

No. \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

**OCTOBER TERM, 2020**

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RONNIE EUGENE FUSTON,

Petitioner,

vs.

THE STATE OF OKLAHOMA,

Respondent.

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**PETITION FOR WRIT OF CERTIORARI  
TO THE OKLAHOMA COURT OF CRIMINAL APPEALS**

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**APPENDIX "C"**

**Order Denying Petition for Rehearing  
And Motion to Recall Mandate  
By the Oklahoma Court of Criminal Appeals**

**Issued June 12, 2020**

**IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF  
OKLAHOMA**

**FILED**  
IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA

JUN 12 2020

JOHN D. HADDEN,  
CLERK

RONNIE EUGENE FUSTON,            )  
  )  
                          Appellant,        )  
  )  
v.    )  
  )  
THE STATE OF OKLAHOMA,        )  
  )  
                          Appellee.        )

Case No. D-2017-773

**ORDER DENYING REHEARING AND  
DIRECTING ISSUANCE OF MANDATE**

Appellant was convicted in a jury trial before the Honorable Ray C. Elliott, District Judge, of First Degree Malice Murder (Count I) (21 O.S.Supp.2012, § 701.7(A)), and Possession of a Firearm After Former Juvenile Adjudication (Count II) (21 O.S.Supp.2012, § 1283(D)), Case No. CF-2013-438, in the District Court of Oklahoma County. In Count I, the jury found the presence of two aggravating circumstances: 1) the defendant created a great risk of death to more than one person; and 2) the existence of a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society, and set punishment at

death. In Count II, the jury recommended imprisonment for ten (10) years. The trial judge sentenced Appellant in accordance with the jury's determination and ordered all sentences to run concurrently. This Court affirmed Appellant's convictions and sentences in *Fuston v. State*, 2020 OK CR 4, \_\_\_ P.3d \_\_\_.

Appellant is now before the Court on a Petition for Rehearing, Rule 3.14, *Rules of the Court of Criminal Appeals*, 22 O.S.2011, Ch. 18, App. According to Rule 3.14, a Petition for Rehearing shall be filed for two reasons only:

- (1) That some question decisive of the case and duly submitted by the attorney of record has been overlooked by the Court,  
or
- (2) That the decision is in conflict with an express statute or controlling decision to which the attention of this Court was not called either in the brief or in oral argument.

Appellant claims rehearing is warranted in Proposition II of the opinion because this Court failed to consider and decide the impact of specific language in the applicable federal and state statutory law in determining whether the Oklahoma County District Attorney's Office

acted in good faith in securing a court order for historic cell tower records.

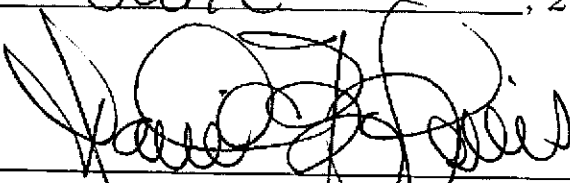
We have thoroughly reviewed Appellant's argument for rehearing. We have also thoroughly reviewed our opinion in Appellant's case and find that we fully addressed the issues raised. Appellant's arguments on rehearing are merely disagreements with the analysis and conclusions reached by the Court. He has failed to show that we overlooked any question decisive of the case or that our decision is in conflict with any controlling authority. Therefore, he has not properly set forth any grounds for rehearing.

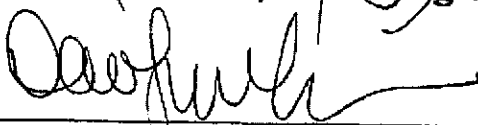
Based upon the foregoing, this Motion for Rehearing is **DENIED**. The Clerk of this Court is ordered to issue the mandate forthwith.

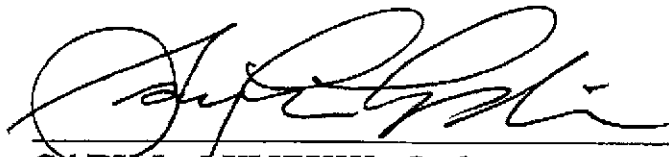
**IT IS SO ORDERED.**

**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this

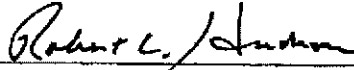
12<sup>th</sup> day of June, 2020.

  
\_\_\_\_\_  
**DAVID B. LEWIS, Presiding Judge**

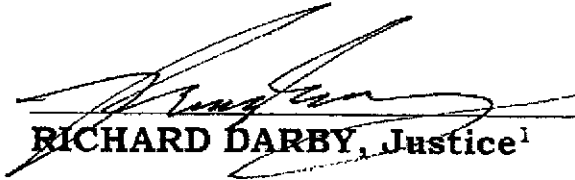
  
\_\_\_\_\_  
**DANA KUEHN, Vice Presiding Judge**



**GARY L. LUMPKIN, Judge**

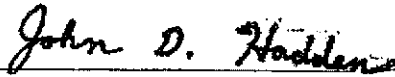


**ROBERT L. HUDSON, Judge**



**RICHARD DARBY, Justice<sup>1</sup>**

ATTEST:



Clerk

**MEMO**

<sup>1</sup> The Honorable Richard Darby, Justice of the Oklahoma Supreme Court, sitting by assignment.