIT | H-1 through H-16 |
|---------------------------------|---------|------------------|

## Table of Authorities

### WARDEN V. MARRERO

41 LED 2D 383, 417 US 653 (1974)

### CALDER V. BULL

1 LED 648, 3 DALL 386 (1798)

### LUMMINUS V. MISSOURI

18 LED 356, 4 WALL 277 (1867)

### LINDSEY V. WASHINGTON

81 LED 1182, 301 US 397 (1937)

### WEAVER V. GRAHAM

450 US 24 (1981)

### MILLER V. FLORIDA

482 US 423, 96 LED 2d 351, 107 S Ct 2446 (1987)

### Lynce v. Mathis

519 US 433, 117 S Ct. 891, 137 L Ed 2d 63, (1997)

### DOBBERT V. FLORIDA

53 LED 2D 344, 432 U.S. 282 (1977)

### CONNECTICUT BOARD OF PARDONS V. DUMSCHAT (C1)

69 LED 2D 158, 452 US 458 (1981)

### COLLINS V. YOUNGBLOOD

111 LED 2D 30, 397 US 37 (1990)

### CAL. DEPT. OF CORRECTIONS V. MORALES (1995)

131 LED 2D 588 <sup>514</sup> 514 US 499 (1995)

### GARNER V. JONES

146 LED 2D 236, 529 US 244 (2000)

STOGNER V. CALIFORNIA

539 US 607, 156 L Ed 2d 544, 123 S Ct 2446 (2003)

MORRISSEY V. BREWER

33 LED2D 484, 408 US 471 (1972)

WOLFF V. McDONNELL

41 LED2D 935, 418 US 539 (1974)

GREENHOLZ V. NEBRASKA PENAL INMATES

60 LED2D 668, 442 US 1 (1979)

BOARD OF PAROLENS V ALLEN

6 LED2D 303, 482 U.S. 369 (1987)

GREENFIELD V. SCAFATI

(D. Mass. 1967) 277 F. Supp. 644, 645 - 646 (affd. mem. (1968) 390 U.S. 713 [88 S. Ct 1409, 20 L. Ed. 2d 250])

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MICKENS - THOMAS V. VAUGHN

321 F3d 374

3d Cir 2003

WINSETT V. MCGINNIS

617 F2d 996

3d Cir 1980

COADY V. VAUGHN

251 F3d 480

3d Cir 2001

SCHWARTZ V. MUNCP

834 F2d 396

4th Cir 1987

BEEBE V. PHELPS

650 F2d 774

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DYER V. BOWLEN

465 F3d 280

6th Cir 2006

RODRIGUEZ V. U.S. PAROL COMM.

594 F2d 170

7th Cir 1979

WATSON V. ESTELLE

859 F2d 105

9th Cir 1989

In re RODRIGUEZ

14 Cal 3d 639

9th Cir 1975

DEVINE V. NEW MEXICO DOC.

866 F2d 339

10th Cir 1989

AKINS V. SNOW

923 F2d 1558

11th Cir 1991

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In re CHRISTOPHER MORGANTI  
204 Cal App 4th 904

2012

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1975

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S217457, unpublished opinion

June 11th 2014

In re Lawrence

44 Cal 1181

2008

SUPREME COURT OF OKLAHOMA

PHILLIPS v. WILLIAMS  
608 P2d 1131

1980

UNITED STATES COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

BOBBY WAYNE COLLINS v. STATE  
CIV-93-2273-R

RESOLUTION TRUST CORPORATION  
869 F.Supp 301

1993

OKLAHOMA CRIMINAL COURT OF APPEALS

ANDERSON v. STATE  
130 P3d 273

2006

ERSTRAND v. STATE

1990

MINNIX v. STATE

1955

DECISIONS BELOW

Decision of the WESTERN DISTRICT COURT OF OKLAHOMA

document-11- Filed 10/4/19 SUPPLEMENTAL REPORT AND RECOMMENDATION

DENIED

see Appendix - A -

Decision of the WESTERN DISTRICT COURT OF OKLAHOMA

document-14- Filed 11/22/19 ORDER

Upon consideration the court finds the requisite standard

is not met in this case. Therefore, a COA is DENIED.

The denial shall be included in the JUDGMENT

see Appendix - A -

Decision of the WESTERN DISTRICT COURT OF OKLAHOMA

document-15- Filed 11/22/19 JUDGMENT

Petitioner's petition for writ of Habeas Corpus under

28 U.S.C. § 2254 [Doc. No. 1] is denied. Further, a

certified of appealability is denied

see Appendix - B - A -

Decision of the TENTH CIRCUIT COURT

document-1 - Filed July 10, 2020

We DENY a COA, DENY Applicants motion for

appointment of counsel, and DISMISS the appeal

see Appendix - B -

## CONSTITUTIONAL PROVISIONS INVOLVED

This case involves Amendment XIV OF THE UNITED STATES CONSTITUTION, which provides,

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the UNITED STATES; nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the law. And,

Article I, § 10 provides that No state shall ... pass any Bill of Attainder, ex post facto law, or Law impairing the Obligation of Contracts.

Fifth Amendment's Taking Clause prevents the legislature from depriving private persons vested property rights.

Article I, §§ 9-10 prohibit legislatures from singling out disfavored persons and meting out summary punishment for past conduct.

Eighth Amendment: cruel and unusual punishment.

## STATUTORY PROVISIONS INVOLVED

"The Forgotten Man Act," unable to get a statutory citing from the law library,  
Title 57 § 332.7.(1997)

57 O.S. Supp 1996, section 365

OKLA. STAT. tit. 57 § 138

## OKLAHOMA CONSTITUTION

Article 2, section 15, the OKLA Constitution also provides "no bill of attainder, ex post facto law ... shall ever be passed."

## JURISDICTION

Petitioner is a Pro Se litigant, and really does not understand, what it means, when you say Jurisdiction.

Petitioner brought a claim, dealing with the application of good-time credits, entitling petitioner to immediate release. And as such, though a 28 USC Habeas Corpus 2254, was the proper avenue for relief.

But the District court recharacterized my petition as a 2241 and denied my petition without prejudice as un-timely.

The Tenth Circuit court affirmed the District Courts ruling, but, both courts, gave close to, the same reasons of, and both courts, ruled contrary to the evidence presented to them; and, their interpretations were 'untenable', and amounted to obvious subterfuge, to evade the consideration of my Federal issues, to save face, and to continue the desire to keep pre-1997 sentence offenders incarcerated.

We thought under 'JUSTICIABILITY' the Supreme Court of the United States, under the Constitution Art III §2 as the Supreme Court has SUPREMACY over all courts, and can make up your own minds, as to Federal questions.

The questions raised, are concerned with the interpretation of Due Process, and more specifically, the Ex Post Facto Clause of the Constitution and the Member of the Clause, 'Impairing the Obligation of Contracts', and of course, singling us out as disfavored persons and meting out summary punishment. And know one else can deal with this, but the Supreme Court of the UNITED STATES.

COMBINED

STATEMENT OF CASE and REASONS FOR GRANTING CERTIORARI

This is a case of Extraordinarily Complex legal issues, of 'Controversies' implicating the statutory and regulator reforms of the 1994 Mandatory Minimum Sentencing provisions, the effective date of title 57 § 332.7 as a superseded document, and the 1998 ENACTMENT of the states CRIME VICTIM LAW, Two STAGE PAROLE process.

The claims are of 'Substantive due process' being violated, and the 'Ex Post Facto Clause', and its member, 'impairing the Obligation of Contracts'.

The holding of the lower courts, that petitioners statutory 'Mandated initial Parole Consideration hearing, was denied, because it was repealed by the 1997 enactment of the Truth In Sentencing Act, was completely contrary to the evidence that petitioner presented, in HOUSE BILL 1225 of 1997.

In addition, the UNITED STATE SUPREME COURT has ruled that parole eligibility is implicit in the terms of the sentence.

Petitioner had 'STANDING', and under the recharterized § 2241, to challenge the rules and deprivation of the STATUTORY and Constitutional ENTITLEMENT being ex post facto changed and thereby, impairing the obligation of Contracts, and were was the 'JUSTICIABILITY', and we had document<sup>ed</sup> from August 30th 2019 to March 13th how we had been deprived of access to the law library, and not just being denied documents, but of being frustrated and impeded, with no legal advice, and being given wrong filing information, and the law library is run and operated by correctional officers who have no knowledge or legal experience, we asked for appointment of Counsel, to develop this, as one of our issues, which was not a issue to begin with.

The issues are 'Federal Questions', As to whether the measure of punishment prescribed by the amended statute, to the superseded Act 57 § 332.7 (1997) is more

(1) see *Alarcon v. Pina* 195 Cal. App. 3d 1031 (1989) THE 1994 MANDATORY MINIMUM ACT

(2) *Alarcon v. Pina* 195 Cal. App. 3d 1031 (1989) THE 1994 MANDATORY MINIMUM ACT

severe than that setup by the calculation sentencing system of the 1997 supersedeas Act, and whether it was an unconstitutional ex post facto law, to deprive petitioner and all pre-1997 term to life offenders the opportunity to receive a sentence that would give the application of credits and freedom from custody and control of the PPB.

The omission of an entire category of punishment mandated by statute, in order to change its application from the D.D.C. to the PPB, should have been considered a 'continuing deprivation injury', because it has occurred over such a period of time and still remains, its an Act of Deliberate Indifference of the Administration of parole policies that has caused this petitioner and similarly situated offenders, to serve excessive sentences. Prison terms pursuant to the Supersedeas Act of the Calculation of Parole Consideration dates, implicating SYSTEMIC DISCRIMINATION, to keep an entire class of pre-1997 term to life offenders from receiving MANDATORY parole, that is, the calculation of Parole Consideration dates by the Department of Corrections, this group of EXTREMELY EXTRAORDINARY CIRCUMSTANCES should have overruled the application of § 2244(d) and besides, this was not a Direct Appeal, or of a Judgment of a court, of which, § 2244 is concerned with.

Furthermore, as one court has ruled,

The Year ran from date defendants using due diligence,  
would realize the right to appeal

The court dismissed my petition without Prejudice as UNTIMELY, pursuant to § 2244(d)(1)(D) and based their denial of, and made their narrative for on a error in recitation of what petitioner said.

The court claimed that,

Petitioner admitted that he was considered for parole sometime in 2005, and was therefore aware that the frequency and nature of his parole was being governed by the amended statute.

This statement was wrong, the court erred in citing this statement, what petitioner said, was, "That petitioner's CONSOLIDATED RECORD CARD, shows,

that he had been given an Eligibility Review in 2005, see Appendix(D)

This is one of our issues, that petitioner has not received a initial Mandated Parole Consideration hearing, pursuant to the Forgotten MAN Act, the statute that petitioner was sentenced under, NOR, has petitioner had a STAGE TWO Parole Consideration hearing, as Mandated by the Crime Victims Law, TWO STAGE PAROLE process, in 36 years.

Under petitioner's Mandated Statute, it was a Personal Appearance, and under the 1998 ENACTMENT OF THE CRIME VICTIMS LAW, TWO STAGE parole process, stage-2, is a Personal Appearance. There is no difference in a Parole Consideration hearing, under either system. But under the new, CRIME VICTIMS parole process, there is a STAGE-1-Eligibility Review. And thereby, the state has deprived petitioner, of an initial mandated Parole Consideration hearing, for 36 years, OR rather for the past 22 years of eligibility.

But let us get back, to our reason for granting our Petition for CERTIORARI,

In the District Courts document SUPPLEMENTAL REPORT AND RECOMMENDATION page 12 and 13, see footnote 5, at Petitioner's Appendix<sup>A</sup>, which say's,

1997 OKLA. LAW CH 333 "HOUSE BILL 1225" The provision limiting reconsideration to every three years was set forth in §332.7

B(1) B(2) of "HOUSE BILL 1225"

And, the TENTH CIRCUIT COURT, stated,

In 1997 the OHIO legislature passed the TRUTH IN SENTENCING Act which repealed the prior parole statute decreased the frequency of parole reconsideration for violent offenders like petitioner.

Both courts 'ERRED' in violation of the 1997 TIS Act of H.B. 1213, and of the ENROLLED H.B. 1225.

We sent these documents to the courts and they ruled contrary to the evidence presented. We are trying to get copies of these two H.B.'s that we sent to the District Court. But no matter, it is a very easy situation to resolve.

In 1997, April 14, H.B. 1213 was published,

In 1997 May 30th H.B. 1225 was published

In 1998 April 6th H.B. 2616 was published.

Please go to Appendix (E) and confirm these dates, under our COSCEN 1997 document, page 2, bottom of back side, you will see Historical Dates, and you will see Amended by law 1998 H.B. 2616, superseded document Available.

Now if you will go to Appendix (F) you can see the parole proceedings, Petitioner claims, were in H.B. 1213 in April, 1997, and in H.B. 1225 of May, 1997, and were still in effect <sup>in</sup> April, of 1998 under H.B. 2616. Please view this document H.B. 2616, pages, 1 - page 9, 10, 11, 12, 13 and page 14, end of document.

These are the Parole proceedings, that the court said, did not exist, in 1997, and in 1998. The court claimed, that the TWO STAGE CRIME VICTIMS discretionary Parole process, was introduced in H.B. 1225, in the District Court and the TENTH Circuit, claims, it was in 1997 H.B. 1213, that the new parole procedures decreased the "Frequency of parole reconsideration for violent offenders.

We believe, you know, what we are about to say.

The court intentionally ruled contrary to the evidence petitioner had presented to them. Their interpretation of these state statutes amounted to subterfuge. To avoid review of the Constitutional issues.

Such as, Petitioners (PPCS) Pre-Parole Conditional Supervision, being abnegated for a specialize parole. The state thereby, created a liberty interest in the "expertency" of the Calculation of Parole Considerations dates, and specialized parole being 1-one year before petitioners Projected Release Date. And limited the boards discretion as to which eligible inmates would qualify for specialize parole

Title 57§365 (PPCS) was amended in 1996, and had an effective date of 1997, as well as 57§332.7. And if we understand the word 'untenable', Then the Tenth Circuit Courts interpretation was untenable and amounted to subterfuge to avoid the review of petitioners claims, because, they are constitutional violations. They are Federal issues.

Anyhow, it was not until, June the 19th 1998, under H.B. 1002, that the CRIME VICTIMS LAW, TWO STAGE PAROLS process,

decreased the frequency and limiting reconsideration to every three years.

The court intentionally miss-quoted petitioners statement concerning his CONSOLIDATED Record Card, and used deceptive trickery to disguise the effective date of 57§332.7 with an interpretation of H.B. 1005 that was 'objectively unreasonable'. To deny petitioner the Federal Review of his constitution liberty interest in his specialized parole and the calculation of Parole Considerations dates, which gave petition a liberty interest in release and provided for the calculation of

Parole Consideration dates, for pre-1997 sentenced term to life offenders.

Petitioner claims, that he had a 'conditional liberty interest' under the Forgotten MAN Act, which could not have been taken away, without giving me a Equal, OR Greater liberty interest, such as, the calculation of Parole Consideration dates, that is, MANDATORY parole, less good-time credits.

Let us show you the time line, and Judge for your self if its an EX POST FACTO law, that could not have been applied to petitioners delinquent.

In 1996 the Mandatory Minimum prison term statute was codified and set forth a term of Year sentence for first degree murder, using the current definition set forth in 1969, in 57§ 138 which gave a definition of 15 years, for parole eligibility. And created the calculation sentencing system, 57§ 332.7 A-3, B-1 and B-2, of the 1997 superseded Act, and made mandatory parole based on a 85% clause of the midpoint of the sentence that would have been imposed.

In 1996, the legislature abnegated Mr Pre-parole statute and made it a specialized parole § 365, for the calculation of Parole Consideration dates, to be applied one year before petitioners projected release date.

In April of 1997 the legislature enacted H.B. 1213 and included the superseded Act, 57§ 332.7 and the amended section 365, petitioner specialize parole, and gave The Truth In Sentencing Act an effective date of 1998.

House Bill 1213, was an Amending Act to the Mandatory Minimum prison term statute, which only had a prospective application for court imposed sentences, and provided a schedule-A offense for first degree murder, with the punishment of 18 to 60 Years, see Appendix (G) for provision 21.26 schedule A offense.

In May of 1997 H.B. 1225 gave an effective date of July 1, 1997 to Ltr 57§ 332.7 and amended § 332.7 A-3 with ~ "Been Sentence For."

In April of 1998 H.B. 2616 made an amendment to § 332.7 and stated that the Act of H.B. 2616 became effective on July 1, 1998. see Appendix (F) for this House Bill. which had the Parole proceeding that were in H.B. 1213 and in 1225, that were the calculation of Parole Consideration dates, that were supposed to have been applied to me.

In 1998 the legislature amended the effective date of H.B. 1213 to 1999, and

In June of 1998, the legislature passed H.B. 1002, the STATES CRIME VICTIMS LAW, TWO STAGE parole process, and upon enactment immediately applied it to me, to deprive me of a mandated initial Parole Consideration hearing, see Appendix (D) petitioner's Consolidated Record Card, which shows 2 designations for parole,

(1) Eligibility Review and (2) Personal Appearance.

and under Eligibility Review, it has 1998, then 2005, then 2008,

In 1999, the legislature Repealed H.B. 1213, of 1997, and amended 57§ 332.7 A-3 with section 6, chapter 133 D.S.L 1997, and worked a manifest change in the Application of § 332.7 A-3, and changed the fundament for application of the calculation of Parole Consideration dates, to a fundament for review, and change the wording of § 332.7 A-3. to read as,

It has reached eighty-five percent of the midpoint of the

time of imprisonment that would have been imposed ~

We believe it was this change in the language in the 1999 amendment that the state used to turn the applications from the Department of Corrections that was in the original statute 57§ 332.7 -B-2, and made the application one of the PPB, after a Eligibility requirement, recommendation for parole.

The new version of the statute employed a discretionary scope it did not possess under the statute before its amendment

It seems, which change, from the Department of Corrections, to one by the PPB, that the calculation of Parole Consideration dates, resembles that of the CALIFORNIA parole process, at issue in *Clare Rodriguez* (1975) that was condemned for calculating Parole Consideration, until after, an offender was found suitable for parole.

In any event, whether it was the ENACTMENT of the CRIME VICTIMS TWO STAGE Parole process, of 1998, OR, the amendatory change of section 6, chapter 133 D.S.L 1997, OR a combination of both, OR JUST an Administrative fiasco. It now appears that it became an Eligibility Requirement, Recommendation for parole, before an offender can get the calculation of Parole Consideration dates, a requirement that was not imposed under the Act prior to 707 of its amendments.

We also want to look to the TIS Act, that the courts want to put forth as their narrative to deny, which was, that under the TIS Act, a schedule-A-offense, would have received the application of earned credits after they had served 85% of the sentence imposed, under 57 § 332.7 - 15, which reads,

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

1.) Any person convicted of a crime listed as schedule-A- shall be eligible for parole consideration after serving eighty-five percent of the sentence of imprisonment imposed UNLESS the sentence has been discharged by accumulated credits pursuant to section 138.

PETITIONER HAS BEEN DEPRIVED OF  
AN INITIAL PAROLE CONSIDERATION HEARING  
MARRERO 417 US 653 (1974) RODRIGUEZ 594 F.2d 170 (1979)  
DEVINE 866 F.2d 339 (10th Cir 1989)

The issue presented represents a Prisoner, regarding an issue that affects thousands of other prisoners. An entire class. Pre-1997 term to life offenders. Concerning how the Parole and Pardon Board (PPB), with deliberate indifference, systematically and arbitrarily, deprive almost all Pre-1997 sentenced offenders. A mandated Parole Consideration hearing.

And, has failed to calculate Parole Consideration dates, for whom the statutory framework made Parole the norm and denial the exception, and commanded, the PPB to promulgate a procedure to specifically reconsider the offender denied parole under the statutory rules, clearly violates petitioners liberty and due process rights.

To our knowledge, THE UNITED STATES SUPREME COURT, has never made a decision, that Parole Eligibility is part of a Prisoners Sentence, subject to the clauses Prohibitions of Article I §10, cl.1 'impairing the obligation of Contracts' or of Article I §10 passing laws with certain retroactive effects as being an Ex Post Facto violation as in this case

The court has commented in dicta that "a repeal of parole eligibility previously available to imprisoned offenders would clearly present a serious question under the ex post facto clause. MARRERO 417 US 653

The TENTH CIRCUIT COURT Admitted that the 1997 TIS Act, repealed petitioners parole proceeding, but claimed it was not an ex post facto law.

We disagree with both statements, claiming that 57 §332.7 was not an TIS Act, and did not repeal, 57 §332.7 but §332.7 was a legislative remedy

to the 1996 codification of the mandatory minimum prison term statute, affecting a matter of substance, i.e. petitioner's liberty interest. And that the amended procedural changes are an ex post facto law, that could not be applied to petitioner's detriment, to petitioner's disadvantage, because they are not just procedural changes.

#### BACKGROUND

Petitioner was sentenced in January of 1984, to "life" see Appendix (D) and the parole statute that was in effect when petitioner committed his crime and made his plea bargain, was 57 § 332.7 (see Appendix, (C) for PHILLIPS v. WILLIAMS) and was governed by, THE FORGOTTEN MAN ACT statute, and provided petitioner with a pre-parole program, an a mandated Parole Consideration hearing and OR, a clemency hearing.

Under the Forgotten MAN Act, OKla stat. Ann Title 57 § 332.7 (1971) when I had completed serving one-third of a Presumptive 45 year life sentence, the Correctional Review Committee would docket an offender for a Mandated Parole/Consideration hearing before the Pardon and Parole Board. (608 P2d 1131) or for a clemency hearing.

And, the offender had a right 608 P2d 1133 to assume he was being considered for a recommendation for parole, otherwise, he would be rejected for docketing by the PPB, and would have to appear before the Correctional Review Committee, to be re-scheduled for a Parole Consideration hearing within twelve months subsequent to their last review.

Under THE FORGOTTEN MAN ACT state, the 'initial' parole consideration opportunity was mandated by law.

Petitioner claims, that under the Mandate for an 'initial Consideration' for a recommendation, at the moment he is docketed, pursuant to the Forgotten MAN Act, he has acquired a special status, it was then that a ~~conditional~~ conditional liberty interest was born for petition under the OKla parole procedures.

which procedures could not have been taken away without a remedy against their abrogation (see *In re LAWRENCE*)

Furthermore, under the Forgotten MAN Act, (which we could not get a copy of because of our LACK OF ACCESS CLAIM) an offender serving a life sentence, was entitled to be considered for either Parole OR Clemency. And pursuant to OKla Stat Ann Tit 57 § 332.2 and 354 (1971) the inmate was entitled to a hearing before the Board.

#### FACTS

In 1998, petitioner had served the required one-third of his Presumptive 45 year life sentence, that being 15 years. And was docketed by the Correctional Review Committee OR by D.O.C. for my mandated Personal Appearance Parole Consideration hearing. But petitioner never received a Parole Consideration hearing. And has been summary deprived of a Parole Consideration hearing for OR against a recommendation. Since 1998 today, July 20th 2020.

In 1996, the legislature codified the Mandatory Minimum Sentencing law, and provided a term of Year sentence under the Mandatory Minimum Sentencing statute, and as a remedy for pre-sentenced term to life offenders, created the calculation of Parole Consideration dates, under § 332.7 A-1 A-3 B-1 and B-2.

In 1997, the amendatory House Bill 1213, OKla Thr In Sentencing law, was enacted, in House Bill 1213, Title 57 § 332.7 was included.

The 1997 TIS Act, had an effective date of 1994, and Title 57 § 332.7 according to the House Bill 1225, had an effective date of July 1, 1997.

On the 19th day of June 1998, the legislature ENACTED, under H.B. 1002, The states CRIME VICTIMS LAW, TWO STAGE Parole process. That gave a right to offenders, and victims, to be Present at a STAGE TWO Parole Consideration hearing. As a provision of the CRIME VICTIMS LAW.

Petitioner claims that the state has violated His Constitutional Rights by,  
'impairing the Obligation of Contracts'

Cahler v. Bull 3 IDALL 386

- (1.) by denying petitioner of a mandated, initial parole consideration hearing, pursuant to the statute that petitioner was sentenced under, THE FORGOTTEN MAN ACT.
- (2.) by depriving petitioner of the opportunity for a clemency hearing, that existed as part of the Forgotten man Act, of which petitioner was sentence under, in 1984
- (3.) by abolishing petitioners pre-parole without giving pre-parole, and changing pre-parole to a specialize parole without giving petitioner a specialized parole,
- (4.) by superseding petitioners parole, and depriving petitioner of the supersedeas Act, for the calculation of parole consideration dates.
- (5.) by changing the fundament for the application of the supersedeas act, for the calculation of Parole Consideration dates, by the Department of Corrections.
- (6.) by depriving petitioner of the application of earned credits, and application of petitioners security point assessment and placement classification, under the calculation of Parole Consideration dates.

Even without the calculation of Parole Consideration dates, the deprivation of MP Security point assessment and placement classification, they have impaired the obligation of the contract.

The eminence, Justice CHASE, of *Calden v. Bull* (at 33 Dalls 39) spoke of  
'impairing the Obligation of Contracts'

saying, and not to pass any law impairing the Obligation of Contracts,  
were inserted to secure private rights;

but the restriction not to pass any ex post facto law, was to secure the person of  
the subject from injury, or punishment, in CONSEQUENCE OF such law.

Justice CHASE is a hard one for me to understand.

But, it seems as if he was saying, since they impaired the obligations of the  
contract, that it was a member of the class, of the ex post facto law, a separate  
claim, and, as such, it also have a Ex post facto claim.

Because, all of the circuit courts, ~ except ~ the TENTH CIRCUIT, have held that  
Parole eligibility is part of the sentence imposed as punishment for a crime, and  
therefore subject to the prohibition of the ex post facto Clause, see *Fender v. Thompson*  
883 F.2d 303, 306 (4th Cir 1989) retrospective application of a statute changing Parole Eligibility  
would substantially alter the consequences attached to the crime already completed and therefore  
change the punishment for the prisoner who committed crimes occurred before the  
statute's enactment, see *Schwartz v. Muncy* 834 F.2d 346 n.8 (4th Cir 1987); ("parole  
eligibility is part of the law annexed to the crime at the time of a person's offense")  
*Beebe v. Phelps* 650 F.2d 774-777 (5th Cir 1981)

The RODRIGUEZ court, cited at *ARKINS* 922 F.2d 1558 (11th Cir 1991) said it correctly,

Neither the right to a 'Meaningful' one-third hearing nor the abrogation  
of the right is 'Procedural' as the term is used in Ex post facto law.

The elimination of the one-third hearing did not simply alter the methods  
employed "in determining whether an eligible person would be released  
on parole. Rather, the change denied Rodriguez an Opportunity to be  
released OR to be considered for parole release. // as it has with me p. 26

In AKINS 922 F2d 1558 (1991) deals with offenders who had life sentences. And the state said the same thing, as our TENTH CIRCUIT COURT, just in different words, which was

The inmates have no entitlement OR vested right to parole.

But the ELEVENTH circuit court said it otherwise.

That the scope of the EX POST FACTO Clause has been misconstrued.

Because, the Supreme court in WEAVER 450 US, rejected the contention that the EX POST FACTO is violated only when the law in question affects a vested right

The seventh circuit court declared,

unconstitutional the denial of any meaningful opportunity for parole by retroactive application of the Parole Commission's rules.

cited at WATSON V. ESTELLE 859 F2d 105 (9th Cir 1988)

In my case, in July of 1998, the state ENACTED their new TWO STAGE parole process, and in August of 1998, they immediately applied it to ME. Isn't that what they mean, when they say (retroactive), and deprived me of a mandated Parole Consideration hearing, and have continued, ever since 1998, to deprive me of a Parole Consideration hearing. And similarly situated pre-1997 sentenced offenders.

The constitution is supposed to protect ME from this. The prohibitions on 'Bills of Attainder' in Art. I §§ 9-10, prohibits legislators

From singling out disfavored persons and meting out summary punishment for past conduct.

cited at LYNN 519 US 433 (1997) footnote 12.

And, as stated in AKINS, without the 'initial' mandated Parole Consideration hearing, an inmate is not in any realistic meaning of the term, eligible for parole. In essence, without MY 1/3 hearing, the legislature increased MY minimum sentence, and without parole, ran afoul of the ex post facto clause  
see DEVINE 866 F2d 334 (10th Cir 1989)

PETITIONER HAS BEEN DEPRIVED OF HIS 'INTEREST' OF THE SUPERSEDES ACT,

57 § 332.7 FOR THE CALCULATION OF PAROLE CONSIDERATION DATES.

This case implicates a Particular type of Sentence as applies to an entire class of offenders, for the calculation of parole Consideration dates. That governed Parole Eligibility and early release provisions, based on an 85% clause for discharge less good time credits for pre-1997 sentenced offenders, and term to life offenders

With invidious discrimination, Governor Keating caused an entire category of punishment to be omitted with political motivation, for prisons for profits. Governor Keating required an entire class of offenders, to spend more time in prison than required by statute. It is as indistinguishable from the desire to make certain past conduct criminal. Its roots were in increased disapproval of the particular conduct, of Pre-1997 Term to life offenders, whose term-less sentences were to be calculated to a term of Year sentence, and find release.

His desire to enhance, was promoted by the Federal Government, with Grant incentive funding, to increase prison populations with violent offenders. Under the 1994, Violent Crime Control and Law Enforcement Act, amended in 1996, and now called, "THE CRIME ACT". Qualifying states were required to have enacted OR implemented, by April of 1996, a 85% clause, to receive Federal funding,

And the only 85% law that could have been ENACTED, was that of the 1996 calculation Sentencing system, for the calculation of parole Consideration dates. And placed OKla under Contractual agreement to apply the 1996 calculation Sentencing system, in 1997, its effective date.

But, it did not happen, and Pre-1997 sentenced offenders never received the calculation of parole Consideration dates, for which OKla received federal funding for, 4-24-10 88888-0

In 1996 petitioners Pre-parole was taken away, and changed into a specialized parole, see (57 D.S. Supp 1996 section 365) and placed in H.B. 1213.

In 1996 petitioners security point assessment and placement was taken away, and placed in the control of the pardon and parole board.

In 1997, April, the legislature ENACTED H.B. 1213, an Amending H.B. to the MANDATORY MINIMUM PRISON TERM statute. And, placed LIL 57 § 332.7, in H.B. 1213,

In May of 1997, the legislature passed H.B. 1225, with a amendment to 57 § 332.7-A "BEEN SENTENCED FOR", and, stated that 57 § 332.7 became effective on July 1, 1997,

In 1997, LIL 57 § 332.7 - A - read as follows,

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

A.) 1. completed serving one-third of the sentence;

A.) 3. For an offense that is listed in schedule A, B, C, D, S1, S2 and S-3, served 85% of the midpoint of the sentence that would have been imposed ~

B 1. Any inmate who has parole consideration dates calculated pursuant to subsection A of this section shall be considered at the earliest such date. Any inmate who has been considered for parole and was denied shall not be reconsidered for parole within one year.

B. 2. The Department of Corrections and the Pardon and Parole Board shall promulgate rules for the implementation of subsection A of this section. The rules shall include, but not limited to,

Procedures for reconsideration of persons denied parole under this section and Procedure for determining what sentence the person would have received under the applicable Matrix.

And in 1997, in H.B. 1213, petitioners Pre-parole statute, section 365 was changed from Pre-parole to a specialized parole, which read as

A.) Any person in the custody of the Department of Corrections sentenced for crimes committed prior to July 1, 1998; who meet the following guidelines may be considered by the Pardon and Parole Board for a SPECIALIZED parole

1. a. who are within one (1) year of projected release date and are serving a sentence for a crime listed in schedule A,

B, C, D, 6-1, 5-2 and 5-3

section 28 Amendment 57 O.S. 1991 section 365 amended

by section 7, chapter 125, O.S.L. 1993 (57 O.S. supp. 1996 section 365)

The District Court has our original H.B. documents H.B. 1213 of 1997 and H.B. 1225 MAP 1997, which show that the above procedures of title 57 § 332.7 were not what the District Court NOR what the TENTH CIRCUIT COURT CLAIMS. To demonstrate our claim, we have included H.B. 2616 of April 1998, which show the above procedures. And H.B. 1009 from June 1999, which shows THE CRIME VICTIMS LAW, TWO STATE PAROLE, an issue, and Stats, 57 O.S. 1991, section 332.7 as last amended by section 18, chapter 2, 1st Extraordinary Session, O.S.L. 1998 (57 O.S. supp 1998, section 332.7) which we hope you can see, what the Courts claimed, was a falsehood, that amounts to subterfuge, to evade the consideration that petitioners issues are Federal issues.

In April of 1997, in H.B. 1213, Title 57 § 332.7 - D was for a court imposed sentence under the TIS act, which read,

§ 332.7 D.1. Any person convicted for a crime in schedule A-B, C, D, S-1, S-2 and S-3, shall be eligible for parole consideration after serving eighty-five percent of the sentence of imprisonment imposed UNLESS the sentence has been discharged by accumulated credits pursuant to section 138 of this title.

In 1997, Title 57 § 332.7 was actually a superseded act of petitioners prior parole proceeding. And because of because effective in 1997, whereas, the Amending act H.B. 1213 of 1997 had an effective date of 1998, which was amended in 1998 to 1999 and repealed in 1999.

Simultaneously, with the repeal of H.B. 1213, Title 57 § 332.7-A was amended with section 6, chapter 133 O.S.L. 1997, and "has reached eighty-five percent"

Anyhow, in 1998 when the eff. date of H.B. 1213 was amended, OKLA passed HOUSE BILL 1002 of June 19th, and ENACTED OKLA'S, CRIME VICTIMS LAW, TWO STAGE parole process, developed after the passing of state question 674, adopted General Election Nov. 5th 1996.

We figure since 57 § 332.7 was a superseded act, then it was the same as our sentencing provision, and therefore, could not have been taken away through amendatory changes in the fundament of its application, from a mandatory act by D.O.C. to a discretionary application by the PPB.

We figure these are the principles laid down in LINDSEY 301 U.S. and WEAVER 450 U.S. footnote 20, which states,

MOREOVER, replacement of mandatory sentence reduction with discretionary sentence reduction can not be permissible in light of Lindsey 301 U.S. at 401

When they changed from the Mandatory Calculation of Parole Consideration dates by the Department of Corrections, to a discretionary application by the PPB, they took away MY opportunity to do less than my maximum life term in prison.

The court has ruled in Greenfield v. Scialli 279 Supp. 164, 1646 (D. Mass. 1967) (three judge court) Aff'd 390 U.S. 713, 84 S.Ct. 1409 and L. Ed. 2d 250 (1968) that the principles of parole are as applicable to good-time to qualify equally, cited from Chutkan 754 F.2d 1531 (1985) and thus, since the court, inter alia, decided our case differently than the Supreme court decided on a set of materially indistinguishable facts, it is contrary to clearly established law.

And in Lynce 519 U.S. at 445 that sentencing and parole provisions apply equally, thus, the change implicates the Ex Post Facto Clause, and thus is more onerous than the calculation of Parole Consideration dates of the superseded act, and can not <sup>be</sup> applied to my detriment.

In 1999, the Amendment of 578332.7 A-3, was  
has reached eighty-two percent of the midpoint, and  
Section 6, of Chapter 133 D.S.L. 1997.

This was the wording that finally changed the fundement in its application from the D.D.C. to the PPB, from mandatory to discretionary, to petitioner's detriment.

THE STATES NEW 1998 CRIME VICTIMS DISCRETIONARY PAROLE PROCESS  
AS APPLIED TO PRISONERS WHO COMMITTED THEIR CRIMES PRIOR TO THE ENACTMENT OF,  
VIOLATES THE EX POST FACTO CLAUSE, AND DOES NOT COMPORT TO THE CALCULATION OF  
PAROLE CONSIDERATION DATES

The questions presented are of great importance because they affect the operation of the OKLA parole process, towards a specific class of offenders, thousands of Pre-1998 term to life offenders, and, affects their ability to receive a fair individualized Parole Consideration hearing, that has resulted in, and will result in additional years of incarceration.

This case presents a fundamental question of the interpretation of the UNITED STATES SUPREME COURT CASE *CALDER V. BULL* 3 Dall 386, 391, 1 LEd 648 (1798) as declared by Justice, CHASE.

The issues importance are enhanced by the fact that the District Court has translated Justice CHASE's interpretation of the Ex Post Facto law, as only being applicable to ~ Retroactive law Only ~ and, not to state enactment of law, with certain ~ retroactive effects. (See. *STOGNER* 539 U.S. 607) from preventing governments from enacting statutes with "manifestly unjust and oppressive retroactive effects. (Bull, 3 Dall 386, 391,

Furthermore, the District Court and the Tenth Circuit Court, refuse to consider a STAGE One, Eligibility Review, as a separate and distinct function from a Parole Consideration hearing. And conflate the two functions as one, to summarily deprive Pre 1998 offenders, a Parole Consideration hearing. Based upon a word phrase, that is, "initial hearing", that is the opening phrase of the Stage-1-Eligibility Review process.

The State uses the wording of the Statute 57 § 332.7 - D. of the 2020 document, (Appendix (E)) which are,

"At the initial hearing"

to deprive petitioner and similarly situated Pre-1998 term to life offenders, of a individualized Parole Consideration hearing,

At this stage - 1- initial hearing, the inmate does not get to go before the parole board, and, can not present documents, or have a attorney present.

At this - initial hearing, a employ of the Correctional institution comes to the housing pod, and does a interview, and fills out a 2 or 3 page questionnaire form.

And when the inmate ask the interviewer about the parole statute, title 57 § 332.7, the interviewer say's, she has never heard of it, and does not know any thing about it.

And, when showed the statute, and ask about § 332.7 A-3, the calculation of parole consideration dates, she says, she does not know anything about it. And does not have time to hear about it.

After the 1998 enactment of the states new Two stage crime victims parole process, the proceedings resemble that of the parole system of GREENHOLTZ v. CALIFORNIA, 668, 442 U.S. (1979) except, except at the initial hearing,

The inmate is not permitted to appear before the parole

board, and is not permitted to present letters and statements

And the person doing the interview of a Stage - 1- Eligibility Reviewer can not answer questions, and only knows of the information presented in Her questionnaire form.

## Back Ground

State question 674 The CRIME VICTIMS Law, was Adopted General Election Nov. 5th 1996.

Which set forth a number of provisions to be codified which spelled out 'rights' to be afforded to victims of crimes.

1. victims are to have a right to be present at proceeding when a defendant has a right to be present.
2. victims are to have a right to be heard at sentencing and parole hearings.

Petitioners CONSOLIDATED RECORD CARD, see Appendix (D) shows petitioners parole process as being of two Phases,

### 1. Parole Eligibility Review

DATE 2/84

Action 8-98

8/2005

9/2008

### 2. PAROLE APPEARANCE

Action 8-98

Pursuant to the superseded Act 578 332.7 (1997) the calculation of MY Parole Consideration dates, would have made my eligibility to come to maturity one year before my projected release date, that would have been in 2001, but under the new crime victims parole process, Petitioner did not receive a Stage-1- Eligibility Review, for (7) seven years after his initial-Eligibility Review. And did not even receive the mandated 1/3 Parole Consideration Appearance in 1998, which is called a Parole Consideration hearing.

The Stage Two Parole Consideration hearing, is a Personal Appearance before the Board and possibility and victims that want to appear.

There is no difference between a stage-2 Parole Consideration hearing, and, a original Parole Consideration hearing, except for, victims have a right to appear, and voice their opinion concerning your release. Thus, a stage one eligibility review, could only be applicable once an offender had received an initial parole consideration hearing. see AKINS v. SNOW

The stage-1- Eligibility Review, was intentional applied and used to deny pre-1997 term to life offenders, of an 'initial parole consideration hearing, and, used to 'omit' the <sup>entire</sup> category of punishment mandated by statute, that is the calculation of parole consideration dates for pre-1997 offenders. And to qualify for Federal funding.

This was all done with intention on the part of Governor Keating, Lieutenant Governor Mark Fillon, and A.G Drew Edmondson, and a group of constituencies whose interest was in the pernicious effect of, for profit incarceration of violent offenders, and took place in the ambience of numerous policy changes to view prisoner and all pre-1997 offenders with re-doubled scrutiny with the states new two stage crime victims parole process, as their TOOL of deprivation.

The CRIME VICTIMS LAW, Stage-1-Eligibility Review, Parole Process, actually affected a critical stage of criminal Proceeding, the Sentencing Phase, that is, the calculation of Parole Consideration dates.

The crime victims law, two stage parole process, effectively changed MY INITIAL PAROLE CONSIDERATION HEARING, before the Board as mandated by the CRIME VICTIM LAW, and ORIGINALLY, by our original Sentencing factor, THE FORGOTTEN MAN ACT.

And, made a change in the factors to be considered in deciding whether a person is suitable for parole, factors that were not part of the previous parole scheme or parole provision.

Also, it changed the standard for eligibility for a parole reconsideration and, it changed the frequency from an annual one year reconsideration to a minimum of 3 years or as much as five (5) years, before reconsideration could happen, depending upon, an Eligibility Review. A factor not part of the <sup>Previous Scheme</sup> Furthermore, we disagree with the Courts ruling, that 579332.7 offers any opportunity for reconsideration with a showing of <sup>a change of</sup> circumstances.

When the parole procedures changed the authority of the calculation of Parole Consideration dates, it changed the offenders parole release under the statute. And deprived petitioner of his STATE CREATED Right. see HEWITT V. HELMS in Appendix ( )

We think, altering the burden of proof associated with a decision concerning the timing of the next parole hearing, and concerning a parole release decision, both would seem to be ex post facto violations. It gives greater discretion where there was not before, and makes parole less available.

The new crime victims law parole process, altered the calculation of Parole Consideration dates and thereby altered the calculation of CREDITS, it altered, it must to have, the criteria relevant to a determination of the sentence, and lead to a more onerous result than under the prior law. The prior law, should have been the sentencing provision for the calculation of parole Consideration dates.

We claim that the 1998 TWO STAGE CRIME VICTIMS parole process, was created in 1996, and was designed to comport to their future 21 D.S. § 12.1 the 85% rule, which was reported by OKla's Criminal Court of Appeals, to have changed the traditional understanding of parole in OKla, see footnotes of SUITE LEWIS Of the OKla Criminal Court of Appeals, opin., in ANDERSON v stat 130 P3d 223 (2006) to understand OKla's new parole landscape.

DOES NOT COMPORT

That's why title 57 § 332.7 B-2 stated,

B-2 The pardon and parole board shall promulgate procedures for reconsideration of the person denied parole under this section.

The 1997 statutory framework of the Calculation sentencing system, implicitly or explicitly, made parole the norm and denial the exception. Implicitly saying, that under the mandatory parole of the Calculation of parole consideration dates, the Pardon and parole board had a responsibility to avoid a parole determination that would lead to a grossly excessive sentence, for pre-1997 sentenced offenders.

Does not comport,

And the change in the frequency of the CRIME VICTIMS parole process would not comport to reconsider an offender who was denied before they would have discharged-less good-time credits. See - RODRIGUEZ 594 F.2d 170 (7th Cir 1979) where being denied an opportunity that existed prior to was an ex post facto violation.

PETITIONER HAS BEEN SUMMARY DEPRIVED OF  
THE APPLICATION OF EARNED CREDITS

This claim pertains to thousands of Pre-1997 sentenced offenders, Oklahoma's offense based exclusion group of offenders. claims, that the state with forethought of intention, omitted entirely a category of punishment mandated by statute, and thereby, removed the mechanism that created an opportunity for early release for the exclusion base group of offenders, the application of earned credits.

Similarly to the *Lynce* 519 U.S. 433 (1997) case, where we claim, that through an administrative fiat, the Department of Corrections were told not to calculate until after the state had Repealed the 1997 TIS Act, in 1999, and thereafter, through amendatory change, they made the fundamental in the application to a fundamental for review, and thereafter, decided to let the constitutionality in changes of the quantum of punishment depended on the purpose behind the Parole Sentencing System.

*Ludsey* 301 U.S. 397, established that we can not be barred from challenging a change in the penal code on ex post facto grounds. And whether or not, the credits were a part of petitioner's original sentence. When the state <sup>stated</sup> that if a court modified a term to life sentence, credits would be applied. And the statute 575332.7 (1997) provided for the application, then a change in that application, was a summary deprivation, and, in this case, without any due process.

And what the state could not have done directly, they should not have been allowed to have done indirectly, through repealing of a Amendatory act of the original sentencing statute, the 1996 mandatory Minimum Sentencing Statute. See, *Cummings v. Missouri* 18 LED 356, 4 wall 277 (1867)

PETITIONER HAS BEEN SUMMARY DEPRIVED OF  
THE APPLICATION OF EARNED CREDITS

In 1994, by vote of the people of OKla. Mandatory minimum prison terms was passed. And authorized the Oklahoma Truth In Sentencing Policy Advisory Commission was authorized to use existing definitions or to create new minimum and maximum range of punishment for all felony and misdemeanor crimes, pursuant to the 1994 H.B. 1249. and under title 22 the commission codified a life Sentence with a definition of 45 years, and created the calculation sentencing system, for pre-sentenced term to life offenders, to comport to the mandatory sentencing provisions.

In 1995, the WESTERN DISTRICT court, ordered the calculation of good-time credits to a TERM OF LIFE SENTENCE and ORDERED parole be determined on a 45 year sentence. In the case of Bobby W. Collins CIV-93-2273-B and then depublished the case. See Appendix (G)

Petitioner premised that relief was granted to MR Collins because of the Mandatory minimum Sentencing law. But we was denied discovery by the DISTRICT COURT, and the TENTH CIRCUIT court, of the 'locked opin', of the WESTERN DISTRICT court. to prove our claims.

Prior to 1976, when an inmate entered the OKla prison system, Title 57 §133, provided for pre-crediting of good-time credits against the full term of a defendant's sentence by D.O.C. Thus, they called these credits as mandatory.

In 1976, Title 57 §134, prisoners earned credit statute, was amended to read, that good-time credits would be recorded, and if a court modified, a life sentence, then they would be applied.

In 1997, with HOUSE BILL 1213, there was amendments made to § 982a placing a time limit on requesting a modification to 2 years. Thereby foreclosing petitioners ability for filing a petition to modify.

We claim that title 57 § 332.7 effective date July 1, 1997, superseded act as a sentencing provision of title 22 § and section 332.7 A-3 B-1 and B-2 to have authorized the application of earned credits to the calculation of Parole Consideration dates, and thus, we was entitle to them.

We believe that the court ruled arbitrary and capriciously, after they seen the evidence of the ENROLLED HOUSE Bills, 1213, and 1225 of 1997.

In *Morrissey v. Brewer*, 408 U.S. (1972) the court said the ability to assert a constitutional right does not depend upon

Whether a governmental benefit is characterized as a right or as a privilege" *Id.* 408 US at 481 92 S. Ct at 2600.  
quoting *Graham v. Richardson* 403 US 365, 374, 91 S. Ct 1848 1853, 29 L. Ed. 2d 534 (1971)

Rather, the relevant inquiry should be whether (depriving petitioners of the calculation of parole consideration dates, and the application of earned credits would amount to a significant loss to all pre-1997 sentenced offenders) *Id.* In *Wolff v. McDonnell* 418 US 539 (1974) the court held that nothing in the Const. required the granting of good-time credits, but Congress adopted a good-provision, that recorded those credits, and then provided the day, that the application could be made, gave petitioner an entitlement to those credits, and the out right omissions of the category of punishment that was mandated by statute, for pre-1997 term to life offenders, could not then have been taken away, without being considered a or constituting as a substantive sanction, and

in my position the summary deprivation is a deprivation of my liberty, without any due process of law.

The calculation of parole consideration dates, is what the DISTRICT COURT did in the Bobby W. Collins case, it ordered the Coordinator of Sentencing for DIOC to calculate the defendants earned credits under the life sentence of 45 years, with parole eligibility on completion of one-third of a 45 year sentence.

We believe, that when the Plural form of ~ calculation of Parole Consideration  
~ dates ~

is the given definition of mandatory parole. Of which the state took away, by omission of an entire category of punishment mandated by statute, which is such an abuse of discretion, that it cannot be considered as anything other than, the desire to see a certain class of offenders spend more time in prison is indistinguishable from the desire to make certain past conduct criminal. see DEVINE 846 F2d 3443

You all know what Constitutional rights have been affected, petitioner requested appointment of Counsel, to find out what rights were affected, and to develop our arguments.

If you gave me a jury, & guarantee they would see such a deprivation as a violation of my Constitutional rights, and due process of law, why then would the TENTH CIRCUIT rule, OR make a determination for which there was no evidence to support, indeed, it conflicted with virtually all pertinent evidence, and is arbitrary & capricious. It was not rational to my thinking.

I am not a lawyer, and can not build the argument, that it was a Bill of pains and penalties, but you all can.

With the calculation of Parole Consideration dates, earned credits were authorized and could have been shown with discovery of the TENTH CIRCUIT COURT OF APPEALS opinion in our case of Bobby W. Collins case, decided in 1995. Both the DKIA CRIMINAL COURT OF APPEAL and the TENTH CIRCUIT courts have been aware of the deprivation of Pre-1998 term to life offenders, <sup>of</sup> the calculation of Parole Consideration dates, for the last 20 years.

Mandatory parole, that is, the calculation of Parole Consideration dates gave petitioners and all Pre-1998 term to life offenders a liberty interest <sup>in</sup> the calculation of credits, and a type of Parole, that no longer exists and the application of Petitioners Security Point Assessment and Placement Classification, that was taken away, for the calculation of Parole Consideration dates, in 1996.

But with the courts recognition that there is,

no distinction between depriving a prisoner of the right to earn good time credits, and the right to qualify for the application of earned credits, citing *Weaver*, 450 U.S. at 32-33. and 34, (quoting *Greenfield v. Scafati*, 277 Supp. 644, 646 (D. Mass. 1967) (three-judge court), aff'd.

mem 390 U.S. 713, 88 S.Ct 1409, 20 L Ed 250 (1968),

recognized as clearly established Federal law. See *Marks*, 430 U.S. at 191-92.

Thus, the court's denial of petitioners rights, is clearly contrary to clearly established Federal law. And, the court has indicated that, retroactive curtailment of parole eligibility constitutes retroactive enhancement of punishment.

and that is what the state did when they, enacted, in 1998, the states TWO STAGE CRIME VICTIMS DISCRETIONARY parole process, upon petitioners immediately upon enactment, and deprived petitioner of, 7-1-20 ISSUE 4 Page 43

In June 1998, under House Bill 1002, the legislature enacted the states new, Two Stage Crime Victims discretionary parole process. And immediately enacted it upon petition in August of 1998, and thereby, rescinded the calculation of Parole Consideration dates, and the application of earned credits and the application of petitioners security point Assessment and Placement classification.

It seems that the 1998 parole process of the crime victims law, rescinded petitioners original Mandated 1/3 Parole Consideration hearing, that was pursuant to the Forgotten MAN Act, the date of which we believe was 1949, but as we said, we have been denied Access TO THE COURT, that is, the institutional law library would not provide the Forgotten MAN Act, nor would they provide any of the other documents, that petitioner has requested, such as, all of the House Bills, and, the 1998 'Sentencing and Release Policy', that went along with the calculation of parole Consideration dates, as spoken of in the Federal Governments document NOO 195161 July 3rd 2002 Award number 98-CE-VX-0006 Department of Justice. NO, the law library officer said,

These documents are so old, that they can have  
know application to you.

and refused to get me this statute, and all of the House Bills, that I requested.

Nevertheless, the state, and the PPB, never gave me another "Eligibility Review" after denying me of my 1998 Parole Consideration hearing, for another seven (7) years. See petitioners copy of his, Consolidated Record Card, in Appendix (D) which shows petitioners parole record.

Petitioner claims that the rescinding of petitioner's Mandatory parole, of the calculation of parole Consideration dates, violated petitioner's Constitutional rights, and the application of earned credits.

The State "impaired the Obligation of Contracts" as cited in *Calder v. Bull* at [3 DALL 397] (1798) of Article I, section 10, of the Const.

When they denied petitioner his 'Mandated' parole Consideration hearing, of the Forgotten MAN Act, without giving me the Superseded Mandatory Parole of §332.7 1997 effective date of the Calculation of Parole Consideration dates, statute, and placed me under instead, under the Crime Victims parole process.

Its like you all said, in *LINDSEY V. WASHINGTON* 81 LED 1182, 301 US 397

They removed they removed the possibility of a sentence less than life, at the end of which petitioner would have been freed from further confinement and the tutelage of of a parole revocable at will, operates to petitioner's detriment in the sense that the standard of punishment adopted by the Two Stage Crime Victims discretionary parole process is more onerous than that of the mandatory parole process.

That is my wording of *LINDSEY* 301 US 397

With the calculations of Parole Consideration dates by the Department of Corrections, the application of earned credits was done by D.D.C. according to the 85% rule of §332.7 A-3.

But after the 1998 enactment of the crime victims parole process, and rescinding of Parole Consideration dates, the application of earned credits was given to the Pardon and Parole Board, this was wrong for them to do.

## BEING DENIED ACCESS TO THE COURTS

The issue has occurred over a very long period of time, beginning in 2016, when my motion was dismissed for failure to satisfy the technical requirements of § 982 because of the deficiencies in the prison's legal assistance at this facility, through to July 2020 when I asked for the address to send my Petition for Certiorari, too.

The law library 'misdirected' my mailing, see Exhibit H-17 of Appendix's (H) in 2017 when I asked for the address of the OKla Criminal Court of Appeals, instead, they sent me to the WESTERN DISTRICT COURT OF OKla.

The law library 'misdirected' my mailing, see exhibit H-18 when I asked where to send my filing fees, for my appeal to the TENTH CIRCUIT COURT, instead of sending it to the WESTERN DISTRICT COURT, they sent me to THE TENTH CIRCUIT COURT OF DENVER.

The law library 'misdirected' my mailing, see exhibit H-8 and H-19, when I asked where to send my Petition for Certiorari, instead, they sent me to the TENTH CIRCUIT COURT OF DENVER CO.

My first filing was dismissed, because I failed to satisfy technical requirements of § 982 and that was because of the institutions legal assistance ~~not~~ inadequacies. They impaired my ability to present my case effectively, resulting in actionable harm.

Next, when I filed a forma Pauperis application to the accounting office of this institution, it was sent back to the law library, 8 days before my deadline, but the law library did not give it to me, until, 2 days after my deadline. And, my original deadline was registered with the law library, it was wanton infliction of of pain. With affirmative documentation, we have shown that we had missed deadlines, failed to make filing with the OCCA, and my legitimate claim was dismissed because of the denial of reasonable access to legal resources.

The law library here is run, and has been to the best of our knowledge, since 2016, of August, run and operated by Correctional officers, who have no knowledge or experience in law, or operation of a law library, and the evolving management thereof.

The law library could not give me any advice, as to where, or when to file a successful claim. NOR did they give me any legal assistance to do any legal research on the computer, and, there was no help to answer my 'BEBUT'.

The law library Pre-covid-19, never provided me with physical access, but (4) times, from Sep 13th of 2019 to Feb. 13th 2020, and since Feb 2020 to August of 2020, to any physical access to the law library and resources.

Even at normal operations, it was only for -2-hours once-a-week, if you got to go, if you got to be, one of the ten people at a time, that was allowed into the physical building, out of some 300 inmates, trying to go.

In January through February of 2020, even tho I had showed my deadline date, I never got to go to the law library, until, I had gotten the inmate law clerk to persuade the law library officer, to let me come and mail out my materials for which I was under deadline to do.

Exhibit H-1 and H-2 shows that we were in lock-down as far back as 3-18-19 and 4-9-19 without any physical access to the law library, and was denied access to reasonable resources.

Exhibit H-3, H-4, H-5 and H-6 all show that from Sep 14th. of 2019 through to February 2020, we only got to go -4-times to the law library, if we were one of the lucky-ones, chosen to go.

And that only amounted to me, the opportunity to get a specific case printed off and purchased, if I wanted any information or court decisions, to take with me, and figure out.

This was the only way I could figure out how to file, was from purchasing cases. That costed me .25¢ a page. That's why we asked them, and now for  
For Appointment of Counsel and Co-Counsel.

And, as for getting cases, and House Bills, and statutes, e.g. THE FORGOTTEN  
MANS ACT. They just said to write General Counsel, if they could not find them.

And I did write General Counsel, and that was fruitless too. Furthermore,  
when Mrs. Harding was working in the law library, I got her to send a email, to  
General Counsel, and that was still fruitless.

Finally, I wrote the DOLA Department of Libraries, see Exhibit -H-20.  
and tried to purchase House Bills. But the DOLA Department of Libraries, instead,  
sent the Institutions law library forms to get the House Bills and statutes that  
I had requested, through the Interlibrary loan program. But, the law library  
said they did not know how to work the Interlibrary loan system. So,  
I was just bet. ~ write General Counsel

We also wrote the WESTERN DISTRICT COURT CLERK, and asked about a case,  
and told the law library that they could get the case from the court clerk, but  
that was to no avail. We saved our money up, and paid 50¢ a page, for as  
much as we could afford.

We have no knowledge of the law, I'm un-educated and have a developmental  
disability, and am un-able to develop these issues, without Appointment of  
Counsel, and Co-Counsel.

The requested actions, that we are seeking is,

The Calculation of Parole Consideration date(s) an Application  
of earned credits.

and, the opportunity with the help of an Attorney, to speak my defense.  
8-8-20 Page 48