

Case No. 20-8335

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IN THE SUPREME COURT OF THE UNITED STATES

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GEORGE A. CHRISTIAN, JR.,

*Petitioner,*

v.

THE STATE OF OKLAHOMA,

*Respondent.*

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On Petition for Writ of Certiorari to the  
Oklahoma Court of Criminal Appeals

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APPENDIX TO BRIEF IN OPPOSITION

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FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
THE STATE OF OKLAHOMA

NOV - 1 2016

RICK WARREN  
COURT CLERK

GEORGE A. CHRISTIAN JR.

Petitioner,

Vs.

THE STATE OF OKLAHOMA

Respondent,

CASE NO. CF-98-3134

(EVIDENTIARY HEARING DEMANDED)

APPLICATION FOR POST-CONVICTION RELIEF

Part A

I George A. Christian, DOC# 276900, whose present address is LCC P.O. Box 260 Lexington O.K. 73051, hereby apply for relief under the Post-Conviction Act, Section 1080 et seq. of Title 22.

The sentence from which I seek relief is as follows:

1. (a) Court in which sentence was rendered: Oklahoma District Court

(b) Case Number: CF-1998-3134

2. Date of Sentence: May 3<sup>rd</sup> 1999.

3. Terms of sentence :(Ct. 1) Five years (5) probation

4. Name of Presiding Judge: Susan Braggs

5. Are you now in custody serving this sentence? No

Where? Lexington Correctional Center

6. For what crime or crimes were you convicted? (Ct. 1) Kidnapping

7. Check whether the findings of guilt was made:

After plea of guilty (x) After plea of not guilty ( )

8. If found guilty after plea of not guilty, check whether the finding was made by:

A jury ( ) A judge without a jury (x)

9. Name of lawyer who represented you in trial court: Patrick Elhers, Malcolm Savage

10. Was your lawyer hired by your own family? No.

Appointed by the court? Yes

11. Did you appeal the conviction? No.

To what court or courts? N/A

12. Did a lawyer represent you for the appeal? No.

Was it the same lawyer as in No. 9 above? No.

If "no," what was this lawyer's name?

Address? 611 County Office Bldg. 320 Robert S. Kerr Oklahoma City Ok 73102

13. Was an opinion written by the appellate court? N/A

If "yes", give citation if published:

If not published, give appellate case no:

14. Did you seek any further review of or relief from your conviction at any time in any?

Court? No.

If "Yes", state when you did so, the nature of your claim and the result (include citations to any reported opinions.) N/A

### **Part B**

(If you have more than one proposition for relief, attach a separate sheet for each proposition. Answer the questions below as to each additional proposition, labeled SECOND PROPOSITION, THIRD PROPOSITION.)

I believe that I have ( 8 ) propositions for relief from the conviction and sentence described in **Part A**.

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### FIRST PROPOSITION:

1. Of what legal right or privilege do you believe you were deprived in your case?

**The petitioner assert(s) his factual Innocence, due to ineffective assistance of counsel in failing to conduct a reasonable pre-trial investigation. This violated petitioner's right to counsel and due process of law as guaranteed by Amendments 6, 5, and 14 to the U.S. Constitution.**

2. In the facts of your case, what happened to deprive you of that legal right or privilege and who made the error of which you complain? Trial Court made a decision that was contrary to; and involved an unreasonable application of clearly established Federal law as determined by the United States Supreme Court, further resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in State court proceeding. The abuse of discretion by the district court was unreasonable, unconscionable, and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted.

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); *Smith v. Robbins*, 528 U.S. 259, 289, 120 S.Ct. 746, 765, 145 L.Ed. 2d 756 (2000); *Cargle v. Mullin*, 317 F.3d 1196, 1205 (10<sup>th</sup> Cir. 2003); *Wiggins v. Smith*, 123 S.Ct. 2527(2003).

4. How do you think you could now prove the facts you have stated in answer to Question No. 2, above? (ATTACH SUPPORTING DOCUMENTATION.) All Discovery, Any and All Transcripts, Files, Police Reports, Witness statements, Affidavits, Search warrants, All Interviews with all witnesses, Any and All Reports from any and all agencies in above cause.

1. OCPD the detective police reports being the investigator that interviewed Vicki Hensley for the Oklahoma City Police Department, requesting a copy/summary of that interview, directly supports proof of the inconsistent testimony on this point because it will state that what she testified to in preliminary hearing is contrary to the facts and that this impeachment material requested to be extremely relevant in this instance case. These reports will clearly lead to other relevant information which would be more than a reasonable possibility that it will lead to admissible evidence that can be presented as clear and convincing evidence to supporting facts concerning the key witness credibility.

Respondent to produce and permit petitioner to inspect and copy any and (or) all the documents contained in the black book for inspection that is extremely relevant in this case.

5. If you did not timely appeal the original conviction, set forth facts showing how you were denied a direct appeal through no fault of your own. Trial court error and ineffective assistance of counsel by Attorney Malcolm Savage.

6. Is this a proposition that could have been raised on Direct Appeal? Yes

Ineffective Assistance Counsel for failing to advise petitioner of his rights to a direct appeal due to ineffectiveness of counsel and defense negligence and collusion with the State.

## SECOND PROPOSITION:

1. Of what legal right or privilege do you believe you were deprived in your case?

**Petitioner was convicted on the basis of a guilty plea that was the product of ineffective assistance of counsel, that denied due process of law and equal protection of the law by the state courts. This violated due process as guaranteed by Amendments 6, 5, and 14 to the U.S. Constitution.**

2. In the facts of your case, what happened to deprive you of that legal right or privilege and who made the error of which you complain? Trial Court made a decision that was contrary to; and involved an unreasonable application of clearly established Federal law as determined by the United States Supreme Court, further resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in State court proceeding. The abuse of discretion by the district court was unreasonable, unconscionable, and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted.

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case. *United States v. Frady*, 456 U.S. 152, 169 (1982); *Hogan v. State*, 139 P.3d 907, 903 (Okla. Cr. 2006); *Moulton v. State*, 88 Okla. Cr. 184, 201 P.2d 268 (1948); *Hill v. Lockhart*, 474 U.S. 52 (1985). *Mabry v. Johnson*, 467 U.S. 504 (1984); *Boykin v. Alabama*, 395 U.S. 238 (1969).

4. How do you think you could now prove the facts you have stated in answer to Question No. 2, above? (ATTACH SUPPORTING DOCUMENTATION.) All Discovery, Any and All Transcripts, Files, Police Reports, Witness statements, Affidavits, Search warrants, All Interviews with all witnesses, Any and All Reports from any and all agencies in above cause, in accordance with the following request.

5. If you did not timely appeal the original conviction, set forth facts showing how you were denied a direct appeal through no fault of your own. Trial court error and ineffective assistance of counsel by Attorney Malcolm Savage.

6. Is this a proposition that could have been raised on Direct Appeal? Yes

Ineffective Assistance Counsel for failing to advise petitioner of his rights to a direct appeal due to ineffectiveness of counsel and defense negligence and collusion with the State.

## THIRD PROPOSITION:

1. Of what legal right or privilege do you believe you were deprived in your case?

**Trial Court denied due process of law to a fair and impartial trial due to prosecutorial misconduct and defense counsel negligence. This violated due process as guaranteed by Amendments 6, 5, and 14 to the U.S. Constitution.**

2. In the facts of your case, what happened to deprive you of that legal right or privilege and who made the error of which you complain? Trial Court made a decision that was contrary to; and involved an unreasonable application of clearly established Federal law as determined by the United States Supreme Court, further resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in State court proceeding. The abuse of discretion by the district court was unreasonable, unconscionable, and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted.

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case *United States v. Agurs*, 427 U.S. 97, 112, 96 S.Ct 2392, 49 L.Ed2d 342 (1976); *Mooney v. Holohan*, 294 U.S. 103, 55 S.Ct. 340, 79 L.Ed. 791 (1935).

4. How do you think you could now prove the facts you have stated in answer to Question No. 2, above? (ATTACH SUPPORTING DOCUMENTATION.) All Discovery, Any and All Transcripts, Files, Police Reports, Witness statements, Affidavits, Search warrants, All Interviews with all witnesses, Any and All Reports from any and all agencies in above cause, in accordance with the following request.

5. If you did not timely appeal the original conviction, set forth facts showing how you were denied a direct appeal through no fault of your own. Trial court error and ineffective assistance of counsel by Attorney Malcolm Savage.

6. Is this a proposition that could have been raised on Direct Appeal? Yes

Ineffective Assistance Counsel for failing to advise petitioner of his rights to a direct appeal due to ineffectiveness of counsel and defense negligence and collusion with the State.

#### **FOURTH PROPOSITION:**

1. Of what legal right or privilege do you believe you were deprived in your case?

**Petitioner had ineffective assistance of counsel, due to the defective strategy of defense theory, that denied due process of law. This violated due process as guaranteed by Amendments 6, 5, and 14 to the U.S. Constitution.**

2. In the facts of your case, what happened to deprive you of that legal right or privilege and who made the error of which you complain? Trial Court made a decision that was contrary to; and involved an unreasonable application of clearly established Federal law as determined by the United States Supreme Court, further resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in State court proceeding. The abuse of discretion by the district court was unreasonable, unconscionable, and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted.

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case. . *Strickland v. Washington*, 466 U.S.



668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Updike v. State, 9 Okl.Cr. 124,130 P. 1107; Holt v. State Okl.Cr., 278 P.2d 855.

4. How do you think you could now prove the facts you have stated in answer to Question No. 2, above? (ATTACH SUPPORTING DOCUMENTATION.) All Discovery, Any and All Transcripts, Files, Police Reports, Witness statements, Affidavits, Search warrants, All Interviews with all witnesses, Any and All Reports from any and all agencies in above cause, in accordance with the following request.

5. If you did not timely appeal the original conviction, set forth facts showing how you were denied a direct appeal through no fault of your own. Trial court error and ineffective assistance of counsel by Attorney Malcolm Savage.

6. Is this a proposition that could have been raised on Direct Appeal? Yes

Ineffective Assistance Counsel for failing to advise petitioner of his rights to a direct appeal due to ineffectiveness of counsel and defense negligence and collusion with the State.

#### **FIFTH PROPOSITION:**

1. Of what legal right or privilege do you believe you were deprived in your case?

**Trial court error due to Actual Innocence, by entering a guilty plea to a innocent client that denied him due process of law. This violated due process as guaranteed by Amendments 6, 5, and 14 to the U.S. Constitution.**

2. In the facts of your case, what happened to deprive you of that legal right or privilege and who made the error of which you complain? Trial Court made a decision that was contrary to; and involved an unreasonable application of clearly established Federal law as determined by the United States Supreme Court, further resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in State court proceeding. The abuse of discretion by the district court was unreasonable, unconscionable, and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted.

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case. McCleskey v. Zant, 499 U.S. 467, 494 (1991); Cupp v. Naughten 414 U.S. 94 S.Ct 396 U.S. Or. 1973. Cole v. State, 70 Okl.Cr. 1109, 104 P.2d 981, 984 (1940); Goulsby v. State, 742 p.2d 567, 570 (Okla.Crim.App. 1987)

4. How do you think you could now prove the facts you have stated in answer to Question No. 2, above? (ATTACH SUPPORTING DOCUMENTATION.) All Discovery, Any and All Transcripts, Files, Police Reports, Witness statements, Affidavits, Search warrants, All Interviews with all witnesses, Any and All Reports from any and all agencies in above cause, in accordance with the following request.

5. If you did not timely appeal the original conviction, set forth facts showing how you were denied a direct appeal through no fault of your own.

Trial court error and ineffective assistance of counsel by Attorney Malcolm Savage

6. Is this a proposition that could have been raised on Direct Appeal? Yes

Ineffective Assistance Counsel for failing to advise petitioner of his rights to a direct appeal due to ineffectiveness of counsel and defense negligence and collusion with the State.

### **SIXTH PROPOSITION:**

1. Of what legal right or privilege do you believe you were deprived in your case?

**Ineffective assistance of counsel for inadequate representation of a conflict of interest of defense theory that denied due process of law. This violated due process as guaranteed by Amendments 6, 5, and 14 to the U.S. Constitution.**

2. In the facts of your case, what happened to deprive you of that legal right or privilege and who made the error of which you complain? Trial Court made a decision that was contrary to; and involved an unreasonable application of clearly established Federal law as determined by the United States Supreme Court, further resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in State court proceeding. The abuse of discretion by the district court was unreasonable, unconscionable, and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted.

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case. **Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) Parker v. Champion, 148 F.3d 1219, 1221 (10<sup>th</sup> Cir. 1998) (citing United States v. Cook, 45 F.3d 388, 392-93 (10<sup>th</sup> Cir. 1995).**

4. How do you think you could now prove the facts you have stated in answer to Question No. 2, above? (ATTACH SUPPORTING DOCUMENTATION.) All Discovery, Any and All Transcripts, Files, Police Reports, Witness statements, Affidavits, Search warrants, All Interviews with all witnesses, Any and All Reports from any and all agencies in above cause, in accordance with the following request.

5. If you did not timely appeal the original conviction, set forth facts showing how you were denied a direct appeal through no fault of your own. Trial court error and ineffective assistance of counsel by Attorney Malcolm Savage.

6. Is this a proposition that could have been raised on Direct Appeal? Yes

Ineffective Assistance Counsel for failing to advise petitioner of his rights to a direct appeal due to ineffectiveness of counsel and defense negligence and collusion with the State.

### **SEVENTH PROPOSITION:**

1. Of what legal right or privilege do you believe you were deprived in your case?

**Prosecutorial Misconduct during preliminary hearing statement, and coercion of a key witness, and concealment of a crime, and failure to disclose critical evidence violating Brady. This violated due process as guaranteed by Amendments 6, 5, and 14 to the U.S. Constitution.**

2. In the facts of your case, what happened to deprive you of that legal right or privilege and who made the error of which you complain? Trial Court made a decision that was contrary to; and involved an unreasonable application of clearly established Federal law as determined by the United States Supreme Court, further resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in State court proceeding. The abuse of discretion by the district court was unreasonable, unconscionable, and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted.

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case. *Napue v. Illinois*, 79 S.Ct., at 1178. See n. 8, supra. See also *Giglio v. United States*, 92 S.Ct. 763, 766 (1972) (quoting *Napue*, 360 U.S., at 271, 79 S.Ct., at 1178).

4. How do you think you could now prove the facts you have stated in answer to Question No. 2, above? (ATTACH SUPPORTING DOCUMENTATION.) All Discovery, Any and All Transcripts, Files, Police Reports, Witness statements, Affidavits, Search warrants, All Interviews with all witnesses, Any and All Reports from any and all agencies in above cause, in accordance with the following request.

5. If you did not timely appeal the original conviction, set forth facts showing how you were denied a direct appeal through no fault of your own. Trial court error and ineffective assistance of counsel by Attorney Malcolm Savage.

6. Is this a proposition that could have been raised on Direct Appeal? Yes  
Ineffective Assistance Counsel for failing to advise petitioner of his rights to a direct appeal due to ineffectiveness of counsel and defense negligence and collusion with the State.

#### **EIGHTH PROPOSITION:**

1. Of what legal right or privilege do you believe you were deprived in your case?

**Defense counsel failed to submit critical evidence and police reports in possession of the state violating *Brady*, of the statement of key witness, and to present to testify and cross-examine the Detective that interviewed Vikki Hensley and failure to investigate the criminal history of a key witness. This violated due process as guaranteed by Amendments 6, 5, and 14 to the U.S. Constitution.**

2. In the facts of your case, what happened to deprive you of that legal right or privilege and who made the error of which you complain? Trial Court made a decision that was contrary to; and involved an unreasonable application of clearly established Federal law as determined by the United States Supreme Court, further resulted in a decision that was based on an unreasonable

determination of the facts in light of the evidence presented in State court proceeding. The abuse of discretion by the district court was unreasonable, unconscionable, and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted.

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case. *Brady v. Maryland*, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963); *United States v. Abello-Silva*, 948 F.2d 1179, 1180 (10<sup>th</sup> Cir 1991); *Davis v. Alaska*, 415 U.S. 308, 94 S.Ct. 1105, 39 L.Ed.2d 347 (1974)

4. How do you think you could now prove the facts you have stated in answer to Question No. 2, above? (ATTACH SUPPORTING DOCUMENTATION.) All Discovery, Any and All Transcripts, Files, Police Reports, Witness statements, Affidavits, Search warrants, All Interviews with all witnesses, Any and All Reports from any and all agencies in above cause, in accordance with the following request.

5. If you did not timely appeal the original conviction, set forth facts showing how you were denied a direct appeal through no fault of your own. Trial court error and ineffective assistance of counsel by Attorney Malcolm Savage.

6. Is this a proposition that could have been raised on Direct Appeal? Yes

Ineffective Assistance Counsel for failing to advise petitioner of his rights to a direct appeal due to ineffectiveness of counsel and defense negligence and collusion with the State.

#### **PART C**

I understand that I have an absolute right to appeal to the Court of Criminal Appeals from the trial court's order entered in this case, but unless I do so within thirty (30) days after the entry of the trial judge's order, I will have waived my right to appeal as provided by Section 1087 of Title 22.

#### **PART D**

I have read the foregoing application and assignment(s) of error and hereby state under oath that there are no other grounds upon which I wish to attack the judgment and sentence under which I am presently convicted. I realized that I cannot later raise or assert any reason or ground known to me at this time or which could have been discovered by me by the exercise of reasonable diligence. I further realize that I am not entitled to file a second or subsequent application for post-conviction relief based upon facts within my knowledge or which I could discover with reasonable diligence at this time. These new claims rely on fact's that could not have been discovered earlier, even with "due diligence." Additionally, these fact's combined with the other fact's already on the record establish by "clear and convincing" evidence that "but for" constitutional error that are being challenged, no reasonable juror would have found you guilty of the offenses with which you are charged. Due to a Fundamental Miscarriage of Justice. (EVIDENTIARY HEARING DEMANDED)

#### **PART E**

I hereby apply to have counsel appointed to represent me. I believe I am entitled to relief.  
I do not possess any money or property except the following: (If none, state "None").

October, 26<sup>th</sup> 2016  
Date

George A. Christian Jr.  
(Signature of Petitioner/Appellant)

STATE OF OKLAHOMA                    )  
  ) SS.  
COUNTY OF OKLAHOMA                )

I, George A. Christian Jr., being first sworn under oath, states that he  
signed the above application and that the statements therein are true to the best of his knowledge  
and belief.

George A. Christian Jr.  
(Signature of Petitioner/Appellant)

Subscribed and sworn to before this 26<sup>th</sup> day of October, 2016.

George A. Christian Jr.



FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

NOV - 1 2016

RICK WARREN  
COURT CLERK

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

GEORGE A. CHRISTIAN JR.,  
Petitioner,

vs.

STATE OF OKLAHOMA,  
Respondent.

Case No. CF-98-3134  
(Evidentiary Hearing Demanded)

APPLICATION FOR POST-CONVICTION  
SEEKING AN ORDER RECOMMENDING  
GRANTING AN APPEAL OUT OF TIME  
W/MOTION TO WITHDRAW PLEA

PART A

I, George A. Christian Jr., whose present address is P.O. Box 260 Lexington, OK 73051, hereby apply for relief under the Post-Conviction Procedure Act, Section 1080 et seq. of Title 22.

The sentence from which I seek relief is as follows:

1. (a) Court in which sentence was rendered: Oklahoma County District Court  
(b) Case No. CF-1998-3134

2. Date of sentence: May 3<sup>rd</sup>, 1999

3. Terms of sentence: 5yrs. probation

4. Name of presiding judge: Susan Braggs

5. Are you now in custody serving this sentence? Yes ( ) No (X)  
Where?

6. For what crime or crimes were you convicted? Kidnapping

7. Check whether the finding of guilty was made:  
After a plea of guilty (X) After a plea of not guilty ( )

8. If found guilty after a plea of not guilty, check whether the finding was made by:

A Jury ( )

A Judge without a Jury ( )

9. Name of lawyer who represented you in trial court: Patrick Elhers, Malcolm Savage

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10. Was your lawyer by you or your family? ( ) yes (X) no

Hired by the court? (X) yes ( ) no

11. Did you appeal the conviction? ( ) yes (X) no

12. Did a lawyer represent you for the appeal? ( ) yes (X) no

Was it the same Lawyer as in No. 9 above? ( ) yes (X) no

If "no", what was the lawyer's name?

13. Was an opinion written by the appellate court? ( ) yes (X) no

If "yes", give citations if published:

If not published, give appellate case number:

14. Did you seek any further review of or relief from your conviction at any other time in any Court? ( ) yes (X) no

If "yes," state when you did so, the nature of your claim and the result (include citations to any reported opinions.):

I believe that I have one (1) proposition(s) for relief from the conviction and sentence described in part A.

### FIRST PROPOSITION

#### PETITIONER IS ENTITLED TO AN APPEAL OUT OF TIME

1. Of what legal right or privilege do you believe you were deprived in your case? **The petitioner assert(s) Actual Innocence, due to ineffective assistance of counsel, this violated due process as guaranteed by Amendments 6, 5, and 14 to the U.S. Constitution.**

2. In the facts of your case, what happened to deprive you of what legal right or privilege and who made the error of which you complain? Trial Court made a decision that was contrary to; and involved an unreasonable application of clearly established Federal law as determined by

the United States Supreme Court, further resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in State court proceeding. The abuse of discretion by the district court was unreasonable, unconscionable, and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case? *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); *Smith v. Robbins*, 528 U.S. 259, 120 S.Ct. 746, 765, 145 L.Ed. 2d 756 (2000); *Cargle v. Mullin*, 317 F.3d 1196, 1205 (10<sup>th</sup> Cir. 2003) *McCleskey v. Zant*, 499 U.S. 467, 494 (1991); *Cupp v. Naughten* 414 U.S. 94 S.Ct 396 U.S. Or. 1973.

A. *Blades v. State*, 2005 OK CR 1, 107 P.3d 607

If Petitioner seeks an appeal out of time, the proper procedure is to file an application for a Post Conviction Relief with district court requesting an appeal out of time.... See also 22 O.S. Ch 18. App. Rule 2.1.E.(1).

This case is relevant to these proceedings because it establishes that the proper instrument to be used is a post conviction application, thus, giving this Court jurisdiction to grant an Appeal Out of Time and that 22 O.S. § 1086 is not applicable in this situation.

B. *Banks v. State*, 953 P.2d 344 (Okla. Cr. 1998)

Under appeal out of time procedure, delay in filing appeal or even inability to file appeal for any reason, not just late mailing by prison officials – that is not fault of pro se prisoner can result in relief.

This case is relevant to these proceedings because it shows that this court can recommend and/or order an appeal out of time because through no fault of his own, Petitioner was denied filing his direct appeal because my attorney along with the courts failed to advise me of my rights to appeal that has resulted in the constitutional violation of the sixth amendment the Attorney failed to give advise his client of his rights to a appeal and the procedures required to



prepare and file a timely direct and (or) post-conviction appeal with OCCA that violated his Constitution rights of due process. The Attorney failed to prepare the document that is prerequisite for filing a post-conviction appeal to OCCA. See OCCA Rule 5.2.C.(2)... A petition in error and supporting brief, "with a certified copy of the order attached must be filed... .

4. How do you now think you could prove the facts you have stated in answer to Question No. 2, above? Attach supporting documentation. All Discovery, Any and All Transcripts, Files, Police Reports case CF-98-3134, Witness statements, Affidavits, Search warrants, All Interviews with all witnesses, Any and All Reports from any and all agencies in above cause.

a. At an evidentiary held in the District Court of Oklahoma County, if requested.

5. If you did not appeal the original conviction, set forth facts showing how you were denied an appeal through no fault of your own.

Petitioner was not advised of his rights to timely appeal the conviction and this issue of ineffective assistance of counsel could not have been raised on direct appeal.

6. Is this a proposition that could have been raised on direct Appeal?

Yes ( X )                      No ( )

Explain: petitioner submits that this error did not exist at the time and could not be raised on direct appeal. In any case, Petitioner is entitled to an appeal out of time and any procedural bar argument submitted by the State is prohibited by Article II § 6 of the Oklahoma Constitution:

The court of justice of the State shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property or reputation: and right and justice shall be administered without sale, denial, delay, or prejudice.

#### **ISSUES PRESENTED FOR REVIEW TO OCCA**

- 1) **TRIAL COUNSEL RENDERED INEFFECTIVE ASSISTANCE IN VIOLATION OF PETITIONER'S SIXTH AMENDMENT.**

**RELIEF REQUESTED:** Evidentiary hearing with alternative Order granting Petitioner an Appeal Out of time.

I hereby apply to have counsel appointed to represent me. I believe I am entitled to relief. I do not possess any money or property except the following:

10-26-2016  
Date

George A. Christian Jr.  
Signature

**VERIFICATION**

STATE OF OKLAHOMA    )  
                                      ) ss.  
COUNTY OF OKLAHOMA )

**VERIFICATION/DECLARATION UNDER PENALTY OF PERJURY**

Pursuant to 12 O.S. Supp. 2002 § 426, the Petitioner states under penalty of perjury and under the laws of Oklahoma that the foregoing is true and correct; that the Petitioner has read the foregoing and affixed his signature hereto at the Lexington Correctional Center on this 26<sup>th</sup> day of October, 2016 Pursuant to 12 O.S. § 491 et seq., 22 O.S. § 748, Rule 4 (c) Rules of the District Courts of Oklahoma.

/s/ George A. Christian Jr.

George A. Christian Jr.  
Print Name

**CERTIFICATE OF SERVICE**

I, George A. Christian Jr. the undersigned hereby certify that on the 26<sup>th</sup> day of October, 2016 I mailed a true and correct copy of the foregoing by placing same into the institutional legal mailing system at the Lexington Correctional Center with postage prepaid thereon to:

/s/ George A. Christian Jr.



FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY NOV - 1 2016  
STATE OF OKLAHOMA

RICK WARREN  
COURT CLERK

47

GEORGE A. CHRISTIAN JR.,  
Petitioner,

vs.

Case No. CF-98-3134

STATE OF OKLAHOMA,  
Respondent.

**MOTION TO WITHDRAW PLEA OF GUILTY**

COMES NOW, George A. Christian Jr., Petitioner acting pro se, and moves to withdraw his plea of guilty. Petitioner's plea in case numbered CF-98-3134, was not entered voluntarily, knowingly and intelligently to agree to the plea of guilty to the kidnapping of Vickie Hensley on May 3<sup>rd</sup> 1999 before Judge Susan Braggs for the following reasons:

1. Petitioner's plea was entered into without deliberation and through ignorance and inadvertence.
2. Petitioner received ineffective assistance of counsel in entering his plea.

WHEREFORE, premises considered, Petitioner prays that this Motion be granted and he be allowed to withdraw his plea of guilty and substitute a plea of not guilty.

Respectfully submitted

/s/ *George A. Christian Jr.*

## VERIFICATION

STATE OF OKLAHOMA     )  
  ) ss.  
COUNTY OF OKLAHOMA )

### VERIFICATION/DECLARATION UNDER PENALTY OF PERJURY

Pursuant to 12 O.S. Supp. 2002 § 426, the Petitioner states under penalty of perjury and under the laws of Oklahoma that the foregoing is true and correct; that the Petitioner has read the foregoing and affixed his signature hereto at the Lexington Correctional Center on this 26<sup>th</sup> day of October, 2016. Pursuant to 12 O.S. § 491 et seq., 22 O.S. § 748, Rule 4 (c) Rules of the District Courts of Oklahoma.

/s/ George A. Christian Jr.  
George A. Christian Jr.  
Print Name

### CERTIFICATE OF SERVICE

I, George A. Christian Jr., the undersigned hereby certify that on the 26<sup>th</sup> day of October, 2016, I mailed a true and correct copy of the foregoing by placing same into the institutional legal mailing system at the Lexington Correctional Center with postage prepaid thereon to:

/s/ George A. Christian Jr.



NOV - 1 2016

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
THE STATE OF OKLAHOMA

RICK WARREN  
COURT CLERK

47

GEORGE A. CHRISTIAN JR.

Petitioner,

V.

THE STATE OF OKLAHOMA

Respondent,

CASE NO. CF-98-3134  
(EVIDENTIARY HEARING DEMANDED)

APPLICATION FOR APPEAL OUT OF TIME

Petitioner, respectfully asks the District Court to make a finding that Petitioner was denied the right to a fair and impartial trial by jury and appeal his criminal conviction (s) in Oklahoma County District Court Case No. CF -1998-3134 through no fault of his own, and request that the Oklahoma District Court grant Petitioner and appeal out of time. In support of this request, Petitioner states:

1. Petitioner pled guilty in Susan Braggs Court and formal judgment and sentence was pronounced on May 3<sup>rd</sup>, 1999.
2. Although Petitioner has always asserted ineffective assistance of defense counsel during preliminary hearing and ineffective counsel that failed to appealed the conviction, the direct appeal was never properly perfected, for the following reason:

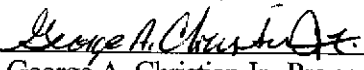
Prosecutorial Misconduct and Defense Counsel negligence due to defective Strategy of defense theory that denied due process of law that the District court allowed the constitutional rights of the petitioner to be violated whom is actually innocent that were contrary to an unreasonable application of federal law.

These new claims rely on fact's that could not have been discovered earlier, even with "due diligence." Additionally, determining that because the prosecution persisted in holding evidence and falsely representing that it had complied fully with its *Brady* disclosure obligations, the petitioner asserts cause for failing to investigate, see *Banks v. Dretke*, 540, U.S. 668, 693, 124 S.Ct. 1256 1273-74, 157 L.Ed 2d 1166, 1191 (2004), these fact's combined with the other fact's already on the record establish by "clear and convincing" evidence that "but for" constitutional error that are being challenged, no reasonable juror would have found you guilty of the offenses with which you are charged. Due to a Fundamental Miscarriage of Justice.

3. Through the vehicle of Post-conviction relief, Petitioner now seeks this court's finding that he was denied his right to due process of law through no fault of his own, and its recommendation that a late

appeal be granted by the Oklahoma County District Court. See, Blades v. State, 107 P.2d 607 (2005), Smith v. State, 611 P.2d 276 (1980).

WHEREFORE, Petitioner respectfully request that this court grant Post-Conviction relief by recommending that the Oklahoma District Court grant an appeal out of time.

  
George A. Christian Jr., Pro se  
L.C.C., G-Unit-L2  
P.O. Box 260  
Lexington, OK 73051

**VERIFICATION UNDER PENALTY OF PERJURY**

STATE OF OKLAHOMA                     )  
   )     SS  
COUNTY OF OKLAHOMA                 )

I, George A. Christian Jr., do hereby state that, the statements contained in this pleading are true and correct to the best of his knowledge belief, understanding and abilities, 22 O.S. 2010, § 426; Rule 1.13 (L), Oklahoma Court of Criminal Appeals, 22 O.S. Ch. 18, App. (2013).

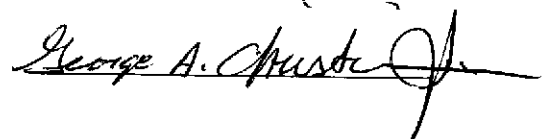
  
George A. Christian Jr.

**CERTIFICATE OF MAILING**

I, George A. Christian Jr., residing at Lexington Correctional Center, P.O. Box 260, Lexington, OK 73051-0548, hereby certify that on the 26<sup>th</sup> day of October, 2016, I mailed a correct copy of the foregoing attached, **APPLICATION FOR POST-CONVICTION RELIEF, APPEAL OUT OF TIME, BRIEF IN SUPPORT OF APPLICATION**, postage prepaid to: David W. Prater, District Attorney, 505 County Office Bldg., 320 Robert S. Kerr Ave., Oklahoma City, OK 73102

  
Signature of Petitioner, Pro se

Subscribed and sworn to before this 26<sup>th</sup> day of October, 2016.



## SWORN AFFIDAVIT

STATE OF OKLAHOMA     )  
                                      )ss.  
COUNTY OF OKLAHOMA)

### AFFIDAVIT OF GEORGE A. CHRISTIAN JR.

I, George A Christian Jr., being of lawful age and sound mind, upon oath, hereby state that the enumerated made herein are true and correct to the best of my knowledge and belief to wit:

1. Vicki Hensley testified in preliminary hearing to all the crimes that the state has charged in the information to CF-1998-3134, by clear and convincing evidence that Mr. George A. Christian Jr. is actually innocent of all the crimes charged in the information.
2. Count 1. Kidnapping, Count 2. Robbery, Count 3. Assault with a dangerous weapon, Count 4. Forcible oral sodomy.
3. Represented by Attorney Patrick Elhers at preliminary hearing.
4. Represented by Attorney Malcolm Savage at pre-trial and trial and later during the plea agreement, that resulted in 5yrs probation.
5. Asst. District Attorney Lou Keel has evidence held by State to prove this claim to exonerate Mr. Christian of this crime.
6. Mr. George A. Christian Jr., did not voluntarily, knowingly, and intelligently agree to the plea of guilty to the kidnapping crime as charged on May 3<sup>rd</sup>, 1999 before Judge Susan Braggs due to the facts that I did not intelligently understand what was being told to me at that time, However Malcolm Savage told him he was going home and being released if he signed the plea agreement after failing to conduct a reasonable pre-trial investigating.

### VERIFICATION/DECLARATION UNDER PENALTY OF PERJURY

Pursuant to 12 O.S. Supp. 2004 § 426, the Petitioner states under penalty of perjury and under the laws of Oklahoma that the foregoing is true and correct; that the Petitioner has read the foregoing affidavit and affixed his signature hereto at the Lexington Correctional Center on this 26<sup>th</sup> day of October, 2016. Pursuant to 12 O.S. § 491 et seq., 22 O.S. § 748, Rule 4 (c) Rules of the District Courts of Oklahoma.

/s/ George A. Christian Jr.



FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

NOV -1 2016

RICK WARREN  
COURT CLERK

47

STATE OF OKLAHOMA )  
County of OKLAHOMA ) SS

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

GEORGE ALLEN CHRISTIAN JR )  
Petitioner pro-se, )

v. )

STATE OF OKLAHOMA, )  
Respondent, )

CASE No. - CF-98-3134

PRO-SE MOTION FOR FILES, RECORDS, TRANSCRIPTS AT PUBLIC EXPENSE  
- And - All - discovery -

Comes Now, GEORGE ALLEN CHRISTIAN JR, petitioner pro-se, in  
durance vile, interposing Haines v. Kerner 404 U.S. 519, 520,  
(1972), and by motion moves this Court for it's Order to  
provide to the petitioner, at public expense the files, records,  
and transcripts of the above ennumbered cause of action, and  
further states in support whereof to wit;

I. STATEMENT OF FACTS

1. Petitioner on a plea of Guilty was tried before  
a Judge Briggs in the District Court of OKLAHOMA County,  
Oklahoma case no. CF-98-3134, and was sentenced to a  
term[s] Syns probation, in the care, custody,  
control and keeping of the Oklahoma Department of Corrections



PRO-SE MOTION FOR FILES, RECORDS, TRANSCRIPTS, All discovery -  
AT PUBLIC EXPENSE,  
Page Two:

Lexington Assessment and Reception Center at Lexington, Oklahoma.

From said judgment and sentence, petitioner is aggrieved,  
and now is before the bar of this Court to seek relief.

#### PROPOSITION I

The petitioner is preparing/has pending an inartfully pleaded application for post-conviction relief in accords/filed pursuant to Title 22 O.S. §1080 et seq., and that under the post-conviction procedures act, the petitioner is required to present all grounds for relief available in his original, supplemental and or amended application. That any ground adjudicated or not raised or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the Court finds a ground for relief asserted which for sufficient reason was not raised in prior application. Title 22 O.S. Supp. (1974) §1086.

The petitioner is a simple layman, interposing Haines v. Kerner 404 U.S. 519, 520 (1972), not skilled in the ways and the knowledge of the law, or the mechanics thereof. That he does not possess the knowledge of his trial proceedings to adequately, knowingly and intelligently present this honorable Court all known grounds for relief in his application for post-conviction relief, further petitioner in noway can factually back and present what few legal issues he is aware of, without the full and complete benefit of

PRO-SE MOTION FOR FILES, RECORDS, TRANSCRIPTS,  
AT PUBLIC EXPENSE,  
Page Three:

All-discovery-

his trial proceedings, including but not limited thereto, the following essential materials;

TRANSCRIPTS

- (a) Copy of the Preliminary hearing proceedings transcripts;
- (b) Copy of any and or all suppression and or evidentiary hearing proceedings transcripts;
- (c) Copy of Trial Proceedings, including voir dire, opening statements of counsels, for state and defendant, trial proceedings, bench conferences, opening and closing arguments of counsels, for state and defendant, and any proceedings transcripts regarding mitigation of punishment and or including after former conviction proceedings, and to include plea and or sentencing proceedings;

FILE MATERIALS AND RECORDS OF CASE

- (a) Original, amended, and or supplemental criminal information filed, including parts I and II, which allege AFC allegations, and all Counts;
- (b) Full and complete docket sheets of the case, Associate and District Court proceedings, including appellate information;
- (c) Motions filed by the State (District Attorney or Assistant);
- (d) Motions filed by defense counsel, including, but not limited thereto, for specific jury instruction submissions, Limine, for Discovery, For lesser included offense instructions submissions, motions for Demurrer;
- (e) Copy of Court orders in the case relevant to filed motions beofre the Court, presented by the parties of the case, affecting, but not limited to Discovery, Limine, Evidence, Jury instructions, jury charges, Demurrer, proposed instruction submissions, etc;
- (f) Jury instructions submitted by state, proposed and actual submissions;
- (g) Jury instructions submitted by defense, proposed and actual submissions;
- (h) Jury instructions, charges, etc., allowed by the Court to use in deliberations, and conduct of deliberations, including charge instruction;
- (i) Jury verdict forms signed by Jury foreman;
- (j) Jury instructions

PRO-SE MOTION FOR FILES, RECORDS, TRANSCRIPTS, All-discovery -  
AT PUBLIC EXPENSE,  
Page Four;

(j) Jury instructions regarding any Part II criminal information alleging after-former-conviction enhanced sentencing, including forms submitted;

(k) copy of judgments and sentences, docket sheets, and or other evidence submitted by the state to prove the state's AFC's allegations, including evidence of same which went to the jury for it's deliberation;

(L) Copy of any and or all notes, correspondence, messages, which emanated from the jury, while in deliberation during the guilt phases of the proceedings in chief, and like notes, correspondence, messages which emanated during the part II AFC portion of the jury's deliberation;

(m) Any and or all presentence information submitted and considered by the Court in determining and arriving at the term of sentence[s] imposed;

(n) Judgments and sentences, with any and or all attachments thereto;

(o) Any appellate pleadings contained in the file, including the mandate of the OKlahoma Court of Criminal Appeals;

(p) Copy of current post-conviction motion case file proceedings including docket entried, and orders of the Court which have emanated, and any state's responses;

Q) All, discovery - specifically - police report(s), search warrant(s), witness statement interview(s), disc(s) from interview(s), affidavit(s), statement(s), expert witness report(s) etc.  
PROPOSITION II

The petitioner is an indigent, without funds to employ counsel or purchase file materials, and or including District Court proceedings, (including voir dire), in the preparation of his appeal, opening and closing arguments of counsels, from his conviction and sentence in this District Court (See: attached affidavit of poverty).

Title 22 O.S. §1080, provides in pertinent part that:

"....may institute a proceeding under this act in the Court in which the judgment and sentence or conviction was imposed to secure appropriate relief, excluding timely appeal, this act encompasses and replaces all law and statutory measures and methods of challenging a conviction or sentence", ibid.

The petitioner as by law, uses his avenue of challenge through this act, as above mentioned, and referred.

PRO-SE MOTION FOR FILES, RECORDS, TRANSCRIPTS,  
AT PUBLIC EXPENSE,  
Page Five:

All-discovery-

#### ARGUMENT AND AUTHORITIES IN SUPPORT OF MOTION

The United States Supreme Court has held on numerous occasions that a denial of transcripts of a defendant's trial proceedings is a denial of equal protections of the law and due process under the law, pursuant to the 14th amendment of the United States Constitution. In Lane v. Brown \_\_\_ U.S. \_\_\_, 83 S. Ct. 768, at 772-773 ( ), the Court held:

"....Once a state choses to establish appellate review in criminal cases, it may not foreclose indigents from access to any phase of that procedure, because of their poverty", ibid, at 772.

Also in Lane, supra, the Court held;

"...the Court made clear that these principles were not to be limited to direct appeals from criminal convictions, but extended alike to state post-conviction proceedings", ibid at 773.

In Eskridge v. Washington State Board of Prison Terms and Paroles \_\_\_ U.S. \_\_\_, 72 S. Ct. 1061, 1062, ( ), the Court held:

"...destitute defendants must be afforded as adequate appellate review as defendants who have money to buy transcripts" ibid, at 1062.

#### CLOSING ARGUMENT IN SUPPORT OF MOTION

The petitioner contends that the area of the law is well settled by the U.S. Supreme Court, and the United States Constitution. The aforecited opinions by the U.S. Supreme Court, are consistent, and well settled black letter law. As long as a state afford appellate review to convicted defendants of one class, it must, under law, afford an indigent litigant his trial

PRO-SE MOTION FOR FILES, RECORDS, TRANSCRIPTS,  
AT PUBLIC EXPENSE,  
Page Six:

- (All - discovery) -  
proceedings (files, records, transcripts), at public expense  
upon his showing of indigence and motion, as long as that state  
offers the same type system or method of appellate review to  
defendants who can afford to purchase them.

The state of Oklahoma does provide a criminal defendant  
appellate review, and in two forms: See: Title 22 O.S. Supp.  
( ), §1051 et. seq., and see: Title 22 O.S. Ann. §1080 et. seq.,  
Post-conviction Procedure Act. The laws were implemented to afford  
a vehicle and to ensure that all citizens of the state of  
Oklahoma enjoyed a absolute right to appeal. In accords, this  
Court is under a constitutional duty and United States Supreme  
Court mandates, to furnish this petitioner with a full and  
complete copy of the requested materials, (files, records,  
transcripts) in the above styled cause of action .

#### CONCLUSION OF ARGUMENT ON MOTION

WHEREFORE, the petitioner, based on the above and afore-  
going case authorities, and statutory authorities, as well as  
constitutional provisions identified, and the sworn affidavit  
appended hereto and incorporated by reference as if fully set  
forth herein, the petitioner respectfully prays for this  
Court's Order GRANTING petitioner's motion.

- Certificate of service -

I, hereby, certify, I, U.S. mailed the  
attached documents to the Clerk of the  
Court October 26<sup>th</sup> 2016

Respectfully Submitted,

George Christa File 276900

NOV 14 2016

RICK WARREN  
COURT CLERK

29 



IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

GEORGE ALLEN CHRISTIAN, JR., )  
 )  
Petitioner, )  
 )  
v. )  
 )  
THE STATE OF OKLAHOMA, )  
 )  
Respondent. )

Case No. CF-98-3134

STATE'S RESPONSE TO APPLICATION FOR POST-CONVICTION RELIEF

COMES NOW the State of Oklahoma and respectfully requests this Honorable Court to deny Petitioner's Application for Post-Conviction Relief in all respects.

STATEMENT OF THE CASE

Petitioner was charged by Information with the following crimes in Oklahoma County Case No. cf-98-3134: Count 1, Kidnapping, AFCF (2 or More); Count 2, Robbery in the First Degree, AFCF (2 or More); Count 3, Assault and Battery with a Dangerous Weapon, AFCF (2 or More); and Count 4, Forcible Oral Sodomy, AFCF (2 or More). On May 3, 1999, Petitioner, represented by counsel, entered a plea of guilty before the Honorable Susan Bragg. Pursuant to plea negotiations, the State agreed to dismiss the second page of the Information as well as the charges in Counts 2 through 4. The State further recommended that Petitioner be sentenced to five years imprisonment, to be suspended in full, on the remaining charge of Kidnapping in Count 1. The court accepted the plea and sentenced Petitioner accordingly. Petitioner was advised of and acknowledged his right to appeal and the manner in which to invoke that right. *See* Exhibit 1, Plea of Guilty.

By letter to the court dated May 2, 1999 and filed on May 13, 1999, Petitioner, pro se, filed a timely application to withdraw his plea of guilty. Therein, Petitioner stated he entered his plea of guilty as a result of being under a lot of pressure at the time and due to "unusual circumstances"

occurring while being incarcerated while awaiting trial. *See* Exhibit 2, Letter. The matter was originally set for hearing before the Honorable Susan Bragg on May 24, 1999. On that date, it was continued to June 2, 1999. However, at that time the application was stricken by the court for failure to present. *See* Exhibit 3, Docket Sheet.

On November 1, 2016, Petitioner, pro se, filed the instant Application for Post-Conviction Relief requesting an appeal out of time or other unspecified collateral relief. On the same date, Petitioner also filed an "Application for Appeal Out of Time," and a "Motion to Withdraw Plea of Guilty. Within his combined pleadings, Petitioner raises the following arguments:

1. Petitioner received ineffective assistance of counsel where counsel failed to conduct a reasonable pre-trial investigation and otherwise had a conflict of interest;
2. Petitioner's plea of guilty was entered without deliberation and through ignorance;
3. The prosecutor improperly withheld exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), improperly coerced the victim to testify at preliminary hearing, made improper statements during preliminary hearing, and failed to correct false testimony at preliminary hearing;
4. The trial court made an unspecified decision that was based upon an unreasonable determination of the facts and contrary to clearly established federal law; and
3. Petitioner is entitled to an appeal out of time where he was not advised of his right to appeal and where counsel failed to automatically initiate an appeal following his plea of guilty.

#### ARGUMENT AND AUTHORITY

Petitioner asks this Court to consider the allegations of error presented and recommend that he be granted an appeal out of time or grant him other unspecified relief. However, as discussed herein, Petitioner is not entitled to an appeal out of time or any other collateral relief.

- I. Petitioner is Not Entitled to a Post-Conviction Appeal Out of Time

Petitioner has filed pleadings entitled “Application for Appeal out of Time” and “Motion to Withdraw Plea of Guilty.” Additionally, within his Application for Post-Conviction Relief, Petitioner asserts that he was denied his right to appeal through no fault of his own where neither the court nor defense counsel advised him of his right to appeal and where counsel failed to automatically initiate an appeal following the plea. However, Petitioner’s request for an appeal out of time should be denied as unreasonable and otherwise without merit.

A. Laches

Initially, any request for an appeal out of time should be barred by laches. It has long been held that “[a] defendant in a criminal case may waive any right not inalienable, given him by the Constitution or by the statute, either by express agreement or conduct, or by such failure to insist upon it in seasonable time....” *Sarsycki v. State*, 540 P.2d 588, 590 (Okla. Cr. 1975) (quoting Syllabus of *Rapp v. State*, 413 P.2d 915 (Okla. Cr. 1966)). Consistent with this principle, the Court of Criminal Appeals has held that the doctrine of laches can be invoked where the circumstances of a case indicate that the petitioner has forfeited the right to an appeal out of time by his own inaction in requesting such relief. *Thomas v. State*, 903 P.2d 328, 330-32 (Okla. Cr. 1995).

In *Thomas v. State*, 903 P.2d 328 (Okla. Cr. 1995), the petitioner’s counsel on direct appeal failed to file a brief on his behalf. *Id.* at 329. The Court of Criminal Appeals reviewed the record for fundamental error and, finding none to exist, affirmed the petitioner’s conviction and sentence. *Id.* Eighteen years later, the petitioner filed an application for post-conviction relief claiming, *inter alia*, to have been denied a direct appeal through no fault of his own where his attorney failed to file an appellate brief on his behalf. *Id.* at 328-29. The Court noted that the petitioner appeared to have been denied an appeal through no fault of his own, but concluded that he was not entitled to an appeal out of time. *Id.* at 330-31. In recounting its long history of invoking the doctrine of laches in the context of collateral relief, the Court noted that of concern is the State’s ability to locate



evidence and witnesses after passage of long periods of time should a new trial be granted. *Id.* at 331. As the petitioner failed to make a seasonable request for an appeal out of time, the Court found that the doctrine of laches was properly invoked to deny his claim. *Id.* at 332.

In the present case, Petitioner entered his plea of guilty over seventeen years ago and now brings the instant request for relief for the first time. By the terms of the Judgment and Sentence, he completely discharged the sentence over twelve years ago. Certainly if Petitioner was serious about pressing a claim for an appeal out of time, he could have done so long before now; his failure to do so in a timely manner now warrants invocation of the doctrine of laches. The circumstances of this case, therefore, indicate a waiver by Petitioner of an entitlement to an appeal out of time. For this reason alone, Petitioner's request for an appeal out of time should be denied.

#### B. Appeal Out of Time

Even if this Court were not to apply the doctrine of laches, Petitioner's claim is insufficient to demonstrate entitlement to an appeal out of time. "[A] defendant waives his right to appeal when he is aware of that right, but does not bring an appeal within the statutory time period." *Bickerstaff v. State*, 669 P.2d 778, 779 (Okla. Cr. 1983). "The mere absence of an appeal of a conviction does not warrant a granting of an appeal out of time ... where the convict knew of said right but failed to perfect an appeal as required by law." *Whitworth v. State*, 450 P.2d 851, 852 (Okla. Cr. 1969). A petitioner seeking an appeal out of time must show that he was denied an appeal through no fault of his own. *Smith v. State*, 611 P.2d 276, 277 (Okla. Cr. 1980), *modified in part on other grounds*, *Blades v. State*, 107 P.3d 607 (Okla. Cr. 2005).

It is well settled that the decision of whether or not to take an appeal is the defendant's alone to make. *Jones v. Barnes*, 463 U.S. 745, 751, 103 S. Ct. 3308, 3312, 77 L. Ed. 2d 987 (1983); *Buchanan v. Page*, 451 P.2d 17, 18 (Okla. Cr. 1969). As the decision to appeal belongs to the

defendant, it is incumbent upon him to advise the court or counsel of his desire to appeal within the time provided therefor. As aptly stated by the Court of Criminal Appeals:

Where a defendant knowingly fails to indicate to the Court or to his attorney that he desires to appeal his conviction, he cannot be heard to complain that he has been denied any right. Accordingly, such a defendant forfeits the right to appeal his conviction.

*Martin v. Page*, 457 P.2d 829, 831 (Okla. Cr. 1969); *see also Roe v. Flores-Ortega*, 528 U.S. 470, 478, 120 S. Ct. 1029, 1035, 145 L. Ed. 2d 985 (2000) (holding that that absent an express request or some other manifestation of the client's wish to invoke his or her right to appeal, counsel is not required to take steps to bring an appeal).

Contrary to his assertions, Petitioner was expressly advised that to invoke his right to appeal, he was required to file an application to withdraw his plea within ten days. Petitioner was further advised that, if his application was denied after a hearing on the matter, he could perfect a certiorari appeal to the Court of Criminal Appeals. *See Exhibit 1, Plea of Guilty Part B, Notice of Right to Appeal.* In addition, counsel, by his signature thereto, further affirmed that he had discussed these rights with Petitioner. *See Exhibit 1, Plea of Guilty, Part B, p. 4.* In fact, the record indicates that Petitioner sought to invoke his right to appeal by requesting to withdraw his plea of guilty. *See Exhibit 2, Letter.* For reasons that are unclear from the record, however, Petitioner abandoned his request. *See Exhibit 3, Docket Sheet.* In so doing, he affirmatively waived his right to appeal. Having waived his right to appeal, Petitioner is not entitled to an appeal out of time and his request for such relief must be denied.

## II. Petitioner is Not Entitled to Post-Conviction Relief

In the alternative, Petitioner asks this Court to consider his remaining allegations of error and grant him unspecified relief. However, Petitioner is not entitled to post-conviction relief. The Post-Conviction Procedure Act, Title 22 O.S. §1080, *et seq.*, is the proper vehicle by which a petitioner can challenge the legality of the conviction or sentence imposed. 22 O.S. 2011, § 1080;

*Mahler v. State*, 783 P.2d 973, 973 (Okla. Cr. 1989). However, the Act is neither a substitute for a direct appeal nor a means for a second appeal. *Maines v. State*, 597 P.2d 774, 775-76 (Okla. Cr. 1979); *Fox v. State*, 880 P.2d 383, 384 (Okla. Cr. 1994). The scope of this remedial measure is strictly limited and does not allow for litigation of issues available for review at the time of direct appeal. *Castro v. State*, 880 P.2d 387, 388 (Okla. Cr. 1994). Issues that were not raised on direct appeal, but could have been raised are waived. *Fields v. State*, 946 P.2d 266, 268-69 (Okla. Cr. 1997). All issues that have been previously raised and ruled upon are barred from consideration by the doctrine of res judicata. *Id.*

An exception to these rules exists where a court finds sufficient reason for not asserting or inadequately presenting an issue in prior proceedings or “when an intervening change in constitutional law impacts the judgment and sentence.” *Bryson v. State*, 903 P.2d 333, 334 (Okla. Cr. 1995); 22 O.S.2011, § 1086. Sufficient reason for failing to previously raise or adequately assert an issue requires a showing that some impediment external to the defense prevented the petitioner and counsel from properly raising the claim. *Johnson v. State*, 823 P.2d 370, 373 (Okla. Cr. 1991).

In the present case, each of Petitioner’s arguments could have been raised in an application to withdraw his plea and, thereafter, on certiorari appeal. Petitioner does not offer this Court any reason, external to the defense, for failing to previously assert these issues. Thus, consideration of these propositions of error is barred by the doctrine of waiver. The Court of Criminal Appeals has stated that where a claim is procedurally barred, there is no need to address the merits of the issues presented. *Boyd v. State*, 915 P.2d 922, 924 (Okla. Cr. 1996). As aptly stated by the Court:

In the case sub judice, Petitioner was afforded an opportunity to pursue a direct appeal; he specifically declined to do so. As a result, he is bound by that earlier decision; as a consequence of that decision, he has forfeited his right to have this Court consider [issues], which would have been readily available for that direct appeal.

*Wallace v. State*, 935 P.2d 366, 370 (Okla. Cr. 1997) (citation omitted). Accordingly, the allegations of error raised by Petitioner need not be addressed and the Application for Post-Conviction Relief should be denied as a matter of law. Nevertheless, Petitioner's claims are wholly without merit.

#### A. Laches

In addition to the procedural bar of waiver, Petitioner's allegations of error should be barred by laches. It has long been held that "[a] defendant in a criminal case may waive any right not inalienable, given him by the Constitution or by the statute, either by express agreement or conduct, or by such failure to insist upon it in seasonable time ...." *Sarsycki v. State*, 540 P.2d 588, 590 (Okla. Cr. 1975) (quoting Syllabus of *Rapp v. State*, 413 P.2d 915 (Okla. Cr. 1966)). Consistent with this principle, the Court of Criminal Appeals has held that the doctrine of laches can be invoked where the circumstances of a case indicate that the petitioner has forfeited the right to collateral relief by his or her own inaction in seeking the same. *Paxton v. State*, 903 P.2d 325, 327 (Okla. Cr. 1995); *Thomas v. State* 903 P.2d 328, 332 (Okla. Cr. 1995). While federal courts require the state to demonstrate actual prejudice before laches is triggered, there is no such requirement under Oklahoma law. *Id.* Rather, "[t]he applicability of the doctrine of laches necessarily turns on the facts of each particular case." *Id.*

The Court of Criminal Appeals has set forth an even more stringent standard where a petitioner seeks to collaterally challenge a sentence after it has been discharged; "a trial court is without jurisdiction to modify, suspend, or otherwise alter a judgment which has been satisfied except to set aside a judgment void on its face as shown by the record." *Fitchen v. State*, 826 P.2d 1000, 1001 (Okla. Cr. 1992). A judgment is not void on its face where the trial court had jurisdiction of the person, jurisdiction of the subject matter, and authority under the law to pronounce judgment and sentence as rendered. *See Bumpus v. State*, 925 P.2d 1208, 1210 (Okla. Cr. 1996) (citing *In re Brewster*, 284 P.2d 755, 757 (Okla. Cr. 1955)).

Petitioner entered his plea of guilty over seventeen years ago. Petitioner does not contest and the record reflects that the trial court in the present case had jurisdiction over Petitioner, as well as the subject matter, and had authority to imposed judgment and sentence. By its very terms, Petitioner's sentence expired over twelve years ago. As such, this Court has no authority to vacate or otherwise modify the Judgment and Sentence. Under these circumstances, the State respectfully requests this Court to deny the application based on Petitioner's own inaction in seeking relief. However, notwithstanding the procedural bars of post-conviction review and the doctrine of laches, Petitioner's claims are wholly without merit.

#### B. Voluntary Nature of the Plea

In his motions and Application for Post-Conviction Relief, Petitioner challenges the voluntariness of his plea of guilty claiming it was entered through ignorance and without deliberation. It is axiomatic that a plea of guilty must be entered into in a knowing and voluntary manner. A plea of guilty is valid where the record reflects it to be a product of the voluntary and intelligent choice between alternative courses of action available to the defendant. *North Carolina v. Alford*, 400 U.S. 25, 31, 91 S. Ct. 160, 164, 27 L. Ed. 2d 162 (1970). In *King v. State*, 553 P.2d 529 (Okla. Cr. 1976), the Court of Criminal Appeals announced the procedures a trial court should follow in accepting guilty pleas. "The plea acceptance guidelines are thought to assemble numerous facts which bear materially on the voluntary, knowing, understanding and intelligent quality of tendered guilty pleas ...." *State v. Durant*, 609 P.2d 792, 794 (Okla. Cr. 1980).

Under *King*, the court must first determine if the defendant is competent. *King v. State*, 553 P.2d 529, 534 (Okla. Cr. 1976). This should be accomplished through interrogation of the defendant and counsel regarding past and present mental state, as well as observation of the defendant's demeanor before the court. *Id.* A court must also advise the defendant of the nature and consequences of the guilty plea. *Id.* This should include advising the defendant of the right to trial

counsel, the right to a jury trial, the right to confront witnesses, the privilege against self incrimination, and the range of punishment for the crime charged. *Id.* at 534-35.

In addition, the court must advise the defendant that by exercising the right to a jury, the State will be required to prove the allegations contained in the information beyond a reasonable doubt, and that by entering the plea of guilty he waives these rights. *Id.* at 535. The mandates of *King* also require the trial court to determine the voluntariness of the plea, including whether or not the plea is the result of force, threats, or coercion. *Id.* Where the court determines the plea is the result of a plea agreement, the court shall inquire as to the factual basis of the plea and require full disclosure of the terms of the plea agreement. *Id.*

As reflected by the record, the trial court followed the guidelines of *King* in accepting Petitioner's plea of guilty. The court began by inquiring of Petitioner's competence to understand the proceedings. Petitioner stated he had a high school education and was able to read and understand the questions on the Plea of Guilty Summary of Facts form. *See* Exhibit 1, Plea of Guilty, q. 3. Petitioner advised that he had not taken any medications or other substances nor had he failed to take necessary medication such that would his ability to understand the proceedings would be affected. *See* Exhibit 1, Plea of Guilty, q. 5-6. Petitioner further advised that he had no history of mental illness. *See* Exhibit 1, Plea of Guilty, q. 7. Petitioner was asked "Do you understand the nature and consequences of this proceeding?" to which Petitioner responded "yes." *See* Exhibit 1, Plea of Guilty, q. 8. In addition to the inquiry of Petitioner, defense counsel advised the court that Petitioner was able to assist in his defense and was able to understand the nature and consequences of the proceedings such that his plea was knowingly and voluntarily entered. *See* Exhibit 1, Plea of Guilty, q. 29.

At the time of the plea, Petitioner acknowledged that he received a copy of the Information and understood the crimes with which he was charged. *See* Exhibit 1, Plea of Guilty, q. 10.

Petitioner was advised of the range of punishment for Kidnapping. *See* Exhibit 1, Plea of Guilty, q. 11. In accepting the plea of guilty, the court advised Petitioner of his right to jury trial and associated rights. *See* Exhibit 1, Plea of Guilty, q. 12. Petitioner acknowledged that he understood that he would waive these rights upon his plea of guilty. *See* Exhibit 1, Plea of Guilty, q. 13.

Petitioner advised the court that he had fully discussed the charges against him with counsel and wished to enter his plea of guilty because he committed the acts as alleged by the State. *See* Exhibit 1, Plea of Guilty, q. 15-18, 23. He further provided a written statement in support of the factual basis for the plea. *See* Exhibit 1, Plea of Guilty, q. 23. In accordance with *King*, the trial court inquired of the voluntariness of the plea to which Petitioner advised that he entered the plea of his own free will without coercion from any source. *See* Exhibit 1, Plea of Guilty, q. 25-26. Finally, Petitioner stated, under oath, that the answers contained in the Summary of Facts form were true and correct and that he may be prosecuted for perjury for any false statements made therein. *See* Exhibit 1, Plea of Guilty, p. 4.

The record before this Court is unequivocally clear that Petitioner's plea of guilty was an intelligent choice among alternative courses of action and, thus, was knowingly and voluntarily entered. Petitioner's claim to the contrary is without merit and should be rejected.

#### C. Effective Assistance of Counsel

In what he labels as his first, third, fourth, sixth, and eighth propositions of error, Petitioner contends he received ineffective assistance of counsel. Although raised in five separate claims, Petitioner fails to clearly articulate the separate errors he believes to have been committed by counsel. He does, however, state that counsel was ineffective in failing to conduct adequate investigation and formulate a theory of defense. He further claims counsel had a conflict of interest. These allegations will be addressed in turn.

##### 1. Conflict of Interest

In his sixth proposition of error, Petitioner makes passing reference to counsel having a conflict of interest. A conflict of interest arises where counsel “owes conflicting duties to the defendant and some other person.” *Allen v. State*, 874 P.2d 60, 63 (Okla. Cr. 1994). Where no objection on the basis of a conflict of interest is made during the court proceedings, a petitioner seeking to establish a claim of ineffective assistance of counsel thereon must establish the existence of an actual conflict of interest that adversely affected counsel’s performance. *Cuyler v. Sullivan*, 446 U.S. 335, 348-49, 100 S. Ct. 1708, 1718-19, 64 L. Ed. 2d 333 (1980); *Carey v. State*, 902 P.2d 1116, 1118 (Okla. Cr. 1995). The mere “possibility of a conflict is insufficient to impugn a criminal conviction.” *Id.*, 446 U.S. at 350, 100 S. Ct. at 1719; *Banks v. State*, 810 P.2d 1286, 1296 (Okla. Cr. 1991). “[U]ntil a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for his claim of ineffective assistance.” *Id.*, 446 U.S. at 350, 100 S. Ct. at 1719.

In the present case, Petitioner claims counsel was under a conflict of interest, but does not specify on what basis he believes counsel was representing competing interests. Petitioner’s vague allegation does nothing to demonstrate the existence of an actual conflict of interest. In the absence of an actual conflict of interest, Petitioner must demonstrate actual harm. This he cannot do. Petitioner offers this Court nothing to demonstrate that he would not have otherwise entered his plea of guilty. Petitioner has failed to establish either the existence of an actual conflict of interest or actual harm from a potential conflict and, thus, his challenge to the efficacy of counsel must fail.

## 2. Generalized Claims of Ineffectiveness

Like his claim of a conflict of interest, Petitioner’s remaining challenges to counsel’s performance are vague and conclusory. These, however, do not entitle him to relief.

The analysis of a claim of ineffective assistance of counsel “begins with the presumption that trial counsel was competent to provide the guiding hand that the accused needed, and therefore



the burden is on the accused to demonstrate both deficient performance and resulting prejudice.” *Turrentine v. State*, 965 P.2d 955, 970 (Okla. Cr. 1998). In order to demonstrate ineffective assistance of counsel, a petitioner must make two showings: (1) counsel’s performance was so seriously deficient that representation fell below an objective standard of reasonableness and was not within the range of competence demanded of attorneys in criminal cases; and (2) but for counsel’s unprofessional errors, there is a reasonable probability that the result of the proceeding would be different. *Strickland v. Washington*, 466 U.S. 668, 687-88, 104 S. Ct. 2052, 2064, 80 L. Ed.2d 674 (1984).

In order to satisfy the prejudice requirement of *Strickland* in the context of a guilty plea, a petitioner must show that, but for the error of counsel, he would not have pled guilty and would have instead insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59, 106 S. Ct. 366, 370, 88 L. Ed. 2d 203 (1985); *Lozoya v. State*, 932 P.2d 22, 31 (Okla. Cr. 1996). A petitioner must do more than simply state that, but for counsel’s error, he would not have pled guilty, for any court would find such a statement suspect. *Lozoya*, 932 P.2d at 31. If a petitioner cannot demonstrate he was prejudiced, a court need not determine if counsel’s performance was deficient. *Howell v. State*, 967 P.2d 1221, 1226 (Okla. Cr. 1998), *overruled in part on other grounds*, *Fitzgerald v. State*, 61 P.3d 901, 905 (Okla. Cr. 2002).

Applying these principles to the case at bar, Petitioner’s challenge to the efficacy of counsel must fail. As presented, Petitioner’s challenges to the effectiveness of counsel are nothing more than conclusory allegations of deficient performance. Yet, “[c]onclusory allegations, standing alone, will never support a finding that an attorney’s performance was deficient.” *Smith v. State*, 955 P.2d 734, 738 (Okla. Cr. 1998); *see also*, *Perry v. State*, 853 P.2d 198, 203 (Okla. Cr. 1993) (generalized claim of ineffectiveness for failing to file motions insufficient to meet burden under *Strickland*); *Trice v. State*, 912 P.2d 349, 355 n.24 (Okla. Cr. 1996) (“bare allegations of defense

counsel's unpreparedness do not support a claim of ineffective assistance of counsel"); *Boyd v. State*, 839 P.2d 1363, 1373 (Okla. Cr. 1992) (generalized claim of inadequate investigation and preparation and failure to file unspecified motions insufficient to establish claim of ineffective assistance).

In rejecting Petitioner's claim, it need only be noted:

The principal value of counsel to the accused in a criminal prosecution often does not lie in counsel's ability to recite a list of possible defenses in the abstract, nor in his ability, if time permitted, to amass a large quantum of factual data and inform the defendant of it. Counsel's concern is the faithful representation of the interest of his client and such representation frequently involves highly practical considerations as well as specialized knowledge of the law. Often the interests of the accused are not advanced by challenges that would only delay the inevitable date of prosecution, ... by contesting all guilt .... A prospect of plea bargaining, the expectation or hope of a lesser sentence, or the convincing nature of the evidence against the accused are considerations that might well suggest the advisability of a guilty plea ....

*Braun v. State*, 909 P.2d 783, 796 (Okla. Cr. 1995) (quoting *Brady v. United States*, 397 U.S. 742, 756-57, 90 S. Ct. 1463, 25 L. Ed. 2d 747 (1970)). This principle applies with equal force to the case at bar.

There is nothing to suggest that counsel's advice that Petitioner enter the plea of guilty was made with anything but primary concern for his interests after professional evaluation of the evidence against him. The record reflects that Petitioner fully discussed the charges against him and any possible defenses with counsel and was satisfied with counsel's advice in the matter. See Exhibit 1, Plea of Guilty, q. 16-17. Having failed to satisfy either inquiry of the *Strickland* standard, Petitioner's claim must be rejected.

#### D. Prosecutorial Misconduct

In what he labels as his seventh proposition of error, Petitioner appears to assert multiple claims of prosecutorial misconduct. Although it is far from clear, Petitioner appears to urge that the State failed to disclose exculpatory evidence, improperly coerced the victim to testify at preliminary

hearing, made improper statements at preliminary hearing, and failed to correct false testimony at preliminary hearing.

### 1. Failure to Disclose Evidence

Initially, Petitioner avers the prosecutor failed to disclose exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963). “There is a presumption of regularity in the trial court proceedings. As a consequence, it becomes the burden of the convicted defendant on appeal – whether on direct appeal or post-conviction – to present to this Court sufficient evidence to rebut this presumption.” *Brown v. State*, 933 P.2d 316, 324-25 (Okla. Cr. 1997) (citations omitted). Included in this principle, is the presumption that prosecutors, as officers of the court, adhere to their duty to disclose evidence. *Id.*; *McCarty v. State*, 989 P.2d 990, 997 (Okla. Cr. 1999). “It is the burden of the party claiming that the evidence has been withheld to show that the evidence was, in fact, withheld.” *Van Woudenberg v. State*, 942 P.2d 224, 227 (Okla. Cr. 1997).

Petitioner’s claim of prosecutorial misconduct is entirely insufficient to overcome the presumption of regularity. Petitioner has failed to demonstrate that exculpatory evidence within the meaning of *Brady* actually exists. In fact, while he claims evidence was withheld, he doesn’t specify what that evidence was. Even if it is presumed that such evidence exists, Petitioner has wholly failed to demonstrate that evidence was actually withheld. On this point, the record demonstrates that on March 8, 1999, the State filed a Notice of Open File Discovery. See Exhibit 4, Notice. Having failed to make any showing that exculpatory evidence within the meaning of *Brady* existed and was improperly withheld by the prosecutor, Petitioner’s claim does not overcome the presumption of regularity in court proceedings. Accordingly, Petitioner’s claim to the contrary must be rejected.

### 2. Failure to Correct False Testimony

In his seventh proposition of error, Petitioner states that the prosecutor concealed a crime, but does not specify what that crime was or who committed it or how it was concealed by the State; his reference to *Napue v. Illinois*, may suggest that his intended claim is one of prosecutorial misconduct in failing to correct false or misleading testimony.

As noted in the preceding section, “There is a presumption of regularity in the trial court proceedings.” *Brown v. State*, 933 P.2d 316, 324-25 (Okla. Cr. 1997) (citations omitted). Included in this principle, is the presumption that prosecutors, as officers of the court, do not suborn perjury or otherwise allow false testimony to go uncorrected. *Cargle v. State*, 947 P.2d 584, 589 (Okla. Cr. 1997); *Hatch v. State*, 924 P.2d 284, 295-96 (Okla. Cr. 1996). In order to obtain relief upon such an allegation, Petitioner bears the burden of establishing that (1) false or misleading testimony was presented, (2) that the prosecutor knowingly used such testimony and (3) that the testimony was material to guilt or innocence. *Omalza v. State*, 911 P.2d 286, 307 (Okla. Cr. 1995).

As with the other allegations of error presented by this Application for Post-Conviction Relief, Petitioner’s claim of prosecutorial misconduct on this basis is vague and conclusory. In fact, Petitioner fails to identify what portion of the victim’s testimony at preliminary hearing was false or misleading. Nor does Petitioner explain how the prosecutor knew such testimony was false. An unsupported, self-serving claim such as this is entirely insufficient to overcome the presumption of regularity in trial proceedings. Certainly, such a vague allegation falls drastically short of demonstrating that the prosecutor knowingly presented false testimony and that the same was material to Petitioner’s guilt or innocence. Accordingly, Petitioner’s claim of prosecutorial misconduct on this allegation must be rejected.

### 3. Improper Conduct at Preliminary Hearing

In his final claim of prosecutorial misconduct, Petitioner appears to urge that the prosecutor improperly coerced the victim to testify at preliminary hearing and made improper statements

during the hearing. Apart from the procedural bar of waiver, any claims in this respect have been waived by Petitioner's plea of guilty.

The Court of Criminal Appeals has long held that a plea of guilty waives all non-jurisdictional defects in the court proceedings which took place prior the plea. *Berget v. State*, 824 P.2d 364, 372 (Okla. Cr. 1991); *Rodgers v. State*, 483 P.2d 1375, 1376 (Okla. Cr. 1971); *Ledgerwood v. State*, 455 P.2d 745, 746-47 (Okla. Cr. 1969). So too has the United States Supreme Court. "[A] guilty plea represents a break in the chain of events which has preceded it in the criminal process. When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." *Tollett v. Henderson*, 411 U.S. 258, 267, 93 S. Ct. 1602, 1608, 36 L. Ed. 2d 235 (1973).

Petitioner's conviction is the result of his own voluntary admission of guilt. Accordingly, he is now estopped from urging entitlement to relief on the grounds that defects, constitutional or otherwise, occurred in the preliminary hearing prior to the entry of his plea.

#### E. Trial Court Error

Throughout his application, Petitioner states that the trial court made one or more decisions which were based on an unreasonable determination of the facts and/or an unreasonable application of clearly established law. Beyond mere assertions that error occurred, Petitioner makes no attempt to develop his claims. The Court of Criminal Appeals has long held: "a party complaining of error must show not only that some error occurred, but also that some injury resulted from the error." *Carpenter v. State*, 929 P.2d 988, 994 (Okla. Cr. 1996). At best, Petitioner's allegation establishes nothing more than error in the abstract for which he has neither articulated nor proven prejudice. As such, Petitioner is not entitled to collateral relief on these grounds and his claims to the contrary must be denied.

### III. Request for Discovery and Evidentiary Hearing

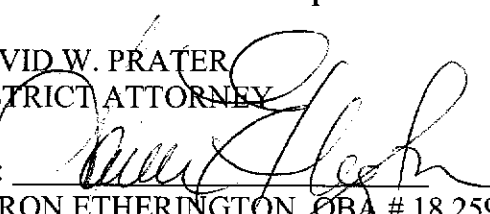
Finally, within his application and by separate motion, Petitioner requests this Court to allow him to conduct discovery. The Court of Criminal Appeals has recognized that neither the Oklahoma Discovery Code nor the Oklahoma Criminal Discovery Code apply to post-conviction proceedings. *Bland v. State*, 991 P.2d 1039, 1041 (Okla.Cr. 1999). In fact, a court is not authorized to order discovery on issues it is precluded from considering. *Cargle v. State*, 947 P.2d 584, 590 (Okla.Cr. 1997). As Petitioner's claims are procedurally barred by the doctrine of waiver, this Court has no authority to grant Petitioner's request.

### CONCLUSION

Petitioner was fully advised of his right to appeal and the manner in which to invoke that right. By abandoning his application to withdraw plea of guilty, Petitioner affirmatively waived his right to appeal. Accordingly, Petitioner is not entitled to an appeal out of time. Nor is Petitioner entitled to collateral relief. Petitioner's propositions of error are not proper for post-conviction review as they could have been raised in a timely appeal. Petitioner does not offer this Court sufficient reason to avoid application of the doctrine waiver. Thus, consideration of these arguments is procedurally barred. In addition, the doctrine of laches should be applied to preclude collateral challenge to Petitioner's convictions. Apart from the procedural bars of post-conviction review and the doctrine of laches, Petitioner's claims are without merit.

WHEREFORE, the State of Oklahoma respectfully prays that this Honorable Court will deny Petitioner's Application for Post-Conviction Relief in all respects.

DAVID W. PRATER  
DISTRICT ATTORNEY

BY:   
AARON ETHERINGTON, OBA # 18,259  
ASSISTANT DISTRICT ATTORNEY  
320 Robert S. Kerr, Suite 505  
Oklahoma City, OK 73102

(405) 713-1600

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the State's Response to Application for Post-Conviction Relief was mailed on the date of filing to:

George Christian #276900  
Lexington Correctional Center  
PO Box 260  
Lexington, OK 73051

A handwritten signature in cursive script, appearing to read "David E. Hight", written over a horizontal line.

2129/3796

4-11/95

# IN THE DISTRICT COURT OF OKLAHOMA COUNTY STATE OF OKLAHOMA

THE STATE OF OKLAHOMA

Plaintiff

vs.

George Allen Christian Jr.

Defendant

SS#

[REDACTED], 44/28

D.O.B.

2, 165

OKC, OK 73121

(Home Address)

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY OKLA.

Case No.

CF-98-3134

Case No.

Case No.

Case No.

NOTE: The trial judge shall ensure the defendant is sworn either prior to completing the Summary of Facts or prior to inquiry by the Court on the Plea. If the defendant is entering a nolo contendere, or other type guilty plea, correct by pen change where term "guilty" used.

## PLEA OF GUILTY SUMMARY OF FACTS

### Part A: Findings of Fact, Acceptance of Plea

1. Is the name just read to you your true name? CIRCLE:  
If no, what is your correct name? ☒ Yes ☐ No  
I have also been known by the name(s): \_\_\_\_\_
- 2.(a) Do you wish to have a record made of these proceedings by a Court Reporter? Yes ☐ No ☒  
(b) Do you wish to waive this right? ☒ Yes ☐ No
3. Age: 34 Grade completed in school: 12<sup>th</sup>
4. Can you read and understand this form? ☒ Yes ☐ No  
(If the answer above is no, Addendum A is to be completed and attached.)
5. Are you currently taking any medications or substances which affect your ability to understand these proceedings? Yes ☐ No ☒
6. Have you been prescribed any medication that you should be taking, but you are not taking? Yes ☐ No ☒  
If so, what kind and for what purpose? \_\_\_\_\_
7. Have you ever been treated by a doctor or health professional for mental illness or confined in a hospital for mental illness? Yes ☐ No ☒  
If yes, list the doctor or health professional, place, and when occurred: \_\_\_\_\_
8. Do you understand the nature and consequences of this proceeding? ☒ Yes ☐ No
9. Have you received a copy of the Information and read its allegations? ☒ Yes ☐ No
10. (a) Do you understand you are charged with:

#### CRIME

#### STATUTORY REFERENCE

- |                              |                             |                                      |                          |
|------------------------------|-----------------------------|--------------------------------------|--------------------------|
| 1) <u>Kidnapping</u>         | <u>21</u> O.S. § <u>741</u> | <input checked="" type="radio"/> Yes | <input type="radio"/> No |
| 2) <u>Dismissed By State</u> | ____ O.S. § _____           | <input type="radio"/> Yes            | <input type="radio"/> No |
| 3) <u>Dismissed By State</u> | ____ O.S. § _____           | <input type="radio"/> Yes            | <input type="radio"/> No |
| 4) <u>Dismissed By State</u> | ____ O.S. § _____           | <input type="radio"/> Yes            | <input type="radio"/> No |

For additional charges: List any additional charges on a separate sheet and label as PLEA OF GUILTY ADDENDUM B.



(b) Are you charged after former conviction of a felony?

Yes ☒ No

If yes, list the felony(ies) charged: \_\_\_\_\_

(c) Have you ever been convicted of a felony?

☒ Yes No

11. Do you understand the range of punishment for the crime(s) is/are:

List in same order as in No. 10 above.:

(1) Minimum of 0 to Maximum of 10 and/or fine \$ \_\_\_\_\_ ☒ Yes No

(2) Minimum of \_\_\_\_\_ to Maximum of \_\_\_\_\_ and/or fine \$ \_\_\_\_\_ Yes No

(3) Minimum of \_\_\_\_\_ to Maximum of \_\_\_\_\_ and/or fine \$ \_\_\_\_\_ Yes No

(4) Minimum of \_\_\_\_\_ to Maximum of \_\_\_\_\_ and/or fine \$ \_\_\_\_\_ Yes No

For additional charges: List any additional punishments on a separate sheet with additional crimes and labeled as PLEA OF GUILTY ADDENDUM B.

12. Read the following statements:

You have the right to a speedy trial before a jury for the determination of whether you are guilty or not guilty and if you request, to determine sentence. (If pleading to capital, advise of procedure in 21 O.S. §701.10(B). At the trial:

(1) You have the right to have a lawyer represent you, either one you hire yourself or if you are indigent a court appointed attorney.

(2) You are presumed to be innocent of the charges.

(3) You may remain silent or, if you choose, you may testify on your own behalf.

(4) You have the right to see and hear all witnesses called to testify against you and the right to cross-examine them.

(5) You may have your witnesses ordered to appear in court to testify and present evidence of any defense you have to these charges.

(6) The state is required to prove your guilt beyond a reasonable doubt.

(7) The verdict of guilty or not guilty decided by a jury must be unanimous. However, you can waive a jury trial and, if all parties agree, the case could be tried by a Judge alone who would decide if you were guilty or not guilty and if guilty, the appropriate punishment.

Do you understand each of these rights?

☒ Yes No

13. Do you understand by entering a plea of guilty you give up these rights?

☒ Yes No

14. Do you understand that a conviction on a plea of guilty could increase punishment in any future case committed after this plea?

☒ Yes No

15. Is Malcolm M. Savage your lawyer?

☒ Yes No

16. Have you talked over the charge(s) with your lawyer, advised him/her regarding any defense you may have to the charges and had him/her advise?

☒ Yes No

17. Do you believe your lawyer has effectively assisted you in this case and are you satisfied with his/her advice?

☒ Yes No

18. Do you wish to change your plea of not guilty to guilty and give up your right to a jury trial and all other previously explained constitutional rights?

☒ Yes No

19. Is there a plea agreement?

☒ Yes No

What is your understanding of the plea agreement? State dismisses Counts 2, 3, & 4; 5yr. suspended on Ct. 1 plus costs and fees

20. Do you understand the Court is not bound by any agreement or recommendation and if the Court does not accept the plea agreement, you have the right to withdraw your plea of guilty?

☒ Yes No

21. Do you understand that if there is no plea agreement the Court can sentence you within the range of punishment stated in question 11?

☒ Yes No

22. Do you understand your plea of guilty to the charge(s) is after: (check one)

- ☒ no prior felony convictions:  
☐ one (1) prior felony conviction:  
☐ two (2) or more prior felony convictions?

☒ Yes ☐ No

List prior felony convictions to which pleading: \_\_\_\_\_

23. What is/are your plea(s) to the charge(s) (and to each one of them)? Guilty

State the factual basis for your plea(s): (attach additional page as needed, labeled as ADDENDUM C)

On or about May 11 & 12, 1998, in Oklahoma County  
OK, I ~~was~~ confined Vicki Henley  
in this state against her will by taking her vehicle,  
while she was in the vehicle.

X George A. Christensen

25. Have you been forced, abused, mistreated, or promised anything by anyone to have you enter your plea(s)?

Yes ☐ No ☒

26. Do you plead guilty of your own free will and without any coercion or compulsion of any kind?

☒ Yes ☐ No

27. If you are entering a plea to a felony offense, you have a right to a Pre-Sentence Investigation and Report which would contain the circumstances of the offense, any criminal record, social history and other background information about you. Do you want to have the Report?

Yes ☒

28 (a) Do you have any additional statements to make to the Court?

Yes ☒

(b) Is there any legal reason you should not be sentenced now?

Yes ☒

#### HAVING BEEN SWORN,

I, the Defendant whose signature appears below, make the following statements under oath:

1. Check one:

- ☐ (a) I have read, understood and completed this form.  
☒ (b) My attorney completed this form and we have gone over the form and I understand its contents and agree with the answers. See Addendum "A"  
☐ (c) The Court completed this form for me and inserted my answers to the questions.

2. The answers are true and correct.

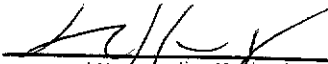
3. I understand that I may be prosecuted for perjury if I have made false statements to this Court.

X George A. Christensen Jr.  
Defendant

Acknowledged this 3rd day of May 1998

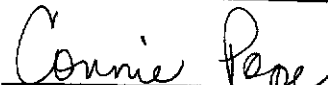
Susan C. Bray  
Notary Public/Deputy Clerk/Judge

29. I, undersigned attorney for the Defendant, believe the Defendant understands the nature and consequence of this proceeding. (S)He is able to assist me in formulating any plea to the charge(s). I am satisfied that the Defendant's waivers and plea(s) of guilty are given and he/she has been informed of all legal and constitutional rights.

  
Attorney for Defendant

30. The recommendation in question 19 is correctly stated. I believe the recommendation is correct for the State of Oklahoma.

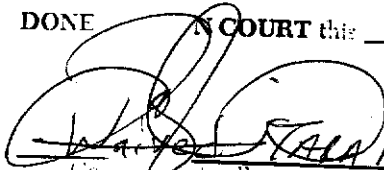
31. The Defendant's plea is Nolo contendere plea.


  
Assistant District Attorney

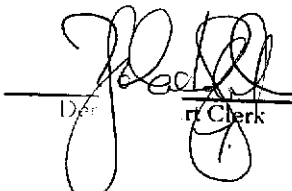
**THE COURT FINDS AS FOLLOWS:**

32. A. The Defendant was sworn and responded to the questions under oath.  
B. The Defendant understands the nature, purpose and consequences of this proceeding.  
C. The Defendant's plea(s) of Guilty is/are knowingly and voluntarily entered and accepted by the Court.  
D. The Defendant is competent for the purposes of this hearing.  
E. There is no basis exists for the plea(s) (and former conviction(s), if applicable).  
F. The Defendant is guilty as charged: (check as appropriate)  
☒ no prior felony convictions.  
☐ one (1) prior felony conviction.  
☐ two (2) or more prior felony convictions.  
G. The sentence or order deferring sentence shall be: imposed instantaneously; or continued until the \_\_\_\_\_ day of \_\_\_\_\_, year of \_\_\_\_\_ at \_\_\_\_\_ m. A Sentence Investigation and Report is requested, it shall be provided to the Court by the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.

DONE IN COURT this 7th day of May, 1999.

  
Judge Present

  
JUDGE OF THE DISTRICT COURT

  
Clerk

SUSAN W. BRAGG  
JUDGE (Typed or Printed)

2129/3786

FORM 8-1-1-1988

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA

Plaintiff

vs.

George Allen Christian Jr.

Defendant

SS#

[REDACTED], 4428

DOB

2 [REDACTED], 65

FILED IN THE DISTRICT COURT OF  
OKLAHOMA COUNTY, OKLAHOMA

Case No.

CF-98-3134

Case No.

Case No.

Case No.

PLEA OF GUILTY

Part B: Sentence on Plea

THE COURT SENTENCES THE DEFENDANT AS FOLLOWS:

TIME TO SERVE

1. You are sentenced to confinement under the supervision of the Department of Corrections for a term of years as follows: (List in same order as in question No. 10 in Part A)

- Cl. 1) \_\_\_\_\_
- Cl. 2) \_\_\_\_\_
- Cl. 3) \_\_\_\_\_
- Cl. 4) \_\_\_\_\_

2. The sentence(s) are to run CONCURRENTLY CONSECUTIVELY with \_\_\_\_\_  
\_\_\_\_\_ or NOT APPLICABLE

DEFERRED SENTENCE

1. The sentencing date is deferred until the \_\_\_\_\_ day of \_\_\_\_\_, year \_\_\_\_\_, at \_\_\_\_\_.

2. You WILL / WILL NOT be supervised. The terms set forth in the Probation Guidelines found in Addendum D shall be the rules you must follow during the period of deferment.

## SUSPENDED SENTENCE or SUSPENDED AS TO PART

1. You are sentenced to confinement under the supervision of the Department of Corrections for a term of years as follows:

Ct. 1: 5 years  
 Ct. 2: Dismissed  
 Ct. 3: Dismissed  
 Ct. 4: Dismissed

to be suspended as follows:

a) ALL SUSPENDED YES ☒ NO ☐

b) suspended EXCEPT as to the first \_\_\_\_\_ (months)(years) of the term(s) during which time you are to be held in the custody of the Department of Corrections, the remainder of the sentence(s) to be suspended under the terms set forth in the Probation Guidelines found in Addendum D.

2. The sentence(s) are to run CONCURRENTLY / CONSECUTIVELY with \_\_\_\_\_  
 \_\_\_\_\_ or NOT APPLICABLE

3. You are to pay to the Department of Corrections the amount of \$ 40 each month, beginning on the 1st day July, 1999, and on the same day of each month during the months you are supervised on your suspended sentence. If you are first held in the custody of the Department of Corrections, you are to pay the amount of \$ \_\_\_\_\_ on the first day of the second month after your release from custody and on the first day of each month thereafter that you are supervised by the Department of Corrections.

### NOTICE OF RIGHT TO APPEAL

To appeal from this conviction, or order deferring sentence, on your plea of guilty, you must file in the District Court Clerk's Office a written Application to Withdraw your Plea of Guilty within ten (10) days from today's date. You must set forth in detail why you are requesting to withdraw your plea. The trial court must hold a hearing and rule upon your Application within thirty (30) days from the date it is filed. If the trial court denies your Application, you have the right to ask the Court of Criminal Appeals to review the District Court's denial by filing a Petition for Writ of Certiorari within ninety (90) days from the date of the denial. Within ten (10) days from the date the application to withdraw plea of guilty is denied, notice of intent to appeal and designation of record must be filed pursuant to Oklahoma Court of Criminal Appeals Rule 4.2(D). If you are indigent, you have the right to be represented on appeal by a court-appointed attorney.

Do you understand your rights to appeal?

CIRCLE: ☒ Yes ☐ No

## ADDENDUM D

Page 2 of 4

## PROBATION GUIDELINES

The sentencing date of a deferred sentence may be accelerated and judgment and sentence imposed or the imposition of a suspended sentence may be revoked and the entire judgment and sentence enforced without suspension:

- If you violate any city, state or federal law;
- If you illegally possess marijuana or any other narcotic drug;
- If you habitually associate with convicted felons;
- If you leave the state without first having received written permission from the Department of Corrections;
- If you change your residence from the address you give the Department of Corrections without notifying your probation officer promptly;
- If you fail to report in person or in writing to the Department of Corrections as you are directed by them;
- If you fail to pay any sums or amounts of money as ordered by this Court;
- If you fail to complete community service as agreed to in the Supplemental Summary of facts;
- Special conditions: \_\_\_\_\_

1. Do you understand these Probation Guidelines?

CIRCLE.

2. Do you agree to cooperate with the Department of Corrections and obey their rules during the months you are supervised?

Yes No

Yes No

## ADDENDUM E

## FINES AND COSTS

You are to pay fines, costs, assessments, fees, restitution, and/or perform community service as set out in this Addendum E which is attached to and made a part of this Order.

## THE COURT ORDERS:

You are to pay the following to the Oklahoma County Court Clerk

- Fine(s) totaling the amount of \$ \_\_\_\_\_ on or before \_\_\_\_\_
- Do \_\_\_\_\_ amount of \$ 140 on or before now
- Victim Compensation Assessment in the sum of \$ 35 on or before now
- A laboratory fee for the benefit of the \_\_\_\_\_  
in the amount of \$ 05.12 on or before \_\_\_\_\_

a. Court-appointed attorney fee amount of \$ 175 on or before now

You are to pay the above amounts to the court clerk's office pursuant to any attached schedule allowing for monthly payments.

You are to pay restitution and/or perform community service according to any attached schedule(s).

You are to pay \$        to the Department of Mental Health on or before       

You are to pay \$        to the Department of Corrections for preparation of the Pre-Sentence Report on or before       

CIRCLE

Do you want to remain in the county jail ten (10) days before being taken to the place of confinement?

N/A Yes No

Have you fully understood the questions that have been asked?

Yes No

Have your answers been freely and voluntarily given?

Yes No

I ACKNOWLEDGE UNDERSTANDING OF RIGHTS AND SENTENCE IMPOSED.

George P. Christie Jr.  
Defendant

I, the undersigned attorney, have advised the Defendant of his/her appellate rights.

Connie Pope  
ASSISTANT DISTRICT ATTORNEY

[Signature]  
Attorney for Defendant

DONE IN OPEN COURT, with all parties present, this 7<sup>th</sup> day of May, 1997

[Signature]  
Court Reporter Present

[Signature]  
JUDGE OF THE DISTRICT COURT

[Signature]  
Deputy Court Clerk

SUSAN W. BRAGG  
JUDGE (typed or printed)

Connie Pope / ADA

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA

MAY 03/1999

PATRICIA KRESLEY, CLERK  
By Deputy

ADDENDUM "A"  
CERTIFICATE OF DEFENSE COUNSEL

As the attorney for the defendant, George Allen

Christian Jr. Case No. CF-98-2134

I certify that:

1. The Defendant has stated to me that ~~he/she~~ is unable to read and understand the attached form. And I have: (check appropriate option)

☒ determined the Defendant is able to understand the English language.

☐ determined the Defendant is unable to understand the English language and obtained \_\_\_\_\_

\_\_\_\_\_ to interpret.

2. I have read and fully explained to the Defendant the allegations contained in the information in this case.
3. I have read and fully explained to the Defendant all of the questions in the Plea of Guilty/Summary of Facts and (check appropriate option)

☐ the Defendant completed the form in his/her own handwriting.

☒ I completed the form for the Defendant and inserted the defendant's answers to the questions in my own handwriting.

4. To the best of my knowledge and belief the statements and declarations made by the Defendant are accurate and true and have been freely and voluntarily made.

Dated this 3<sup>rd</sup> day of May, 1999.

[Signature]  
Attorney for the Defendant



OK 8-3134  
FILE  
OKL...

HONORABLE JUDGE SUSAN BRAGGS

MAY 2 - 1999  
5-7-99  
PATRICIA FLEWELL  
By Deputy

I WOULD LIKE TO THANK YOU FOR BEING UNDERSTANDING AND EXPRESSING YOUR CONCERN ABOUT THE MISTAKE I WAS MAKING ON MAY 3<sup>RD</sup> 1999, AND I WAS UNDER ALOT OF PRESSURE AND STRESS AND DUE TO THE UNUSUAL CIRCUMSTANCES AND THE LENGTHY STAY IN THE COUNTY JAIL I HOPE YOU WOULD TRY TO UNDERSTAND THE SITUATION I WAS IN, AND THAT I WAS NOT ABLE TO BE PRODUCTIVE WHILE BEING INCARCERATED, AND I AM TRULY GRATEFUL FOR YOU EXCEPTING MY PLEA WITHDRAWEL AND ONCE MORE I WOULD LIKE TO THANK YOU FOR YOUR CARING CONCERN, THANK YOU VERY MUCH!

SINCERLY YOURS  
George A. Christ Jr.

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY OKLA.

MAY 18 1999  
PATRICIA FLEWELL  
By Deputy

**IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY, OKLAHOMA**

State of Oklahoma	No. CF-1998-3134 (Criminal Felony)
v.	Filed: 05/22/1998 Closed: 05/03/1999
JACKSON, TERRY LEE, CA98-632 GEORGE ALLEN CHRISTIAN, CA-97-3537 Defendant.	Judge: Henderson, Timothy R

**Parties**

CHRISTIAN, GEORGE ALLEN, Defendant  
JACKSON, TERRY LEE, Defendant  
STATE OF OKLAHOMA, Plaintiff

**Attorneys**

**Attorney**

WATSON, KENNETH(Bar # 9393)  
 200 NORTH HARVEY  
 OKLAHOMA CITY, OK 73102

**Represented Parties**

CHRISTIAN, GEORGE ALLEN

**Events**

Event	Party	Docket	Reporter
(None)			
(None)			
(None)			
Tuesday, June 23, 1998 at 9:00 AM PRELIMINARY ANNOUNCEMENT DOCKET (PAD)		Charles G. Humble	
Tuesday, July 28, 1998 at 9:00 AM PRELIMINARY ANNOUNCEMENT DOCKET (PAD)		Charles G. Humble	
Monday, August 24, 1998 at 9:00 AM PRELIMINARY HEARING (PLH)		Charles G. Humble	
Monday, August 24, 1998 at 9:00 AM PRELIMINARY HEARING (PLH)		Charles G. Humble	
Wednesday, October 28, 1998 at 9:00 AM PRELIMINARY HEARING 2X (PLH)		Charles G. Humble	
Wednesday, October 28, 1998 at 9:00 AM PRELIMINARY HEARING 2X (PLH)		Charles G. Humble	
Tuesday, November 17, 1998 at 9:00 AM PRELIMINARY HEARING (PLH)		David M. Harbour	
Tuesday, November 17, 1998 at 9:00 AM PRELIMINARY HEARING (PLH)		David M. Harbour	
Wednesday, November 18, 1998 at 13:30 PM HEARING 2ND SETTING (SIARF)		David M. Harbour	
Wednesday, November 18, 1998 at 13:30 PM HEARING 2ND SETTING (SIARF)		David M. Harbour	
Friday, December 18, 1998 at 9:00 AM PRE-TRIAL HEARING (None)		Susan W. Bragg	

Friday, December 18, 1998 at 9:00 AM PRE-TRIAL HEARING (None)		Susan W. Bragg
Monday, March 22, 1999 at 9:00 AM JURY TRIAL (ISSUE) (JTI)		Susan W. Bragg
Friday, April 30, 1999 at 14:30 PM CALL DOCKET - TRIAL (CDT)		Susan W. Bragg
Monday, May 3, 1999 at 9:00 AM JURY TRIAL (ISSUE) X2 (JTI)		Susan W. Bragg
Friday, July 13, 2001 at 9:00 AM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Friday, September 7, 2001 at 9:00 AM REVOCATION(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Friday, October 12, 2001 at 9:00 AM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Friday, December 21, 2001 at 9:00 AM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Friday, February 1, 2002 at 9:00 AM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Friday, March 1, 2002 at 9:00 AM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Thursday, March 21, 2002 at 13:30 PM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Thursday, June 27, 2002 at 13:30 PM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Carol Ann Hubbard
Wednesday, October 2, 2002 at 13:30 PM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Monday, February 10, 2003 at 9:00 AM JURY TRIAL (ISSUE)(JTI)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Wednesday, April 2, 2003 at 9:00 AM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Monday, June 9, 2003 at 9:00 AM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Wednesday, October 15, 2003 at 0:00 AM CA REVIEW 10-15-2003. JWB(CAR)	JACKSON, TERRY LEE	
Thursday, October 21, 2004 at 13:30 PM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Thursday, January 13, 2005 at 13:30 PM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Tammy Bass LeSure
Wednesday, May 18, 2005 at 13:30 PM HEARING ON APPLICATION TO REVOKE(HAR)	CHRISTIAN, GEORGE ALLEN	Susan W. Bragg
Friday, September 14, 2007 at 0:00 AM COST ADMINISTRATION REVIEW 9-14-2007 W/ \$50.00 (CAR)	JACKSON, TERRY LEE	
Friday, September 28, 2007 at 0:00 AM PP OF 25/MO. BEG. 09-28-2007. JWB(CCD)	JACKSON, TERRY LEE	Cost Admin. Judge (General)

## Counts

Parties appear only under the counts with which they were charged. For complete sentence information, see the court minute on the docket.

**Count # 1.** Count as Filed: , CT 1 KIDNAPPING/AFCF , in violation of 21 O.S. 741  
Date Of Offense: 05/11/1998

**Party Name:**

**Disposition Information:**

JACKSON, TERRY  
LEE

**Disposed: DISMISSED, 12/18/1998. Dismissed- Request of the State.**

Count as Disposed: CT 1 KIDNAPPING/AFCF (KID)  
Violation of 21 O.S. 741

CHRISTIAN, GEORGE **Disposed: CONVICTION, 05/03/1999. Guilty Plea.**  
ALLEN  
Count as Disposed: CT 1 KIDNAPPING/AFCF (KID)  
Violation of 21 O.S. 741

**Count # 2.** Count as Filed: , CT 2 ROBBERY IN THE FIRST DEGREE/AFCF , in violation of 21 O.S. 791  
Date Of Offense: 05/12/1998

**Party Name:** **Disposition Information:**

JACKSON, TERRY **Disposed: CONVICTION, 12/18/1998. Guilty Plea.**  
LEE  
Count as Disposed: CT 2 ROBBERY IN THE FIRST DEGREE/ (OROB)  
Violation of 21 O.S. 791

CHRISTIAN, GEORGE **Disposed: DISMISSED, 05/03/1999. Dismissed- Request of the State.**  
ALLEN  
Count as Disposed: CT 2 ROBBERY IN THE FIRST DEGREE/AFCF (OROB)  
Violation of 21 O.S. 791

**Count # 3.** Count as Filed: , CT 3 ASSAULT AND BATTERY W/A DANGEROUS WEAPON/AFCF , in violation of 21 O.S. 645  
Date Of Offense: 05/12/1998

**Party Name:** **Disposition Information:**

JACKSON, TERRY **Disposed: CONVICTION, 12/18/1998. Guilty Plea.**  
LEE  
Count as Disposed: CT 3 ASSAULT AND BATTERY W/A DANGEROUS WEAPON/AFCF (OA)  
Violation of 21 O.S. 645

CHRISTIAN, GEORGE **Disposed: DISMISSED, 05/03/1999. Dismissed- Request of the State.**  
ALLEN  
Count as Disposed: CT 3 ASSAULT AND BATTERY W/A DANGEROUS WEAPON/AFCF (OA)  
Violation of 21 O.S. 645

**Count # 4.** Count as Filed: , CT 4 FORCIBLE ORAL SODOMY/AFCF , in violation of 21 O.S. 886 888  
Date Of Offense: 05/12/1998

**Party Name:** **Disposition Information:**

CHRISTIAN, GEORGE **Disposed: DISMISSED, 05/03/1999. Dismissed- Request of the State.**  
ALLEN  
Count as Disposed: CT 4 FORCIBLE ORAL SODOMY (FSOD)  
Violation of 21 O.S. 886 888

**Docket**

Date	Code	Count	Party	Serial #	Entry Date	User Name		
05-22-1998	TEXT	-	JACKSON, TERRY LEE	3644544	May 27 1998 12:00:00:000AM	[1042917]5-30	-	\$ 0.00
WARRANT OF ARREST ISSUED/ JUDGE HALL								
05-22-1998	TEXT	-		3718133	May 29 1998 12:00:00:000AM	JAD -- DL 11/16/1999	-	\$ 0.00
R: 2014 F: 1017								

05-22-1998	INFOD	-	CHRISTIAN, GEORGE ALLEN	3956709	May 26 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
INFORMATION CT 1 KIDNAPPING/AFCF								
05-22-1998	INFOD	-	JACKSON, TERRY LEE	4023417	May 26 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
INFORMATION CT 1 KIDNAPPING/AFCF								
05-22-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4050121	May 26 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
COUNT # 003 CT 3 ASSAULT AND BATTERY W/A DANGEROUS WEAPON/AFCF								
05-22-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4304501	May 26 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
COUNT # 002 CT 2 ROBBERY IN THE FIRST DEGREE/AFCF								
05-22-1998	TEXT	-	JACKSON, TERRY LEE	4319201	May 26 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
COUNT # 002 CT 2 ROBBERY IN THE FIRST DEGREE/AFCF								
05-22-1998	TEXT	-	JACKSON, TERRY LEE	4691108	May 26 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
COUNT # 003 CT 3 ASSAULT AND BATTERY W/A DANGEROUS WEAPON/AFCF								
05-22-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4785174	May 27 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
WARRANT OF ARREST ISSUED/ JUDGE HALL								
05-22-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4916589	May 26 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
COUNT # 004 CT 4 FORCIBLE ORAL SODOMY/AFCF								
05-27-1998	TEXT	-	JACKSON, TERRY LEE	3709090	May 27 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
HALL: ARRAIGNMENT - NOT GUILTY /PAD 6-23-98,9AM HUMBLE/\$200,000								
05-29-1998	RETWA	-	JACKSON, TERRY LEE	4691107	Jun 10 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
RETURN WARRANT OF ARREST R:2016 F:3724[20.00]								
06-23-1998	TEXT	-	JACKSON, TERRY LEE	4045103	Jun 25 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
HUMBLE: PRELIMINARY HEARING 8-24-98 @ 9:00 AM								
07-06-1998	TEXT	-	JACKSON, TERRY LEE	4843323	Jul 8 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
FILE AND ENTER DA'S SUBPOENA -SEE CRT FILE FOR RET								
07-07-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	3882582	Jul 7 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
HALL: ARRAIGNMENT - NOT GUILTY/PAD 7-28-98,9AM HUMBLE/\$200,000								
07-07-1998	RETWA	-	CHRISTIAN, GEORGE ALLEN	4266158	Jul 28 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
RETURN WARRANT OF ARREST/R2029 F2124 ISS 05 21 98[20.00]								
07-28-1998	TEXT	-		4571625	Jul 29 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00

CHRISTIAN,  
GEORGE  
ALLEN

HUMBLE: PRELIMINARY HEARING 8-24-98 @ 9:00 AM

07-28-1998	APLI	-	CHRISTIAN, GEORGE ALLEN	4914849	Jul 29 1998 12:00:00:000AM	[1196386]5-30	-	\$ 0.00
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INMATE APPLICATION AND ORDER TO APPT COUNSEL GRANTED/HUMBLE

07-31-1998	APLI	-	CHRISTIAN, GEORGE ALLEN	4768468	Aug 19 1998 12:00:00:000AM	[1196386]5-30	-	\$ 0.00
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INMATE APPL FOR APPOINTED COUNSEL & ORDER/HUMBLE R:2040 F:1167

08-24-1998	TEXT	-	JACKSON, TERRY LEE	3982982	Aug 24 1998 12:00:00:000AM	[1042917]5-30	-	\$ 0.00
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HUMBLE: PRELIMINARY HEARING CONT TO 10-28-98 @ 9:00 AM

08-24-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4742207	Aug 24 1998 12:00:00:000AM	[1196386]5-30	-	\$ 0.00
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HUMBLE: PRELIMINARY HEARING CONT TO 10-28-98 @ 9:00 AM

10-01-1998	CCDA	-		3986920	Oct 14 1998 12:00:00:000AM	CDW -- DL 11/16/1999	-	\$ 0.00
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FILED CERTIFICATION TO COURT CLERK, D.A.

10-07-1998	TEXT	-	JACKSON, TERRY LEE	3849687	Oct 7 1998 12:00:00:000AM	[1042917]5-30	-	\$ 0.00
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HUMBLE: PREL. HRNG TRANS. TO JUDGE HARBOUR SET 11-17-98 @ 9:00 W/CO-DEFT

10-07-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4581000	Oct 7 1998 12:00:00:000AM	[1196386]5-30	-	\$ 0.00
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HUMBLE: PREL. HRNG TRANS. TO JUDGE HARBOUR SET 11-17-98 @ 9:00 W/CO-DEFT

10-20-1998	TEXT	-	JACKSON, TERRY LEE	4050120	Oct 23 1998 12:00:00:000AM	[1042917]5-30	-	\$ 0.00
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FILE AND ENTER DA'S SUBPOENA -SEE CRT FILE FOR RET

11-17-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4275027	Nov 19 1998 12:00:00:000AM	[1196386]5-30	-	\$ 0.00
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HARBOUR:PRELIM HEARING CONT TO 11-18-98 1:30PM

11-17-1998	TEXT	-	JACKSON, TERRY LEE	4621272	Nov 19 1998 12:00:00:000AM	[1042917]5-30	-	\$ 0.00
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HARBOUR:PRELIM HEARING CONT TO 11-18-98 1:30PM

11-18-1998	O	-		3982112	Nov 23 1998 12:00:00:000AM	JRW -- DL 11/16/1999	-	\$ 0.00
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ORDER/TRANSCRIPT/C OWENS R2075 F942

11-18-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4195560	Nov 19 1998 12:00:00:000AM	[1196386]5-30	-	\$ 0.00
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HARBOUR:PRELIM WAIVED,ARRGN'D,PRETRIAL 12-18-98 9AM C. OWENS

11-18-1998	TEXT	-	JACKSON, TERRY LEE	4381203	Nov 19 1998 12:00:00:000AM	[1042917]5-30	-	\$ 0.00
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HARBOUR:PRELIM WAIVED,ARRGN'D,PRETRIAL 12-18-98 9AM C. OWENS

11-18-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4592376	Nov 23 1998 12:00:00:000AM	[1196386]5-30	-	\$ 0.00
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## COMMITMENT ISSUED - BOND REDUCED TO \$100,000.

11-20-1998	RETCO	-	CHRISTIAN, GEORGE ALLEN	4701534	Dec 1 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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## RETURN COMMITMENT

11-24-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	3832570	Feb 18 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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## BIND OVER/WAIVER FORM D HARBOUR R2076/5365

11-24-1998	TEXT	-	JACKSON, TERRY LEE	4250137	Feb 18 1999 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## BIND OVER/WAIVER FORM D HARBOUR R2076/5364

11-25-1998	LT	-	CHRISTIAN, GEORGE ALLEN	4734685	Nov 25 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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## LETTER FILED IN RE: REQUEST TO WITHDRAW WAIVER. COPY TO JUDGE C OWENS

12-18-1998	COSTF	3	JACKSON, TERRY LEE	3675350	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## COURT COSTS ON FELONY[95.00]

12-18-1998	TEXT	1	JACKSON, TERRY LEE	3707779	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## DISMISSED - REQUEST OF STATE

12-18-1998	AFIS	3	JACKSON, TERRY LEE	3972479	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## C.L.E.E.T. PENALTY ASSESSMENT FOR AFIS[3.00]

12-18-1998	TEXT	3	JACKSON, TERRY LEE	3991447	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## GUILTY - PLEA OF GUILTY (FELONY)

12-18-1998	CLEET	2	JACKSON, TERRY LEE	4327475	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## C.L.E.E.T. PENALTY ASSESSMENT[4.00]

12-18-1998	TEXT	-	JACKSON, TERRY LEE	4388118	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## COURT REPORTER - (WAIVED)

12-18-1998	PFE7	2	JACKSON, TERRY LEE	4435657	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## LAW LIBRARY FEE[3.00]

12-18-1998	PFE7	3	JACKSON, TERRY LEE	4437165	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## LAW LIBRARY FEE[3.00]

12-18-1998	AFIS	2	JACKSON, TERRY LEE	4490384	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## C.L.E.E.T. PENALTY ASSESSMENT FOR AFIS[3.00]

12-18-1998	COSTF	2	JACKSON, TERRY LEE	4599647	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## COURT COSTS ON FELONY[95.00]

12-18-1998	VCA	2	JACKSON, TERRY LEE	4632776	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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## VICTIMS COMPENSATION ASSESSMENT (AC12)[70.00]

12-18-1998	SSF	2	JACKSON, TERRY LEE	4732942	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
SHERIFF'S SERVICE FEE ON ARRESTS[5.00]								
12-18-1998	CLEET	3	JACKSON, TERRY LEE	4763549	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
C.L.E.E.T. PENALTY ASSESSMENT[4.00]								
12-18-1998	SSF	3	JACKSON, TERRY LEE	4902230	Dec 23 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
SHERIFF'S SERVICE FEE ON ARRESTS[5.00]								
12-21-1998	O	-	JACKSON, TERRY LEE	4707354	Feb 9 1999 12:00:00:000AM	1042917 5-30	-	\$ 0.00
ORDER REGARDING COURT COST C OWENS R2085/1624								
12-28-1998	TEXT	-	CHRISTIAN, GEORGE ALLEN	4741529	Dec 28 1998 12:00:00:000AM	1196386 5-30	-	\$ 0.00
C. OWENS:PTC- TRIAL CONT TO 3-22-99 AT 9A.M.								
12-30-1998	CCDA	-	JACKSON, TERRY LEE	4395481	Dec 30 1998 12:00:00:000AM	1042917 5-30	-	\$ 0.00
FILED CERTIFICATION TO COURT CLERK, D.A.								
12-30-1998	RETCO	-	JACKSON, TERRY LEE	4413245	Jan 20 1999 12:00:00:000AM	1042917 5-30	-	\$ 0.00
RETURN COMMITMENT								
01-06-1999	TEXT	-	JACKSON, TERRY LEE	4249917	Jan 8 1999 12:00:00:000AM	1042917 5-30	-	\$ 0.00
SUMMARY OF FACTS R:2088 F:4909								
01-11-1999	DEM	-	CHRISTIAN, GEORGE ALLEN	3735593	Jan 12 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
DEMURRER, MOTION TO QUASH								
01-11-1999	MO	-	CHRISTIAN, GEORGE ALLEN	4312698	Jan 12 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
DEFT'S MOTION FOR DISCOVERY								
01-11-1999	MO	-	CHRISTIAN, GEORGE ALLEN	4814501	Jan 12 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
MOTION TO SUPPRESS								
01-20-1999	T	-		8157561	Jan 20 1999 12:00:00:000AM	JPC -- DL 11/3/1999	-	\$ 0.00
ORIGINAL TRANSCRIPT OF HRNG: (ON AUGUST 24, 1998 BEFORE JUDGE CHARLES HUMBLE) ORIGINAL AND 2 COPIES								
01-27-1999	TEXT	-	JACKSON, TERRY LEE	3919301	Feb 1 1999 12:00:00:000AM	1042917 5-30	-	\$ 0.00
R:2095 F:746								
01-27-1999	J&S	-	JACKSON, TERRY LEE	4023648	Jan 27 1999 12:00:00:000AM	1042917 5-30	-	\$ 0.00
JUDGMENT & SENTENCE TIME TO DO / JUDGE BLACK								
02-10-1999	RTJS\$	-	JACKSON, TERRY LEE	4135141	Feb 12 1999 12:00:00:000AM	1042917 5-30	-	\$ 0.00
RETURN JUDGMENT & SENTENCE (..AC08=AMT..)								



02-12-1999	P	-	7743137	Feb 17 1999 12:00:00:000AM	BAR -- DL 11/3/1999	-	\$ 0.00
PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON ATTACKING A STATE DETAINER							
02-12-1999	MO	-	7839905	Feb 17 1999 12:00:00:000AM	BAR -- DL 11/3/1999	-	\$ 0.00
MOT FOR LV TO PROCEED IN FORMA PAUPERIS & SUPPORTING AFFIDAVIT (PURSUANT TO 28 U.S.C.1915 & 28 U.S.C.1746 FOR PRISONER CASES)							
03-03-1999	TEXT	-	4226455	Mar 3 1999 12:00:00:000AM	TWF -- DL 11/16/1999	-	\$ 0.00
RECEIPT FOR TRANSCRIPT COPY CHECKED OUT TO MALCOLM SAVAGE (PD)							
03-04-1999	RECP	-	4031609	Mar 5 1999 12:00:00:000AM	BAR -- DL 11/16/1999	-	\$ 0.00
RECEIPT FOR TRANSCRIPT							
03-08-1999	NO	-	4419478	Mar 17 1999 12:00:00:000AM	BAR -- DL 11/16/1999	-	\$ 0.00
NOTICE OF OPEN FILE DISCOVERY							
03-15-1999	RECP	-	4751780	Mar 16 1999 12:00:00:000AM	JAD -- DL 11/16/1999	-	\$ 0.00
RECEIPT FOR TRANSCRIPT							
03-15-1999	LIST	-	4929544	Mar 16 1999 12:00:00:000AM	JAD -- DL 11/16/1999	-	\$ 0.00
LIST OF WITNESSES (STATE)							
03-16-1999	AWHCT	-	CHRISTIAN, GEORGE ALLEN 4285519	Mar 18 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
APPLI. FOR WRIT OF HABEAS CORPUS AD TESTEFECANDUM							
03-19-1999	TEXT	-	4692445	Jun 24 1999 12:00:00:000AM	BAR -- DL 11/16/1999	-	\$ 0.00
ORDER ENDORSING NAMES/BRAGG R;2113 F:4448							
03-22-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN 4605596	Mar 22 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
BRAGG:SET FOR TRIAL 5-3-99,9AM/CALL 4-30-99,2:30PM							
04-23-1999	MO	-	4717001	May 6 1999 12:00:00:000AM	BAR -- DL 11/16/1999	-	\$ 0.00
MOTION TO QUASH AND DISMISS							
05-03-1999	ORC	-	CHRISTIAN, GEORGE ALLEN 3663172	May 10 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
ORDER REGARDING COSTS/BRAGG R:2129 F:3821							
05-03-1999	AFIS	1	CHRISTIAN, GEORGE ALLEN 3820098	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
C.L.E.E.T. PENALTY ASSESSMENT FOR AFIS[3.00]							
05-03-1999	TEXT	3	CHRISTIAN, GEORGE ALLEN 3942191	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
DISMISSED - REQUEST OF STATE							
05-03-1999	TEXT	4	3957349	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00

CHRISTIAN,  
GEORGE  
ALLEN

DISMISSED - REQUEST OF STATE

05-03-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	3968825	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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ATTORNEY FEE ASSESSED (AC20)[175.00]

05-03-1999	COSTF	1	CHRISTIAN, GEORGE ALLEN	4108754	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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COURT COSTS ON FELONY[95.00]

05-03-1999	PFE7	1	CHRISTIAN, GEORGE ALLEN	4126687	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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LAW LIBRARY FEE[3.00]

05-03-1999	CLEET	1	CHRISTIAN, GEORGE ALLEN	4233990	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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C.L.E.E.T. PENALTY ASSESSMENT[4.00]

05-03-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	4269873	May 10 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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SUMMARY OF FACTS R:2129 F:3796

05-03-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	4364996	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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BRAGG:DEFT PLED/SEE DS SCREEN

05-03-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	4371509	May 10 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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PLEA OF GUILTY PART B R:2129 F:3786

05-03-1999	RLSI	-	CHRISTIAN, GEORGE ALLEN	4672648	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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RELEASE ISSUED

05-03-1999	TEXT	2	CHRISTIAN, GEORGE ALLEN	4690896	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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DISMISSED - REQUEST OF STATE

05-03-1999	SSF	1	CHRISTIAN, GEORGE ALLEN	4764184	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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SHERIFF'S SERVICE FEE ON ARRESTS[5.00]

05-03-1999	VCA	1	CHRISTIAN, GEORGE ALLEN	4809759	May 3 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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VICTIMS COMPENSATION ASSESSMENT (AC12)[35.00]

05-05-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	4148945	May 5 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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JUDGMENT & SENTENCE - SUSPENDED FILED / JUDGE BRAGG

05-13-1999	RWHCT\$	-		4317234	May 21 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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063a

CHRISTIAN,  
GEORGE  
ALLEN

RETURN WRIT-HABEAS CORPUS AD TESTIFICANDUM R'2133 F:D3272[20.00]

05-20-1999	RETRL	-	CHRISTIAN, GEORGE ALLEN	4266157	Jun 7 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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RETURN RELEASE

05-21-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	4182593	May 21 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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05-21-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	4698266	May 21 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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ISSUED SUPOENA AND TWO COPIES

05-24-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	4952247	May 24 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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BRAGG:MOTION TO W/DRAW PREV PLEA OF GUILTY CONT 6-2-99,9AM @DEFT'S REQ.

06-02-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	4786460	Jun 2 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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BRAGG:MOTION STRICKEN/FAILED TO PRESENT

06-24-1999	TEXT	-	JACKSON, TERRY LEE	3631842	Jun 24 1999 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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RECEIPT FOR TRANSCRIPT/PD'S OFFICE

07-01-1999	TEXT	-		4457342	Jul 6 1999 12:00:00:000AM	BAR -- DL 11/16/1999	-	\$ 0.00
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R:2150 F:3997

07-01-1999	TEXT	-	CHRISTIAN, GEORGE ALLEN	8266751	Jul 1 1999 12:00:00:000AM	1196386 5-30	-	\$ 0.00
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MOTION TO DISMISS AND RECALL WARRANT AND ORDER BRAGG CT2 ROBBERY IN THE 1ST CT3 A&B W/ A DANG WEAPON CT4 FORCIBLE ORAL SODOMY PER PLEA

10-05-1999	TEXT	-	JACKSON, TERRY LEE	8122153	Oct 5 1999 12:00:00:000AM	1042917 5-30	-	\$ 0.00
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TOTAL AMT. RECVD. - CHECK (# 99-050726) PPTRANS CV99104 JAMES CRABTREE; CHECK NO:307487[0.10]

10-05-1999	TEXT	-		32814882	Nov 21 2000 7:39:58:723PM	AOCrcpt\VJN	-	\$ 0.00
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\*\*\*CONVERTED RECEIPT FROM AOC MAINFRAME\*\*\*

RECEIPT#199950726

PAYOR: PPTRANS CV99104 JAMES CRABTREE

PAID ON BEHALF OF: JACKSON TERRY LEE

TOTAL AMOUNT PAID ON CASE # CF-1998-3134 : \$ 0.13

CALCULATED AMOUNT OWED AFTER THIS RECEIPT: \$ 309.87

10-11-1999	AC01	-	JACKSON, TERRY LEE	8866145	Oct 11 1999 12:00:00:000AM	1042917 5-30	Realized	\$ 190.00
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ACCOUNT BALANCE- AC01. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$190.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 190.00(\$ 190.00)

10-11-1999 AC01	-	CHRISTIAN, GEORGE ALLEN	8866146	Feb 1 2002 9:34:40:423AM	OSCN\NancyGlidden	Realized	\$ 95.00
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ACCOUNT BALANCE- AC01. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$95.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 95.00(\$ 95.00)

10-11-1999 AC08	-	JACKSON, TERRY LEE	9044259	Oct 11 1999 12:00:00:000AM	1042917 5-30	Realized	\$ 20.00
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ACCOUNT BALANCE- AC08. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$20.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 20.00(\$ 20.00)

10-11-1999 AC08	-	CHRISTIAN, GEORGE ALLEN	9044260	Feb 1 2002 9:34:40:563AM	OSCN\NancyGlidden	Realized	\$ 40.00
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ACCOUNT BALANCE- AC08. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$40.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 40.00(\$ 40.00)

10-11-1999 AC11	-	JACKSON, TERRY LEE	9332918	Oct 11 1999 12:00:00:000AM	1042917 5-30	Realized	\$ 7.87
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ACCOUNT BALANCE- AC11. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$8.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.13. THE BALANCE ON THIS ACCOUNT IS \$ 7.87(\$ 7.87)

10-11-1999 AC11	-	CHRISTIAN, GEORGE ALLEN	9332919	Feb 1 2002 9:34:40:627AM	OSCN\NancyGlidden	Realized	\$ 4.00
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ACCOUNT BALANCE- AC11. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$4.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 4.00(\$ 4.00)

10-11-1999 AC12	-	JACKSON, TERRY LEE	9459920	Oct 11 1999 12:00:00:000AM	1042917 5-30	Realized	\$ 70.00
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ACCOUNT BALANCE- AC12. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$70.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 70.00(\$ 70.00)

10-11-1999 AC12	-	CHRISTIAN, GEORGE ALLEN	9459921	Feb 1 2002 9:34:40:673AM	OSCN\NancyGlidden	Realized	\$ 35.00
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ACCOUNT BALANCE- AC12. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$35.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 35.00(\$ 35.00)

10-11-1999 AC20	-	CHRISTIAN, GEORGE ALLEN	9666158	Feb 1 2002 9:34:40:703AM	OSCN\NancyGlidden	Realized	\$ 175.00
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ACCOUNT BALANCE- AC20. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$175.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 175.00(\$ 175.00)

10-11-1999 AC21	-	JACKSON, TERRY LEE	9809744	Oct 11 1999 12:00:00:000AM	1042917 5-30	Realized	\$ 6.00
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ACCOUNT BALANCE- AC21. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$6.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 6.00(\$ 6.00)

10-11-1999 AC21	-	CHRISTIAN, GEORGE ALLEN	9809745	Feb 1 2002 9:34:40:750AM	OSCN\NancyGlidden	Realized	\$ 3.00
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ACCOUNT BALANCE- AC21. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$3.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 3.00(\$ 3.00)

10-11-1999 AC22	-	JACKSON, TERRY LEE	9987196	Oct 11 1999 12:00:00:000AM	1042917 5-30	Realized	\$ 10.00
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ACCOUNT BALANCE- AC22. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$10.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 10.00(\$ 10.00)

10-11-1999 AC22	-	CHRISTIAN, GEORGE ALLEN	9987197	Feb 1 2002 9:34:40:783AM	OSCN\NancyGlidden	Realized	\$ 5.00
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ACCOUNT BALANCE- AC22. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$5.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 5.00(\$ 5.00)

10-11-1999 AC23	-	JACKSON, TERRY LEE	10145046	Oct 11 1999 12:00:00:000AM	1042917 5-30	Realized	\$ 6.00
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ACCOUNT BALANCE- AC23. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$6.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 6.00(\$ 6.00)

10-11-1999 AC23	-	CHRISTIAN, GEORGE ALLEN	10145047	Feb 1 2002 9:34:40:830AM	OSCN\NancyGlidden	Realized	\$ 3.00
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ACCOUNT BALANCE- AC23. AS OF CONVERSION FROM THE MAINFRAME (10/20/1999), THE TOTAL AMOUNT FOR THIS ACCOUNT (THIS DEFENDANT) IS: \$3.00. THE TOTAL PAID ON THIS ACCOUNT IS \$ 0.00. THE BALANCE ON THIS ACCOUNT IS \$ 3.00(\$ 3.00)

02-03-2000 TEXT	-	CHRISTIAN, GEORGE ALLEN	29232731	Feb 9 2000 11:33:05:000AM	1196386 5-30	-	\$ 0.00
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ATTY ADDENDUM

05-25-2000 AREV	-	CHRISTIAN, GEORGE ALLEN	30724088	May 30 2000 2:03:26:930PM	1196386 5-30	-	\$ 0.00
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APPLICATION TO REVOKE SUSPENDED SENTENCE 1. FAILURE TO REPORT 2. FAILURE TO PAY COURT COSTS AND PROBATION FEES.

05-30-2000 TEXT	-	CHRISTIAN, GEORGE ALLEN	30744715	Jun 1 2000 6:04:21:060PM	OSCN\CherylWhite	-	\$ 0.00
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HALL : ISSUED ALIAS WARRANT -VSS

12-26-2000 NO	-	JACKSON, TERRY LEE	33730226	Feb 14 2001 11:06:27:663AM	OSCN\JamieWillard	-	\$ 0.00
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NOTICE OF RELEASE FROM DOC

04-16-2001 ACCOUNT	-	JACKSON, TERRY LEE	34303417	Apr 16 2001 7:37:01:840PM	OSCN\CaroleLodes	-	\$ 0.00
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RECEIPT # 2001-254804 ON 04/16/2001.

PAYOR: TOTAL AMOUNT PAID: \$ 0.00.

LINE ITEMS:

CF-1998-3134: \$9.00 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR JACKSON, TERRY LEE.

CV-2000-48: \$-9.00 ON TRANSFER FROM AC98 OVERPAYMENTS.

05-01-2001 ACCOUNT	-	JACKSON, TERRY LEE	34453378	May 1 2001 6:06:32:560PM	OSCN\CaroleLodes	-	\$ 0.00
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RECEIPT # 2001-265981 ON 05/01/2001.

PAYOR: TOTAL AMOUNT PAID: \$ 0.00.

## LINE ITEMS:

CF-1998-3134: \$9.00 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR JACKSON, TERRY LEE.

CV-2000-20: \$-9.00 ON TRANSFER FROM AC98 OVERPAYMENTS.

05-17-2001	DISBURSED	-	JACKSON, TERRY LEE	34634364	May 17 2001 7:12:01:730PM	OSCN\AliciaBrazell	-	\$ 0.00
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VOUCHER# 323685 PRINTED TO PRESLEY, PATRICIA AT COURT FUND FOR THE MONTH OF APRIL 2001. INCLUDING:

\$ 9.00 AC01 - CLERK'S FEES CIVIL AND CRIMINAL

06-04-2001	DISBURSED	-	JACKSON, TERRY LEE	34746657	Jun 4 2001 2:23:03:860PM	OSCN\AliciaBrazell	-	\$ 0.00
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VOUCHER# 323805 PRINTED TO PRESLEY, PATRICIA AT COURT FUND FOR THE MONTH OF MAY 2001. INCLUDING:

\$ 9.00 AC01 - CLERK'S FEES CIVIL AND CRIMINAL

06-12-2001	BWIFA	-	CHRISTIAN, GEORGE ALLEN	34869138	Jun 12 2001 2:08:23:983PM	OSCN\RethaChamberlain	Unrealized	\$ 0.00
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BENCH WARRANT ISSUED FAILED TO APPEAR BOND -(ORIG CLEARED IN ERROR)

06-14-2001	RETWA	-	CHRISTIAN, GEORGE ALLEN	35095448	Feb 1 2002 9:33:46:660AM	OSCN\NancyGlidden	Realized	\$ 30.00
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RETURN ALIAS WARRANT OF ARREST/2400-4354(\$ 30.00)

06-15-2001	RETWA	-	CHRISTIAN, GEORGE ALLEN	35096010	Feb 1 2002 9:33:46:770AM	OSCN\NancyGlidden	Realized	\$ 30.00
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RETURN ALIAS WARRANT OF ARREST/2399-3968(\$ 30.00)

06-27-2001	CTFREE	-	CHRISTIAN, GEORGE ALLEN	35011098	Jun 28 2001 4:41:18:263PM	OSCN\AnnotraGuyton	-	\$ 0.00
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HALL: ARR. NOT GUILTY/ REVO. DKT. SET FOR 7-13-01 @ 9AM BEFORE JUDGE BRAGG \$2000&lt;...JUDGE'S NAME...&gt;:

06-28-2001	RETWA	-	CHRISTIAN, GEORGE ALLEN	35127998	Feb 1 2002 9:33:46:817AM	OSCN\NancyGlidden	Realized	\$ 30.00
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ALIAS RETURN WARRANT OF ARREST/2406-1053(\$ 30.00)

06-29-2001	BO	-	CHRISTIAN, GEORGE ALLEN	35029296	Jul 3 2001 8:45:32:800AM	OSCN\AshleyWilson	Realized	\$ 10.00
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SURETY BOND FOR CHRISTIAN, GEORGE ALLEN POSTED BY DISMUKE, BILLY (SURETY:RANGER INS CO ) (POWER NUMBER:R10-11438711 2406-649 ), IN THE AMOUNT OF \$8,000.00, POSTED 06/28/2001(\$ 10.00)

07-13-2001	CTFREE	-	CHRISTIAN, GEORGE ALLEN	35115074	Jul 13 2001 11:08:14:440AM	OSCN\YolandaShorter	-	\$ 0.00
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BRAGG: REVO CONT 9-7-01,9AM/DEFT SIGNED WAIVER

07-13-2001	ACCOUNT	-	JACKSON, TERRY LEE	35112825	Jul 13 2001 9:22:39:120AM	OSCN\CherylLouis	-	\$ 0.00
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RECEIPT # 2001-317236 ON 07/13/2001.

PAYOR: TOTAL AMOUNT PAID: \$ 0.00.

## LINE ITEMS:

CF-1998-3134: \$3.75 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR JACKSON, TERRY LEE.

## CV-2001-3: \$-3.75 ON TRANSFER FROM AC98 OVERPAYMENTS.

09-07-2001	CTFREE	-	CHRISTIAN, GEORGE ALLEN	35522094	Sep 7 2001 9:20:17:303AM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: REVO CONT 10-12-01,9AM								
10-12-2001	CTFREE	-	CHRISTIAN, GEORGE ALLEN	35775863	Oct 12 2001 10:30:34:500AM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: DEFT APPEARS, ON BOND, WITH COUNSEL, KENNETH WATSON. STATE BY KEN STONER. ORDER OF INCARCERATION FOR WEEKENDS;3 WEEKENDS TO DO @ CO. JAIL STARTING 11-2-01,6PM/COMMITMENT ISSUED/REVO CONT 12-21-01,9AM								
10-12-2001	O	-	CHRISTIAN, GEORGE ALLEN	35784471	Oct 17 2001 9:58:08:183AM	OSCN\BarbaraRobinson	-	\$ 0.00
ORDER OF INCARCERATION/JUDGE BRAGG R2445 F837								
10-12-2001	SPO	-	CHRISTIAN, GEORGE ALLEN	35809369	Oct 17 2001 10:29:39:373AM	OSCN\PhyllisReed	-	\$ 0.00
SUPPLEMENTAL COURT ORDER/COMM SERVICE/RESTITUTION COURT COST/ BRAGG R2444 F4111								
11-28-2001	RETCO	-	CHRISTIAN, GEORGE ALLEN	36569617	Feb 5 2002 8:34:58:030AM	OSCN\GlendaJordan	-	\$ 0.00
RETURN COMMITMENT								
12-21-2001	CTFREE	-	CHRISTIAN, GEORGE ALLEN	36303078	Dec 21 2001 9:22:13:867AM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: REVO CONT 2-1-02,9AM								
01-09-2002	RETO\$	-	CHRISTIAN, GEORGE ALLEN	36468488	Feb 1 2002 9:33:46:877AM	OSCN\NancyGlidden	Realized	\$ 30.00
RETURN ORDER OF INCARCERATION--WEEKENDS (\$ 30.00)								
02-01-2002	CTFREE	-	CHRISTIAN, GEORGE ALLEN	36549133	Feb 1 2002 10:08:09:970AM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: REVO CONT 3-1-02,9AM/ATTY KEN WATSON OUT OF TOWN								
02-01-2002	TEXT	-	CHRISTIAN, GEORGE ALLEN	36549149	Feb 1 2002 10:08:58:080AM	OSCN\TammyJones	-	\$ 0.00
COST ADMIN. REV. @ 8:00A.M 04/01/2002 CA-97-3537								
03-01-2002	CTFREE	-	CHRISTIAN, GEORGE ALLEN	36748426	Mar 1 2002 11:45:14:550AM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: REVO CONT 3-21-02,1:30PM								
03-21-2002	CTFREE	-	CHRISTIAN, GEORGE ALLEN	36900290	Mar 22 2002 5:15:00:060PM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: DEFT APPEARS, ON BOND, WITH COUNSEL, KENNETH WATSON. STATE BY KEN STONER. APPLICATION TO REVOKE DISMISSED BY STATE/ANY REMAINING COSTS DUE INSTANTER/BOND EXONERATED								
03-22-2002	TEXT	-	CHRISTIAN, GEORGE ALLEN	36900291	Mar 22 2002 5:16:05:433PM	OSCN\YolandaShorter	-	\$ 0.00

THE STATUS OF THE BOND ENTRY DETAILED IN DOCKET SERIAL #35029296 ABOVE HAS CHANGED TO READ AS FOLLOWS:  
 SURETY BOND FOR CHRISTIAN, GEORGE ALLEN POSTED BY DISMUKE, BILLY (SURETY:RANGER INS CO ) (POWER NUMBER:R10-11438711 2406-649 ), IN THE AMOUNT OF \$8,000.00, POSTED 06/28/2001, EXONORATED 03/21/2002

03-28-2002 MOD&O	-	CHRISTIAN, GEORGE ALLEN	36936826	Apr 10 2002 2:55:08:803PM	OSCN\PhyllisReed	-	\$ 0.00
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MOTION TO DISMISS AND ORDER OF DISMISSAL/ APPLICATION TO REVOKE SUSPENDED SENTENCE/ DISMISSED- PAYING PROBATION FEES/ JUDGE BRAGG / R2505 F4398

04-02-2002 AREV	-	CHRISTIAN, GEORGE ALLEN	36963921	Apr 2 2002 9:59:52:100AM	OSCN\RobbieHorton	-	\$ 0.00
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APPLICATION/MOTION TO REVOKE SUSPENDED SENTENCE  
 1. COMMITTED THE NEW CRIME OF ARSON IV AS ALLEGED IN OKLAHOMA COUNTY, STATE OF OKLAHOMA, THE SAME BEING DISTRICT COURT CASE NUMBER CF-02-968

04-02-2002 WAI	-	CHRISTIAN, GEORGE ALLEN	36978093	Apr 3 2002 11:28:06:740AM	OSCN\LavonnaArnold	-	\$ 0.00
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WARRANT OF ARREST ISSUED

05-01-2002 ACCOUNT	-	JACKSON, TERRY LEE	37171758	May 1 2002 10:17:15:677AM	OSCN\NaidaOry	-	\$ 0.00
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RECEIPT # 2002-497610 ON 05/01/2002.  
 PAYOR: TOTAL AMOUNT PAID: \$ 0.00.  
 LINE ITEMS:  
 CF-1998-3134: \$0.98 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR JACKSON, TERRY LEE.  
 CV-2001-2: \$-0.98 ON TRANSFER FROM AC99 HOLDING.

06-14-2002 CTFREE	-	CHRISTIAN, GEORGE ALLEN	37481893	Jun 17 2002 10:54:56:780AM	OSCN\JanetEvans	-	\$ 0.00
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HALL DEFT ARRAINGED/REVO DKT 6-27-02 1:30PM JUDGE HUBBARD/\$2000/AKA CUDJO

06-14-2002 BO	-	CHRISTIAN, GEORGE ALLEN	37492153	Jun 18 2002 12:41:30:950PM	OSCN\AshleyCarter	Realized	\$ 10.00
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PROFESSIONAL BOND FOR CHRISTIAN, GEORGE ALLEN POSTED BY BOYER, KEN (PROFESSIONAL:BOYER, KEN) (POWER NUMBER:2532/2998 ), IN THE AMOUNT OF \$2,000.00, POSTED 04/12/2002(\$ 10.00)

06-18-2002 RETWA	-	CHRISTIAN, GEORGE ALLEN	37662775	May 18 2005 1:42:28:530PM	OSCN\EdnaMatthews	Realized	\$ 30.00
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ALIAS RETURN WARRANT OF ARREST/R-2534 F-4863(\$ 30.00)

06-18-2002 RETRL	-	CHRISTIAN, GEORGE ALLEN	37663676	Jul 12 2002 11:14:17:080AM	OSCN\PaulThompson	-	\$ 0.00
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RETURN RELEASE

06-27-2002 CTFREE	-	CHRISTIAN, GEORGE ALLEN	37568301	Jun 28 2002 9:45:43:337AM	OSCN\SandraMaddux	-	\$ 0.00
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HUBBARD; SENT TO JUDGE HILL

06-27-2002 CTFREE	-	CHRISTIAN, GEORGE ALLEN	37579592	Jun 28 2002 3:06:58:903PM	OSCN\TimWeldon	-	\$ 0.00
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HILL: REVO CONT 10-2-02 1:30PM, JUDGE BRAGG<..JUDGE'S NAME..>:



06-27-2002	WA	-	CHRISTIAN, GEORGE ALLEN	37629855	Jul 9 2002 8:15:21:927AM	OSCN\PhyllisReed	-	\$ 0.00
WAIVER OF SPEEDY HEARING / HILL R2537 F3874								
08-21-2002	ACCOUNT	-	JACKSON, TERRY LEE	37961399	Aug 21 2002 3:06:50:537PM	OSCN\NaidaOry	-	\$ 0.00
RECEIPT # 2002-568992 ON 08/21/2002. PAYOR: TOTAL AMOUNT PAID: \$ 0.00. LINE ITEMS: CF-1998-3134: \$6.60 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR JACKSON, TERRY LEE. CV-2000-52: \$-6.60 ON TRANSFER FROM AC99 HOLDING.								
10-02-2002	CTFREE	-	CHRISTIAN, GEORGE ALLEN	38276858	Oct 3 2002 5:25:39:020PM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: CASE SET FOR TRIAL 2-10-03,9AM								
11-22-2002	AREV	-	CHRISTIAN, GEORGE ALLEN	38610286	Dec 6 2002 3:41:07:280PM	OSCN\PhyllisReed	-	\$ 0.00
APPLICATION/MOTION TO REVOKE SUSPENDED SENTENCE/AMENDED 1. FAILURE TO REPORT 2. FAILURE TO PAY PROBATION FEES 3. FAILURE TO PAY COURT COSTS 4. COMMITTED THE NEW CRIME OF COUNT ONE: ARSON IV AND COUNT TWO: ENDANGERING HUMAN LIFE DURING THE COMMISSION OF A FELONY AS ALLEGED IN THE OKLAHOMA COUNTY, STATE OF OKLAHOMA, DISTRICT COURT CASE NUMBER CF-2002-968 / R2593 F6074								
02-05-2003	MO	-	CHRISTIAN, GEORGE ALLEN	39170200	Feb 11 2003 4:13:05:317PM	OSCN\PhyllisReed	-	\$ 0.00
MOTION TO WITHDRAW								
02-10-2003	CTFREE	-	CHRISTIAN, GEORGE ALLEN	39160114	Feb 11 2003 4:04:01:483PM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: DEFT SURRENDERED OFF BOND AND TAKEN INTO CUSTODY W/CF02-968/COMMITMENT ISSUED/BOND EXONERATED/MOTION TO WITHDRAW SET 02-14-03,9AM								
02-11-2003	MO	-	CHRISTIAN, GEORGE ALLEN	39160923	Feb 11 2003 8:57:34:997AM	OSCN\lanawilliams	-	\$ 0.00
NOTICE OF INTENT OF BONDSPERSON/SURETY TO SURRENDER DEFENDANT TO COURT AND REQUEST TO EXONERATE BOND/ ORDER GRANTED/ BOND EXONERATED/ JUDGE BRAGG								
02-11-2003	TEXT	-	CHRISTIAN, GEORGE ALLEN	39160938	Feb 11 2003 8:57:55:233AM	OSCN\lanawilliams	-	\$ 0.00
THE STATUS OF THE BOND ENTRY DETAILED IN DOCKET SERIAL #37492153 ABOVE HAS CHANGED TO READ AS FOLLOWS: PROFESSIONAL BOND FOR CHRISTIAN, GEORGE ALLEN POSTED BY BOYER, KEN (PROFESSIONAL:BOYER, KEN) (POWER NUMBER:2532/2998 ), IN THE AMOUNT OF \$2,000.00, POSTED 04/12/2002, EXONORATED 02/11/2003								
02-14-2003	CTFREE	-	CHRISTIAN, GEORGE ALLEN	39203929	Feb 18 2003 11:50:34:083AM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: DEFT APPEARS, IN CUSTODY, WITH COUNSEL, KENNETH WATSON. CASE COMES ON FOR MOTION TO WITHDRAW AS ATTORNEY OF RECORD/COURT ALLOWS KEN								

WATSON TO WITHDRAW-ORDER TO FOLLOW/DEFT TO HIRE NEW ATTY/REVO RESET FOR  
PRE TRIAL 04-02-03,9AM W/CF02-968

02-24-2003	BO	-	CHRISTIAN, GEORGE ALLEN	39268141	Feb 26 2003 11:45:19:107AM	OSCN\lanawilliams	Realized	\$ 10.00
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PROFESSIONAL BOND FOR CHRISTIAN, GEORGE ALLEN POSTED BY LUSE, JODY  
(PROFESSIONAL:BOYER, KEN) (POWER NUMBER:10-1774 2625-4881 ), IN THE AMOUNT OF  
\$2,000.00, POSTED 02/17/2003(\$ 10.00)

04-02-2003	CTTRI	-	CHRISTIAN, GEORGE ALLEN	39521014	Apr 2 2003 11:34:12:593AM	OSCN\YolandaShorter	-	\$ 0.00
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BRAGG: DEFENDANT PRESENT, ON BOND AND REPRESENTED BY KEN WATSON. REVO  
FOLLOWING ALONG W/CF02-968 SET FOR TRIAL 06-09-03,9AM/CALL 05-23-03,9AM

04-03-2003	RETCO	-	CHRISTIAN, GEORGE ALLEN	39554015	Apr 7 2003 3:16:28:547PM	OSCN\StephanieBlalock	-	\$ 0.00
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RETURN COMMITMENT

05-23-2003	CTFREE	-	CHRISTIAN, GEORGE ALLEN	39883700	May 23 2003 11:49:10:253AM	OSCN\YolandaShorter	-	\$ 0.00
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BRAGG: DEFT ANNOUNCES READY FOR TRIAL ON CF02-968

06-05-2003	ACCOUNT	-	JACKSON, TERRY LEE	39967494	Jun 5 2003 4:12:30:267PM	OSCN\BrendaWarren	-	\$ 0.00
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RECEIPT # 2003-751903 ON 06/05/2003.

PAYOR: TOTAL AMOUNT PAID: \$ 0.00.

LINE ITEMS:

CF-1997-5909: \$1.20 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR  
GONZALEZ, HECTOR MARCIEL.

CF-1997-5910: \$7.20 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR  
ANDERSON, KIRK.

CF-1997-7446: \$3.40 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR  
LUPP, JOHN EDWARD.

CF-1998-1636: \$2.70 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR  
SHEPPARD, WILL JR.

CF-1998-1931: \$0.66 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR  
HENDERSON, TYRRELL F.

CF-1998-3134: \$2.88 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR  
JACKSON, TERRY LEE.

CF-1998-961: \$4.80 ON TRANSFER TO AC01 CLERK'S FEES CIVIL AND CRIMINAL FOR  
WINDSOR, CHARLES OLEN.

CJX-1999-134: \$-22.84 ON TRANSFER FROM AC98 OVERPAYMENTS.



06-09-2003	CTREVSUS	-	CHRISTIAN, GEORGE ALLEN	39981548	Jun 9 2003 10:13:24:217AM	OSCN\YolandaShorter	-	\$ 0.00
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BRAGG: DEFENDANT PRESENT, ON BOND AND REPRESENTED BY KENNETH WATSON.  
STATE REPRESENTED BY GAYLAND GIEGER. APPLICATION TO REVOKE DISMSSED BY  
STATE PER PLEA IN CF02-968/ANY REMAINING COSTS DUE INSTANTER/BOND  
EXONERATED

06-09-2003	TEXT	-	CHRISTIAN, GEORGE ALLEN	39981557	Jun 9 2003 10:14:07:713AM	OSCN\YolandaShorter	-	\$ 0.00
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THE STATUS OF THE BOND ENTRY DETAILED IN DOCKET SERIAL #39268141 ABOVE HAS  
CHANGED TO READ AS FOLLOWS:

PROFESSIONAL BOND FOR CHRISTIAN, GEORGE ALLEN POSTED BY LUSE, JODY  
(PROFESSIONAL:BOYER, KEN) (POWER NUMBER:10-1774 2625-4881 ), IN THE AMOUNT OF  
\$2,000.00, POSTED 02/17/2003, EXONORATED 06/09/2003

08-15-2003	TEXT	-	JACKSON, TERRY LEE	40457279	Aug 15 2003 11:15:32:893AM	OSCN\JamesBailey	-	\$ 0.00
CA REVIEW 10-15-2003. JWB								
03-31-2004	AREV	-	CHRISTIAN, GEORGE ALLEN	42014407	Mar 31 2004 9:36:54:423AM	OSCN\RobbieHorton	-	\$ 0.00
APPLICATION/MOTION TO REVOKE SUSPENDED SENTENCE 1.FAILURE TO REPORT 2.FAILURE TO PAY PROBATION FEES AND COURT COSTS								
04-09-2004	MOD&O	-	CHRISTIAN, GEORGE ALLEN	42088741	Apr 14 2004 2:35:38:387PM	OSCN\RodMorrison	-	\$ 0.00
MOTION TO DISMISS AND ORDER OF DISMISSAL/APPLICATION TO REVOKE SUSPENDED SENTENCE, DISMISSED PER PLEA AGREEMENT IN CF-02-968, JUDGE BRAGG 2778/0285								
04-09-2004	CTFREE	-	CHRISTIAN, GEORGE ALLEN	42097870	Apr 12 2004 8:22:16:637AM	OSCN\BarbaraRivera	-	\$ 0.00
DA REC/DSM								
04-20-2004	WAI	-	CHRISTIAN, GEORGE ALLEN	42166291	Apr 20 2004 4:38:48:933PM	OSCN\BarbaraRivera	Realized	\$ 0.00
WARRANT OF ARREST ISSUED, JUDGE: RUSSELL HALL - BOND AMOUNT: \$2,000.00 COUNT 1 - CT 1 KIDNAPPING/AFCF COMMENT: #2004009333VSS								
09-22-2004	CTFREE	-	CHRISTIAN, GEORGE ALLEN	43286544	Sep 22 2004 12:05:27:043PM	OSCN\BarbaraRivera	-	\$ 0.00
BONDED 9-22-2004,ARRIG DATE 9-28-2004@1:30 PM BEFORE JUDGE HALL								
09-29-2004	BO	-	CHRISTIAN, GEORGE ALLEN	43347040	Sep 30 2004 10:33:26:903AM	OSCN\RodMorrison	Realized	\$ 10.00
PROFESSIONAL BOND FOR CHRISTIAN, GEORGE ALLEN POSTED BY BREWER, LANA (PROFESSIONAL:BERGLAN, DENNIS) (POWER NUMBER:DB-3463 ), IN THE AMOUNT OF \$2,000.00, POSTED 09/21/2004(\$ 10.00)  <u>Document Available at Court Clerk's Office (#1000850750)</u> MICROFILM: REEL FRAMENUMBER								
09-29-2004	BOJ	-	CHRISTIAN, GEORGE ALLEN	43347041	Sep 30 2004 8:11:05:320AM	OSCN\JeannetteMcNeil	Realized	\$ 25.00
BOND INITIAL FILING JAIL FUND FEE(\$ 25.00)								
09-29-2004	CCADMIN25	-	CHRISTIAN, GEORGE ALLEN	43347042	Sep 30 2004 8:11:05:320AM	OSCN\JeannetteMcNeil	Realized	\$ 2.50
COURT CLERK ADMINISTRATIVE FEE ON \$25 COLLECTIONS(\$ 2.50)								
09-30-2004	RETWA	-	CHRISTIAN, GEORGE ALLEN	43351287	May 18 2005 1:41:49:203PM	OSCN\EdnaMatthews	Realized	\$ 30.00
WARRANT RETURNED 9/30/2004, WARRANT ISSUED ON 4/20/2004 COMMENT: #2004009333VSS/9-30-2004 SHERIFF CLEARED(\$ 30.00)  <u>Document Available at Court Clerk's Office (#1000886214)</u> MICROFILM: REEL FRAMENUMBER								
10-04-2004	ORSR	-	CHRISTIAN, GEORGE ALLEN	43387958	Oct 6 2004 10:28:29:413AM	OSCN\JessicaGomez	-	\$ 0.00

## ORDER OF RELEASE W/SHERIFF'S RETURN / JUDGE HALL

10-14-2004 CTPASS	-	CHRISTIAN, GEORGE ALLEN	43448313	Oct 14 2004 2:19:53:047PM	OSCN\AmberMaddux	-	\$ 0.00
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BLACK: REVO CONT TO 10-21-04 @1:30PM BEFORE JUDGE BRAGG.

10-21-2004 CTPASS	-	CHRISTIAN, GEORGE ALLEN	43513705	Oct 22 2004 12:01:52:117PM	OSCN\YolandaShorter	-	\$ 0.00
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BRAGG: REVO CONT 01-13-05, 1:30PM BEFORE JUDGE BASS-JONES

10-21-2004 EAA	-	CHRISTIAN, GEORGE ALLEN	43513710	Oct 28 2004 4:12:56:080PM	OSCN\BarbaraRobinson	-	\$ 0.00
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ENTRY OF APPEARANCE/BILLY COYLE 232-1988

Document Available at Court Clerk's Office (#1001056981)

MICROFILM: REEL FRAMENUMBER

10-21-2004 MOCON	-	CHRISTIAN, GEORGE ALLEN	43556798	Oct 28 2004 2:56:49:260PM	OSCN\BarbaraRobinson	-	\$ 0.00
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DEFT'S MOTION FOR CONTINUANCE ON THE STATE'S APPLICATION TO ACCELERATE  
SENTENCING DATE AND/OR REVOCATION OF SUSPENDED SENTENCE AND WAIVER OF  
RIGHT TO SPEEDY HEARING/ JUDGE  
BRAGG

Document Available at Court Clerk's Office (#1001056061)

MICROFILM: REEL FRAMENUMBER

01-04-2005 ACCOUNT	-	CHRISTIAN, GEORGE ALLEN	44003337	Jan 4 2005 12:26:04:487PM	OSCN\CherylBlack	-	\$ 0.00
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RECEIPT # 2005-1111037 ON 01/04/2005.

PAYOR: CHRISTIAN, GEORGE ALLEN CA-97-3537 TOTAL AMOUNT PAID: \$ 547.50.

LINE ITEMS:

CF-1998-3134: \$135.00 ON AC01 CLERK FEES FOR CHRISTIAN, GEORGE ALLEN.

CF-1998-3134: \$160.00 ON AC08 SHERIFF FEES FOR CHRISTIAN, GEORGE ALLEN.

CF-1998-3134: \$4.00 ON AC11 C.L.E.E.T. PENALTY ASSESSMENT FOR CHRISTIAN, GEORGE ALLEN.

CF-1998-3134: \$35.00 ON AC12 VICTIM'S COMPENSATION ASSESSMENT (VCA) FOR CHRISTIAN, GEORGE ALLEN.

CF-1998-3134: \$175.00 ON AC20 ATTORNEY FEES FOR CHRISTIAN, GEORGE ALLEN.

CF-1998-3134: \$3.00 ON AC21 C.L.E.E.T. ASSESSMENT FOR A.F.I.S. FOR CHRISTIAN, GEORGE ALLEN.

CF-1998-3134: \$5.00 ON AC22 SHERIFF'S SERVICE &amp; INCARCERATION FEE FOR CHRISTIAN, GEORGE ALLEN.

CF-1998-3134: \$3.00 ON AC23 LAW LIBRARY FEE FOR CHRISTIAN, GEORGE ALLEN.

CF-1998-3134: \$2.50 ON AC31 COURT CLERK REVOLVING FUND FOR CHRISTIAN, GEORGE ALLEN.



CF-1998-3134: \$25.00 ON AC80 JAIL FUND (BOND FEE) SHERIFF OR PRIVATE JAIL FOR CHRISTIAN, GEORGE ALLEN.

01-13-2005 CTFREE	-	CHRISTIAN, GEORGE ALLEN	44137443	Jan 26 2005 3:10:54:343PM	OSCN\DiedreKnox	-	\$ 0.00
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JUDGE BASS-JONES: DEFT APPEARS W/ATTY BILLY COYLE,, STATE REPRESENTED BY  
GREG MASHBURN, REVO HEARING SET 5-18-05@ 1:30 W/JUDGE BRAGG

05-18-2005 WRCI	-	CHRISTIAN, GEORGE ALLEN	45055072	May 18 2005 1:50:40:850PM	OSCN\EdnaMatthews	-	\$ 0.00
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COST WARRANT RECALL CANCELLATION ISSUED


05-18-2005 CTREVSUS	-	CHRISTIAN, GEORGE ALLEN	45066184	May 19 2005 11:40:35:450AM	OSCN\YolandaShorter	-	\$ 0.00
BRAGG: DEFT APPEARS, ON BOND WITH COUNSEL, BILLY COYLE. STATE BY MATT STUBBLEFIELD. UPON ARGUMENT, COURT DISMISSES APPLICATION. ANY REMAINING COSTS DUE INSTANTER. BOND EXONERATED							
05-18-2005 BDXON	-	CHRISTIAN, GEORGE ALLEN	45066232	May 19 2005 11:41:44:297AM	AutoDocket	-	\$ 0.00
THE STATUS OF THE BOND ENTRY DETAILED IN DOCKET SERIAL #43347040 ABOVE HAS CHANGED TO READ AS FOLLOWS: PROFESSIONAL BOND FOR CHRISTIAN, GEORGE ALLEN POSTED BY BREWER, LANA (PROFESSIONAL:BERGLAN, DENNIS) (POWER NUMBER:DB-3463 ), IN THE AMOUNT OF \$2,000.00, POSTED 09/21/2004, EXONORATED 05/18/2005							
05-18-2005 ACCOUNT	-	CHRISTIAN, GEORGE ALLEN	45055087	May 18 2005 1:50:58:283PM	OSCN\BeverlyPorter	-	\$ 0.00
RECEIPT # 2005-1196070 ON 05/18/2005. PAYOR: CHRISTIAN, GEORGE ALLEN/CA-97-3537 TOTAL AMOUNT PAID: \$ 60.00. LINE ITEMS: CF-1998-3134: \$60.00 ON AC08 SHERIFF FEES FOR CHRISTIAN, GEORGE ALLEN.							
05-19-2005 TEXT	-	CHRISTIAN, GEORGE ALLEN	45066231	May 19 2005 11:41:44:297AM	OSCN\YolandaShorter	-	\$ 0.00
THE STATUS OF THE BOND ENTRY DETAILED IN DOCKET SERIAL #43347040 ABOVE HAS CHANGED TO READ AS FOLLOWS: PROFESSIONAL BOND FOR CHRISTIAN, GEORGE ALLEN POSTED BY BREWER, LANA (PROFESSIONAL:BERGLAN, DENNIS) (POWER NUMBER:DB-3463 ), IN THE AMOUNT OF \$2,000.00, POSTED 09/21/2004, EXONORATED 05/18/2005							
05-23-2005 O	-	CHRISTIAN, GEORGE ALLEN	45088933	May 23 2005 12:09:17:637PM	OSCN\BarbaraRivera	-	\$ 0.00
COST WARRANT RECALLED BY ORDER OF THE COURT/JUDGE MCELWEE 5-18-2005  <u>Document Available at Court Clerk's Office (#1001320806)</u>							
06-08-2005 MOD&O	-	CHRISTIAN, GEORGE ALLEN	45216304	Jun 9 2005 9:25:37:233AM	OSCN\BarbaraRivera	-	\$ 0.00
MOTION TO DISMISS AND ORDER OF DISMISSAL/APPLICATION TO REVOKE SUSPENDED SENTENCE, DEFENDANT IN COMPLIANCE, JUDGE BRAGG  <u>Document Available at Court Clerk's Office (#1001751840)</u> MICROFILM: REEL 168 FRAMENUMBER 94							
07-03-2007 REV	-	JACKSON, TERRY LEE	51344922	Jul 3 2007 10:42:08:903AM	OSCN\BarbaraRivera	-	\$ 0.00
COST ADMIN REV 9-14-2007							
09-14-2007 PPA	-	JACKSON, TERRY LEE	51961087	Sep 14 2007 1:57:08:310PM	OSCN\JamesBailey	-	\$ 0.00
COST ADMINISTRATION PAYMENT PLAN AGREEMENT, CA98-632, CA98-632. 25./MO. BEG. 09-28-2007. JWB							
09-21-2007 O	-	JACKSON, TERRY LEE	52044589	Sep 24 2007 3:58:43:400PM	OSCN\BarbaraRivera	-	\$ 0.00
ORDER FOR INSTALLMENT PAYMENTS/COST WARRANT RECALLED/MCELWEE							
11-01-2016 APCR	-	CHRISTIAN, GEORGE ALLEN	88997405	Nov 1 2016 4:07:39:307PM	OSCN\ColletteSmith	-	\$ 0.00

APPLICATION FOR POST CONVICTION RELIEF - CC TO BE WITHDRAWN BY JUDGE  
HENDERSON; CC TO BE WITHDRAWN BY DA; COPY SENT TO DEFENDANT

 Document Available at Court Clerk's Office (#1034905953)


11-01-2016 APLI	-	CHRISTIAN, GEORGE ALLEN	88997475	Nov 1 2016 4:08:54:340PM	OSCN\ColletteSmith	-	\$ 0.00
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APPLICATION FOR POST-CONVICTION SEEKING AN ORDER RECOMMENDING GRANTING  
AN APPEAL OUT OF TIME W/MOTION TO WITHDRAW PLEA; CC TO BE WITHDRAWN BY  
JUDGE HENDERSON; CC TO BE WITHDRAWN BY DA; COPY SENT TO DEFENDANT

 Document Available at Court Clerk's Office (#1034905957)


11-01-2016 W	-	CHRISTIAN, GEORGE ALLEN	88997480	Nov 1 2016 4:09:36:800PM	OSCN\ColletteSmith	-	\$ 0.00
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WRIT/MOTION TO STAY PROCEEDING(S) FOR THE APPLICATION FOR POST-CONVICTION  
RELIEF; CC TO BE WITHDRAWN BY JUDGE HENDERSON; CC TO BE WITHDRAWN BY DA;  
COPY SENT TO DEFENDANT

 Document Available at Court Clerk's Office (#1034905961)


11-01-2016 MO	-	CHRISTIAN, GEORGE ALLEN	88997488	Nov 1 2016 4:10:10:057PM	OSCN\ColletteSmith	-	\$ 0.00
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MOTION/AFFIDAVIT IN SUPPORT OF LEAVE TO PROCEED INFORMA PAUPERIS; CC TO BE  
WITHDRAWN BY JUDGE HENDERSON; CC TO BE WITHDRAWN BY DA; COPY SENT TO  
DEFENDANT

 Document Available at Court Clerk's Office (#1034905965)


11-01-2016 MO	-	CHRISTIAN, GEORGE ALLEN	88997493	Nov 1 2016 4:10:28:557PM	OSCN\ColletteSmith	-	\$ 0.00
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MOTION TO WITHDRAW PLEA OF GUILTY; CC TO BE WITHDRAWN BY JUDGE  
HENDERSON; CC TO BE WITHDRAWN BY DA; COPY SENT TO DEFENDANT

 Document Available at Court Clerk's Office (#1034905969)


11-01-2016 APLI	-	CHRISTIAN, GEORGE ALLEN	88997514	Nov 1 2016 4:10:45:750PM	OSCN\ColletteSmith	-	\$ 0.00
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APPLICATION FOR APPEAL OUT OF TIME; CC TO BE WITHDRAWN BY JUDGE  
HENDERSON; CC TO BE WITHDRAWN BY DA; COPY SENT TO DEFENDANT

 Document Available at Court Clerk's Office (#1034905973)


11-01-2016 MO	-	CHRISTIAN, GEORGE ALLEN	88997563	Nov 1 2016 4:12:49:723PM	OSCN\ColletteSmith	-	\$ 0.00
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PRO-SE MOTION FOR FILES, RECORDS, TRANSCRIPTS AT PUBLIC EXPENSE AND ALL  
DISCOVERY; CC TO BE WITHDRAWN BY JUDGE HENDERSON; CC TO BE WITHDRAWN BY  
DA; COPY SENT TO DEFENDANT

 Document Available at Court Clerk's Office (#1034905977)

11-02-2016 TO	-	CHRISTIAN, GEORGE ALLEN	89028463	Nov 3 2016 3:07:23:880PM	OSCN\ReneeMarquardt	-	\$ 0.00
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TRANSFER ORDER

 Document Available at Court Clerk's Office (#1033986175)

## Balances

**Party**

**Overpayments Holding**

	<b>Costs Due</b>	<b>Costs Paid</b>	<b>Balance Due</b>	<b>Cash Bonds</b>	<b>Bond Forf.</b>		
JACKSON, TERRY LEE	\$ 309.87	\$ 32.21	\$ 277.66	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
CHRISTIAN, GEORGE ALLEN	\$ 607.50	\$ 607.50	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Generic Party	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Totals	\$ 917.37	\$ 639.71	\$ 277.66	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

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Report Generated by The Oklahoma Court Information System at November 11, 2016 10:13 AM.

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End of Transmission.

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

MAR 08 1999

PATRICIA FREED, COURT CLERK  
By [Signature]  
Deputy

THE STATE OF OKLAHOMA,

Plaintiff,

vs.

GEORGE ALLEN CHRISTIAN, JR.

Defendant.

Case No.: CF-98-3134

NOTICE OF OPEN FILE DISCOVERY

COMES NOW, the State of Oklahoma, by and through the District Attorney for the 7th Judicial District, Robert H. Macy, and advises the defendant by counsel that the entire investigative file of the District Attorney in the above styled case is available for inspection at the reasonable convenience of counsel.

Further, all items of physical or real evidence are available for inspection upon reasonable notice.

Respectfully submitted,

[Signature]

Connie Pope  
Assistant District Attorney

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing was hand-delivered to Malcolm M. Savage, attorney for the defendant, in the Public Defender's office this 8th day of March, 1999.

[Signature]

Connie Pope







IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

NOV 23 2016

47 RICK WARREN  
COURT CLERK

GEORGE A. CHRISTIAN JR., )  
Petitioner, )  
vs. ) Case No. CF-1998-3134  
STATE OF OKLAHOMA, )  
Respondent. )

**PETITIONER'S MOTION FOR DISCOVERY**

COMES NOW, George A. Christian Jr., Petitioner pro se, moves this Honorable Court for an order directed to the State to produce all discoverable evidence to the defense, as to the State's Notice Of Open File Discovery motion filed March 8<sup>th</sup>, 1999 where the entire file of the District Attorney in the above style case is available for inspection at the reasonable convenience. Further, all items of physical or real evidence are available for inspection upon reasonable notice, and in support hereof would inform the court of the following to wit:

It is the duty of the State to disclose to the Petitioner all evidence favorable to the defense, whether such information relates to guilt, mitigation of punishment or the creditability of witnesses. Brady v. Maryland, 373 U.S. 83, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963).

The state's duty to disclose extends to all information known by any government agency, and is not limited to information within the knowledge of the particular prosecutor assigned to this case. Giglio v. United States, 450 U.S. 150, 31 L. Ed. 2d 104, 92 S. Ct. 763 (1972).

The Petitioner therefore requests that the state produce all evidence, information, material, statements, property, documents, or other evidence of any sort whatsoever which is required to be produced under the constitution, statutes and court decisions of the United States and/or the State of Oklahoma.

Exculpatory material must be disclosed even when not specifically requested; United States v. Agurs, 427 U.S. 97, 49 L. Ed. 342, 96 S. Ct. 2392 (1976). However, in order to aid the State in identifying all of the evidence and information which should be produced in this case, Petitioner makes the following requests:

### **DEFINITIONS**

Unless the content clearly requires otherwise, the following words should be construed to have the meaning indicated:

1. "State" shall include:

a. The office of the prosecuting attorney and each assistant.

b. Any person working as an agent or otherwise in behalf of the prosecuting attorney

c. All law enforcement personnel employed by federal, state, or municipal governments, including but not limited to all Police Officers, Sheriffs and their Deputies. Highway Patrol Troopers, OSBI agents, OBNDD agents, Drug Task Force Agents, DEA agents, FBI agents, state and federal tax agents, Treasury Department Agents, Military Police, and all other law enforcement officers.

d. Any person working as an agent or otherwise with or on behalf of any Law Enforcement Personnel, including but not limited to all civilian employees, informants and security guards and members of law enforcement auxiliaries and organized citizen anti-criminal groups.

e. Any elected official of the State of Oklahoma, or other states, or any Federal elected officer, and their subordinates or employees including, but not limited to wardens of penitentiaries, penitentiary officials and staff and other acting in a penal authority.

f. All judges and their subordinates and employees, of Federal, State, County, or Municipal Governments of the United States.

2. "Identify" shall mean:

a. With regard to a document: The author, date of creation and respective revisions, and the current location and custodian of the original.

b. With regards to a photograph: The photographer, the date exposed and date developed, all witnesses to the photograph being taken, and the current location and custodian of the original.

c. With regards to Audio and Video Recording: The persons present, the date recorded, the date transcribed, all witnesses to the recording, the current location and custodian of the original

d. With regard to computer data: The operating system, application program and current location and custodian of the original

e. With regard to a statement conversation: The persons present, the date, and all documents and/or other records reflecting their contents.

f. With regard to property or contraband: A detailed description of the item and it's present location and custodian.

g. With regards to witnesses: The name, home address and phone, and work address and phone.

3. "Produce" shall mean:

a. With regard to a document: provide a photocopy of both sides of each page or make the original available for private inspection and copying.

b. With regard to photograph: Provide a positive copy or make the negative and/or original positive available for copying.

c. With regard to an audio or video recording: Provide a copy (standard audio cassette of VHS format video cassette) or make the original available for copying. In the event a complete or partial transcript shall have been prepared, the transcript shall also be produced.

d. With regard to computed created data: Provide a disc copy of the operating system, application program or data, and make the original(s) available for inspection and copying.

e. With regard to a statement or conversation: Provide the contents of the statement and identify the time, place, persons present, and methods of recording.

f. With regard to property: Make it available for preliminary inspection and then make all reasonable arrangements for further inspection and testing.

4. "Report" shall include:

a. All documents, whether in the form of field notes, type summaries, or prepared forms which recorded the activities of government personnel and the statement of witnessed.

b. All audio and visual records prepared in connection with this case.

c. Any document prepared expressly for the production of information gathered from various sources, as in "produce a report setting out..."

5. "Statement" shall include:

a. Spontaneous or voluntary utterances.

b. Questions and respective answers.

c. Conversations.

d. Actions, where those actions are declaratory (i.e. convey the thoughts or intent of the action.)

6. "Contents" shall include:

a. When referring to a statement: The gist, summary, paraphrase or transcript of the statement.

b. When referring to a document: The complete text of the document and all other documents referred to within the text of the primary document.

#### **OPEN RECORDS ACT**

7. Identify and produce all materials, documents and information required to be released under the Oklahoma Open Records Act Title 51 O.S. § 24A.1 et seq., including but not limited to:

a. Each pertinent arrest and booking data sheet.

b. Each pertinent booking photograph, finger print card and master file questionnaire

c. Each inventory of property taken from the Petitioner at the time of all pertinent arrest and bookings.

d. Inventory of property seized at the scene of the alleged offense.

#### **ALLEN MATERIAL**

8. Identify and produce all evidence, information and material required to be produced under Allen v. District Court of Washington County, 803 P.2d 1164 (Okl. Cr. 1990). Be it noted in accord with the dissent in Allen, the defendant objects to any requirement in reciprocal discovery.

The Allen Material shall include but not be limited to:

a. Identify and produce the names and addresses of witnesses, together with the relevant oral, written, or recorded statements or summaries or the same.

b. Identify and produce any written or recorded statements and the substance of any oral statement made by the accused or made by a witness.

c. Identify and produce any books, papers, documents, photographs, tangible objects, buildings, or places which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belonged to the accused.

d. Identify and produce any record of prior criminal convictions of the accused.

e. Produce the OSBI, NCIC, and/or FBI rap sheet/records check on any witnesses listed by the state or defense as well as any possible witnesses who may testify at trial.

9. Identify and produce any material or information within the state's possession or control which tends to negate the guilt of the accused as to the offense charged or which tend to reduce the punishment of the accused.

**NOTE!** This element of Allen falls short of the Brady mandate for the production of impeachment materials as well as material negating guilt or tending to provide for mitigation of punishment.

### **BRADY MATERIAL**

10. Identify and produce all evidence tending to negate the guilt of Petitioner and/or tending to suggest guilt of complicity of any other person.

11. Identify and produce all evidence tending to impeach the creditability of each potential witnesses, including but not limited to:

a. Vickie Hensley

b. Police reports from Oklahoma City Police Department on are about 5/11/1998 and (or) 5/12/1998.

12. Identify and produce each statement made by any person to the state concerning the creditability of potential witnesses.

13. Identify and produce all evidence tending to mitigate the alleged guilt of the Petitioner. Assuming arguendo that Petitioner were to be convicted of any offense, identify and produce all evidence tending to justify a lesser charge and/or sentence.

14. Identify and produce all evidence tending to impeach any and all accusations, statement, or denials of the state.

15. Identify and produce the contents of each sworn statement made by any person or witness, including state personnel that may tend to impeach the creditability of the witness of the state, or tend to prove any claim made by the Petitioner.

16. Identify and produce the contents of all written, signed, or adopted statements of any person or witness, either sworn or not, together with any report or document reflecting the contents of such statements.

17. Identify and produce the contents of any and all statements made by the Petitioner to the state, together with any report or document reflecting the contents of such statements.

18. Identify and produce the contents of any and all statements made by the state to the Petitioner, together with each report or document reflecting the contents of such statements.

19. Identify and produce all statements made to other prisons or police agencies in ascertaining the whereabouts of the Petitioner at all times prior to the arraignment or the charge at bar, together with dates, persons and any record or documentation or such statements or contents thereof.

#### **TANGIBLE EVIDENCE**

20. Identify and produce each item tangible evidence to this case.

21. Identify and produce the contents of each inventory of property prepared in connection with this case, together with any report of document which reflects the existence of, or contents of such inventories.

22. Identify and produce all property taken from Petitioner at all arrests and bookings in this case.

### **RECORDINGS AND PHOTOGRAPHS**

23. Identify and produce each audio recording relevant to this case together with any report or document which reflects the contents of such recordings, all without regards as to whether or not such recording may be admissible as evidence.

24. Identify and produce video recordings relevant to this case, together with any report or document which reflects the contents of such recordings, all without regard as to whether such recordings may be admissible as evidence.

25. Identify and produce each photograph exposed at or about the time of booking in all matters of this case, together with any report(s) or document(s) that reflects the contents of such photographs.

26. Identify and produce each photograph or video recording depicting the Petitioner.

27. Identify and produce each audio recording of the voice of the Petitioner.

28. Identify and produce all dispatch tapes or recordings concerning initial reports of and response to the relevant alleged offense and/or apprehension of the Petitioner.

### **GENERAL INVESTIGATION**

29. Identify and produce all evidence or property subjected to any such investigation, whether or not such property is alleged to be contraband.



30. Identify and produce all evidence, whether in the form of exhibit, report, document, whether in testimony derived from such investigation.
31. Identify all participating parties conducting such investigation, and produce a report setting out in detail the precise procedure employed.
32. Identify and produce a report setting out the complete qualifications and training of each person who conducted or participated in such an investigation.

### **WARRANTS AND NOTICES**

33. Identify and produce each arrest and seizure warrant or authorization relevant to this case, including but not limited to all arrest warrants and/or Governor's Warrants and extradition's authorization or warrant.
34. Identify and produce each waiver of rights notice or consent signed by or read by or read to the Petitioner including but not limited to Mirandum Rights, implied consent rights or extradition rights including any waiver of right to have held extradition hearing.
35. Identify and produce each affidavit, declaration or testimony presented to any Judge (including any Judge or Magistrate) in support of any request for the authorization or issuance of any arrest warrant or any criminal information or indictment.

### **WITNESSES**

36. Identify all persons known to have knowledge of relevant facts favorable to the Petitioner or the issue of guilt or mitigating circumstances.
37. Identify all persons known to have knowledge of relevant facts unfavorable to the Petitioner in the issue of guilt or punishment.

38. Identify all persons known by the state to have been present at any time during the commission of the alleged offense.
39. Identify all persons known to have been present during the arrest of the Petitioner.
40. Identify all persons known to the state who have been informed of the Petitioner's arrest in Oklahoma County and when they (the authorities) were informed of such arrest.
41. Identify all persons known to the state to have been present during the bookings (Oklahoma County Dentention Center) on the accused charge.
42. Identify all persons present during any interrogation of the accused or any other witnesses favorable to the Petitioner.
43. Identify all witnesses not previously endorsed as such, including wardens, security personnel, drivers, or other persons present at the location of the alleged offense prior to, during, and immediately after the alleged offense.
44. Produce all evidence which may be helpful in Petitioner identifying other witnesses.

#### **IDENTIFICATION**

45. Identify all persons who were able to identify the Petitioner as the person named in the warrant for arrest.

#### **MISCELLANEOUS**

46. Identify and produce each item of evidence which may be introduced into evidence against the Petitioner and which has not been described in other paragraphs of this motion. In further support of these specific requests, Petitioner would inform the court of the following citations of Oklahoma Law:
47. 22 O.S. § 192 (regarding discloser of warrants).

48. 22 O.S. § 303 (regarding disclosure of names of witnesses intended to be called at trial).
49. 22 O.S. § 749 (regarding the authority of all police officers to take sworn statements from prospective witnesses, and requiring that they be turned over to defense as they are obtained).
50. 51 O.S. § 24A.1 et seq. (Oklahoma Open Records Act).
51. Allen v. District Court of Washington County, 803 P.2d 1164 (Okl. Cr. 1990) (regarding general discovery procedures for District Court).
52. Sadler v. Lackey, 319 P.2d 610 (Okl. Cr. 1957) (regarding discretionary disclosure of reports in possession of the state, particularly those reports which reflect matters to which the state has exclusive of significantly greater access).
53. Lambert v. State, 471 P.2d 935 (Okl. Cr. 1970).
54. Stevenson v. State, 486 P.2d 646 (Okl. Cr. 1971).
55. Watts v. State, 487 P.2d 981 (Okl. Cr. 1971).
56. Blevens v. State, 487 P.2d 991 (Okl. Cr. 1971).
57. Preliminary Hearing Transcripts held on 8/24/1998 in Judge Charles G. Humble court.
58. A complete copy of the entire investigative file, and all items of physical or real evidence.

Wherefore, all premises considered, Petitioner asks that prior to further proceedings in the matter at bar, the court conduct a hearing on this motion and order the state to comply with each of the requests by a certain date. The state should further be ordered to maintain a state of continuing compliance throughout these actions, especially in light of previous action.

Petitioner further asks that the court directly supervise all requested disclosures, including but not limited to inspection of all the state's files and records, and camera examination of state counsel. It is further requested that copies of all materials submitted to or received by the court

and not ordered delivered to the Petitioner be sealed for the record, and that all camera matters be recorded for transcription following the conclusion of this case.

It is so prayed as to uphold the peace and dignity of the people and State of Oklahoma and the Constitutions and Statutes of Oklahoma and the United States.

Respectfully submitted

/s/ George A. Christian Jr.

**VERIFICATION**

STATE OF OKLAHOMA     )  
  ) ss.  
COUNTY OF OKLAHOMA )

**VERIFICATION/DECLARATION UNDER PENALTY OF PERJURY**

Pursuant to 12 O.S. Supp. 2002 § 426, the Petitioner states under penalty of perjury and under the laws of Oklahoma that the foregoing is true and correct; that the Petitioner has read the foregoing and affixed his signature hereto at the Lexington Correctional Center on this 22<sup>nd</sup> day of November, 2016. Pursuant to 12 O.S. § 491 et seq., 22 O.S. § 748, Rule 4 (c) Rules of the District Courts of Oklahoma.

/s/ George A. Christian Jr.

George A. Christian Jr.  
Print Name

**CERTIFICATE OF SERVICE**

I, George A. Christian Jr., the undersigned hereby certify that on the 22<sup>nd</sup> day of November, 2016 I mailed a true and correct copy of the foregoing by placing same into the institutional legal mailing system at the Lexington Correctional Center with postage prepaid thereon to:



IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
THE STATE OF OKLAHOMA

JAN 11 2017

RICK WARREN  
COURT CLERK

47

GEORGE A. CHRISTIAN JR.

Petitioner,

Vs.

CASE NO. CF-98-3134

(EVIDENTIARY HEARING DEMANDED)

THE STATE OF OKLAHOMA

Respondent,

REPLY TO APPLICATION FOR POST-CONVICTION RELIEF

Petitioner was charged by information with the following crimes in Oklahoma County case CF-98-3144 Count 1, kidnapping, AFCF (2 or More); Count 2, Robbery in the First Degree, AFCF (2 or More); Count 3, Assault and Battery with a Dangerous Weapon, AFCF (2 or More); and Count 4, Forcible Oral Sodomy, AFCF (2 or More). On May 3, 1999, Petitioner, represented by counsel, entered a plea of guilty before the Honorable Susan Braggs Pursuant to plea negotiations, the State agreed to dismiss the second page of the information as well as the charges in Counts 2 through 4. The State further recommended the Petitioner be sentenced to five years imprisonment, to be suspended in full, on the remaining charges of kidnapping in Count 1. The court accepted the plea and sentenced Petitioner accordingly. Mr. Christian had not been convicted of any felonies when arrested for CF-1998-3134. The State alleges he entered the plea of his own free will without coercion from any source, but Malcolm Savage filled out the plea agreement in his own hand writing that is in error, and he knew certain facts were not true and was in error, because the information sheet was in error on the charges with the second page.

1. The page two was completely in error the 1986 charge was dismissed to a misdemeanor to molesting a standing vehicle.
2. Malcolm Savage filled out the plea of Guilty/Summary of Facts that is in error.

Part (A) findings of fact, Acceptance of Plea

**2(a) Do you wish to have a record made of these proceedings by the court reporter? No.**  
**10(b) Are you charged after former conviction of a felony? No.**

**(c) Have you ever been convicted of a felony? Yes.**

**Having Been Sworn**

**1(b) My attorney completed this form and we have gone over the form and I understand it's contents and agree with the answers. See: Addendum "A"**

**Certificate of Defense Counsel**

**3. I have read and fully explained to the Defendant all of the questions in the plea of guilty/summary of facts and (check appropriate option)**

**I completed the form for the Defendant and inserted the defendant's answers to the questions in my own handwriting.**

Malcolm Salvage filed a demurrer motion to quash on 1/11/99 for insufficient evidence which is clear and convincing evidence in support of the claims of counsel's ineffectiveness for failing to have a hearing on the motion before he plead Mr. Christian guilty for a crime he did not commit. This is not competent logic of effective assistance counsel. In addition, counsel, by his own signature thereto, depending on how you view it he had not discussed these rights with petitioner and filled out the plea of guilty and told him he was going home and just sign it. The statement that Malcolm Salvage wrote in the plea agreement, "I confined Vicki Hensley in this state against her will by taking her vehicle while she was in the vehicle." Is completely false and never happened. Preliminary hearing and police reports will clearly demonstrate, that the State and Malcolm Salvage knew Vicki was in the room with Stanley smoking crack in the bathroom, and when she came outside she gave Mr. Christian the keys to drive because she was too high on crack. She originally had just got off work and left her mother's house who lives in Norman, going to Mr. Christian home in Oklahoma City before she stopped at Stanley's who lives several blocks from Mr. Christian's home.

Part (A) findings of fact, Acceptance of Plea

**2(a) Do you wish to have a record made of these proceedings by the court reporter? No.**

The State asserts the Petitioner did not make a seasonal request for an appeal out of time. The question is what is the statute of limitation on a seasonal request for a miscarriage of justice. Petitioner, seeks to collaterally challenge his sentence after it has been discharged; a trial court is without jurisdiction to modify, suspend, or otherwise alter a judgment which has been satisfied except to set aside a judgment void on its face as shown by the record. *Fitchen v. State*, 826 P.2d 1000, 1001 (Okla.Cr.1992). The error in the plea was entered over seventeen years ago. The record reflects that the trial court in the present case had jurisdiction over Petitioner, as well as the subject matter, and had authority to impose judgment and sentence. The plea was entered under ineffective assistance of counsel where counsel failed to conduct a reasonable pre-trial investigation and otherwise had a conflict of interest. This entire plea agreement is based on Malcolm Salvage decisions in his own hand writing, and by him being an officer of the court.

**2(a) Do you wish to have a record made of these proceedings by the court reporter? No.**

The record before this court is unequivocally clear that Malcolm Salvage conduct during the plea of guilty is clear and convincing evidence, that this was not an intelligent choice among alternative courses of action and, thus, was not knowingly and voluntarily entered. I Mr. Christian on or about May 11<sup>th</sup> & 12<sup>th</sup> 1998 in Oklahoma County, Ok confined Vicki Hensley in this state against her will by taking her vehicle while she was in the vehicle. Malcolm Salvage was ineffective for writing a false statement to crime his client did not commit. Pursuant to the plea negotiations, the state agreed to dismiss the second page of the information as well as the charges in count 2 through 4 because the second page was in error, there were no prior convictions for a second page, and count 1 should have been dismissed also, due to the facts that Vicki Hensley testified to in preliminary hearing held in Charles G. Humble court that Mr. Christian committed no crime against her at all, and that her and Terry Jackson were fighting over crack. There is no

evidence that Mr. Christian did anything to Vicki Hensley other than a blanket allegation by the State in the information CF-1998-3134. **Brown v. State**, 933 P.2d 316, 324-25 (Okl.Cr. 1997)(citations omitted). Included in this principle, is the presumption that prosecutors, as officers of the court, do not suborn perjury or otherwise allow false testimony to go uncorrected. **Cargle v. State**, 947 P.2d 584, 589 (Okl.Cr.1997); **Hatch v. State**, 924 P.2d 284, 295-96 (Okl.Cr.1996). In order to obtain relief upon such a allegation, Petitioner bears the burden of establishing that (1) false or misleading testimony was presented (2) that the prosecutor knowingly used such testimony and (3) that the testimony was material to guilt or innocence. **Omaltza v. State**, 911 P.2d 286, 307 (Okla.Cr.1995). Under Oklahoma law a defendant has a statutory right to have his sentence set by a jury which found him guilty. **Nipp v. State**, 626 P.2d 1349 (1981)).also see **Hick v. State**. In Hicks v. Oklahoma, 447 U.S. 343, 100 S.Ct. 2227, 65 L.Ed 115 (1980) The United States Supreme Court held that this court had taken an incorrect approach in dealing with appellants who were sentenced under the unconstitutional provision, In **Day v. State** Okla.Cr. 276, 123 Pac. 436, it was held that when a judgment upon a conviction is rendered the clerk must enter the same upon the minutes, stating briefly the offense for which the conviction was had, and must immediately annex together and file the following papers, which constitute a record of the action: (1) The indictment (or information) and copy of the minutes of the plea or demurrer; (2) a copy of the minutes of the trial; (3) the charges given or refused and the endorsements as given thereon; (4) a copy of the judgment. These constitute the record, and a cause may be taken to this court on appeal upon a transcript of the record. The attempted case-made in this case contains things just enumerated, so that the cause may be considered as appealed upon a transcript of the record, as distinguished from an appeal by exceptions and case-made See. preliminary hearing held by Charles G. Humble 8/24/98. This post-conviction



contains supporting facts to be considered as appealed upon a preliminary hearing transcript of the record, as distinguished from an appeal by exceptions and case made, In the case of *Hembre v. State*, 15 Okl.Cr. 422, 177 Pac. 385, it was held that where an appeal in a felony case is by transcript of the record alone this court will carefully review such transcript for any reversible error properly raised by such an appeal, and this through the alleged errors presented may be such only as are required by statute to be incorporated in a bill of exceptions or case-made. See. also *Smiser v. State* (Okla.Cr.App.) 198 Pac.110. In *Tracy v. State* 24 Okl. Cr. 144, 216 P.941, 943 it is stated:


“ where judgment has been rendered and the defendant has suffered the penalty pronounced in the judgment in whole or in some substantial part, even during the term, the authority of the court rendering the judgment is at an end and the trial court is without jurisdiction to modify, suspend, or otherwise alter the judgment, except to set aside a judgment void on its face as shown by the record” In the case of *Ex parte Pruitt*, 41 Okl.Cr 318, 273 P.288, 289 it is stated:

“ The rule is well settled that, when a court has rendered judgment and imposed sentence upon a verdict of guilty or a plea of guilty, and such judgment and sentence has been carried into executions, the power of the court as to that offense is at an end, and the court is without jurisdiction to render a second judgment and sentence upon the same. *Rupert v. State*, 9 Okl. Cr. 226, 131 P. 713, 45 L.R.A., N.S., 60; [Ex parte] *Myers*, 12 Okl.Cr. 575, 160, P.939. On these authorities the trial court, was without jurisdiction to render the second judgment and sentence, or to correct the original judgment after such judgment had been executed, as in this respect the power of the court must be exercised when the original judgment is rendered See *Rupert v. State*, 9 Okl.Cr. 226, 131 P. 713, 45 L.R.A., N.S., 60; *Yoder v. State*, 66 Okl.Cr. 178, 90 P. P.2d

669; *Ex parte Meadows*, 71 Okl.Cr. 353, 112 P.2d 419. As strange as some circumstances seem, they can be true the preliminary hearing transcripts would clearly demonstrate that Mr. Christian is innocent of this crime and that this conviction should be voided and the court 's should allow the plea to be withdrawn except to set aside a judgment void on its face as shown by the record." even with "due diligence." Additionally, these fact's combined with the other fact's already on the record establish by "clear and convincing" evidence that "but for" constitutional error that are being challenged, no reasonable juror would have found you guilty of the offenses with which you are charged. Due to a Fundamental Miscarriage of Justice.

WHEREFORE, the petitioner respectfully prays that this Honorable Court will grant petitioner's Application for Post-Conviction Relief and request to review Discovery and for Evidentiary Hearing in all respects. *See: State's Notice of Open File Discovery*

Respectfully Submitted.

  
GEORGE A CHRISTIAN JR.  
L.C.C., 5 G-Unit-L2  
P.O. Box 260  
Lexington, OK 73051

### VERIFICATION

STATE OF OKLAHOMA    )  
  ) ss.  
COUNTY OF OKLAHOMA )

### VERIFICATION/DECLARATION UNDER PENALTY OF PERJURY

Pursuant to 12 O.S. Supp. 2002 § 426, the Petitioner states under penalty of perjury and under the laws of Oklahoma that the foregoing is true and correct; that the Petitioner has read the foregoing and affixed his signature hereto at the Lexington Correctional Center on this 6<sup>th</sup>, day of January, 2017. Pursuant to 12 O.S. § 491 et seq., 22 O.S. § 748, Rule 4 (c) Rules of the District Courts of Oklahoma.

/s/ George A. Christian Jr  
George A. Christian Jr  
Print Name

### CERTIFICATE OF SERVICE

I, George A. Christian Jr., the undersigned hereby certify that on the 6<sup>th</sup>, day of January, 2017, I mailed a true and correct copy of the foregoing by placing same into the institutional legal mailing system at the Lexington Correctional Center with postage prepaid thereon to:

RICK WARREN COURT CLERK  
320 ROBERT S. KERR  
OKLAHOMA CITY, OK 73102

/s/ George A. Christian Jr



**ORIGINAL**

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

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

JUN - 4 2019

George A. Christian Jr.,  
Plaintiff,

**JOHN D. HADDEN  
CLERK**

vs.

District Co. Case No: CF-1998-3134

The State Of Oklahoma,  
Respondent.

CASE NO. **MA 2019 411**  
(Clerk Please Fill In)

**RECEIVED**

JUN 4 2019

**PETITION FOR WRIT OF MANDAMUS**

**CLERK'S OFFICE**

**COMES NOW**, George A. Christian Jr., Oklahoma DOC # 276900, the Plaintiff, and requests this Court grant this Plaintiff and forthwith issue the Writ of Mandamus unto the Respondent(s) commanding that there be an immediate disposition of the Post-Conviction Relief which has been filed in Oklahoma County District Court since 11/01/2016, without a ruling being made of said pleading.

In support of this Petition for a Writ of Mandamus Plaintiff states and shows:

**JURISDICTION**

This Court has jurisdiction to issue writs of mandamus consistent with the usages and practices of *Title 12 OS §1451* et seq., which provides in relevant part:

“The writ of mandamus may be issued by the Supreme Court or ... any justice of judge thereof, during term, or at chambers, to any inferior tribunal, corporation, board or person, to compel the performance of any act which the law specifically enjoins as a duty, resulting from an office, ..., of station; but though it may require an inferior tribunal to exercise its judgment or proceed to the discharge of any of its functions, it cannot control judicial discretion.”

FURTHER, § 1452 of *Title 12* provides:

“This writ may not be issued in any case where there is a plain and adequate remedy in the ordinary course of the law. It may be issued on the information of the party beneficially interested.”

### **NATURE OF THE CAUSE PENDING**

Plaintiff has initiated action in the District Court of Oklahoma County, Oklahoma, duly filed and listed as case no. CF-1998-3134, filed November, 1<sup>st</sup> 2016, for Post-Conviction Relief.

1. That the courts failed to give a final order on a Post-Conviction 22 § 1080 filed 11-1-2016 to case No# CF-1998-3134 Judge Timothy R. Henderson.
2. Transfer order filed 11-2-2016
3. States response filed 11-14-2016
4. Reply filed 1-11-2017

That said cause has been pending in the district court for more than (2) two years and (5) five months, without disposition or other procedural pleadings delaying a ruling in said cause.

### **BASIS FOR ISSUING A WRIT OF MANDAMUS**

1. The subject matter of the pleadings pending in the District Court are matters lawfully within the District Court's jurisdiction and as such, the Plaintiff "has clear legal right to relief sought" which is a 'ruling or disposition' of said pleading as filed in the District Court, and "it is the plain legal duty, not a matter of discretion" for the District Court to make determinations of the pleading as pending and enter and order a ruling thereon, as jurisdiction vests with said court over pleadings and motions presented therein for relief and remedy as sought.

See *State ex rel. Blackhawk v. District Court of Osage County*, 126 P.2d (1942) and *Woolen v. Coffman*, 676 P.2d 1375 (Okla.Cr. 1984)

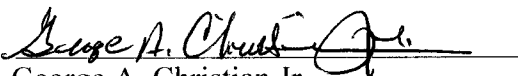
2. Plaintiff has no other remedy adequate in law to secure the disposition of his pleadings as pending in the District Court, nor can he proceed to have the 'same form of pleading presented to any other court for the remedy or relief sought in the District Court.
3. Plaintiff does not seek any specific ruling or determination of the pleadings in the District Court; he merely seeks to have the District Court enter its rulings.

WHEREFORE, these premises considered and as good cause shown Plaintiff asks this Court to issue the Writ of Mandamus, commanding Respondent(s) to enter rulings or an order disposing of the pleadings or immediately show cause why no order or ruling has been made.

IT IS SO PRAYED TO BE THIS COURT'S ORDER.

Sincerely Submitted,

Pro-se,



George A. Christian Jr.

DOC # 276900

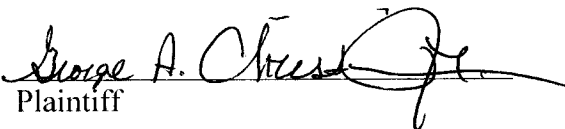
LCC P.O. Box 260

Lexington, OK 73051

**VERIFICATION**

STATE OF OKLAHOMA ) ss.  
COUNTY OF CLEVELAND )

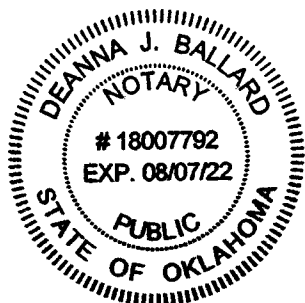
I, George A. Christian Jr., of lawful age, being first duly sworn under oath, state that I am the Plaintiff of this cause; That I have read the petitions regarding this matter and that I am familiar with the contents thereof; and that the things and matters therein are true and correct to the best of my knowledge and belief.

  
Plaintiff

Subscribed and sworn to before me this 31 day of May, 2019.

My Commission Expires: 08-07-22

CN: 18007792

  
NOTARY PUBLIC

### **CERTIFICATE OF MAILING**

I certify that on this 31<sup>ST</sup> day of May 2019 a true and correct copy of the foregoing was mailed, via first class pre-paid US Postal Service to the Clerk of the Court AND Respondent(s) in compliance with *12 OS § 2004(2)(a)*.

  
Plaintiff

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

**GEORGE A. CHRISTIAN, JR.**  
Petitioner,

V.

**THE STATE OF OKLAHOMA**  
Respondent,

)  
)  
)  
)  
)  
)  
)

**DISTRICT CO. CASE NO. CF-98-3134**

**CASE NO. \_\_\_\_\_**

**MOTION/AFFIDAVIT IN SUPPORT OF LEAVE TO PROCEED**  
**INFORMA PAUPERIS**

I, George A. Christian, being first duly sworn, depose and say that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to repay fee(s), cost, (or) give security therefore, I state that because of my poverty I am unable to pay the cost of said proceeding (or) give security therefore; that I believe I am entitled to redress; and that the issues(s) which I desire to present are just.

**DECLARATION**

I do hereby solemnly swear (or) affirm these statement(s) to be accurate and true under the penalty of perjury.

George A. Christian Jr.  
Sign

George A. Christian Jr.  
Print

5-31-19  
Date



**CERTIFICATE OF MAILING**

I hereby certify that on the 31<sup>ST</sup> day of MAY, 2019, I placed in the Lexington  
Correctional Center legal mailbox the foregoing document, postage prepaid to;

George A. Christian Jr.  
Sign

George A. Christian Jr.  
Print

5-31-19  
Date

Court Clerk:  
Oklahoma Court of Criminal Appeals  
2100 N. Lincoln Blvd., Ste 4  
Oklahoma City, OK. 73105

**ORIGINAL**

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



THE CLERK SHALL ENTER THE FOLLOWING ORDERS OF THE COURT:

**1      MA-2019-568  
Oklahoma County  
Case No. CPC-2016-7125  
Honorable Timothy R.  
Henderson  
District Judge**

**EYNER MORA ESPARZA v. THE  
STATE OF OKLAHOMA**

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

**SEP 17 2019**

**JOHN D. HADDEN  
CLERK**

**ORDER DISMISSING REQUEST AS MOOT**

On August 23, 2019, the District Court fully adjudicated Petitioner's complaints regarding the pending matters in this case. Petitioner's request for a Writ of Mandamus is therefore **MOOT** and is **DISMISSED**.

CONCUR: Lewis, P.J.; Kuehn, V.P.J.; Lumpkin, J.; Hudson, J.; Rowland, J.

**2      MA-2019-411  
Oklahoma County  
Case No. CF-1998-3134  
Honorable Timothy R.  
Henderson  
District Judge**

**GEORGE A. CHRISTIAN, JR., v. THE  
STATE OF OKLAHOMA**

**ORDER DECLINING JURISDICTION**

Rule 10.3, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019) requires an applicant seeking extraordinary relief to serve notice on the adverse party when requesting relief from this Court. Petitioner has failed to give adequate notice to the proper party. The Court **DECLINES** jurisdiction and **DISMISSES** this matter.

CONCUR: Lewis, P.J.; Kuehn, V.P.J.; Lumpkin, J.; Hudson, J.; Rowland, J.

3      **MA-2019-424**  
         **Okmulgee County**  
         **Case Nos. CF-2010-206A**  
         **and CF-2011-221B**  
         **Honorable Cindy**  
         **Pickering**  
         **Associate District Judge**

**JAMES LEE MORGAN, JR., v. THE**  
**STATE OF OKLAHOMA**

**ORDER DECLINING JURISDICTION**

Rule 10.3, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019) requires an applicant seeking extraordinary relief to serve notice on the adverse party when requesting relief from this Court. Petitioner has failed to give adequate notice to the proper party. The Court **DECLINES** jurisdiction and **DISMISSES** this matter.

CONCUR: Lewis, P.J.; Kuehn, V.P.J.; Lumpkin, J.; Hudson, J.; Rowland, J.

4      **MA-2019-602**  
         **Grady County**  
         **Case No. CRF-1982-93**  
         **Honorable Kory Kirkland**  
         **District Judge**

**STEVEN WILSON v. THE STATE**  
**OF OKLAHOMA**

**ORDER DISMISSING REQUEST AS MOOT**

On August 29, 2019, the District Court fully adjudicated Petitioner's complaints regarding the pending matters in this case. Petitioner's request for a Writ of Mandamus is therefore **MOOT** and is **DISMISSED**.

CONCUR: Lewis, P.J.; Kuehn, V.P.J.; Lumpkin, J.; Hudson, J.; Rowland, J.

5      **MA-2019-449**  
         **Oklahoma County**  
         **Case No. CM-2018-3694**  
         **Honorable Elizabeth**  
         **Kerr**  
         **Special Judge**

**SHANNON C. COOK v. THE STATE OF**  
**OKLAHOMA, OKLAHOMA COUNTY**

**ORDER DECLINING JURISDICTION**

Rule 10.3, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019) requires an applicant seeking extraordinary relief to serve notice on the adverse party when requesting relief from this Court. Petitioner has failed to give adequate notice to the proper party. The Court **DECLINES** jurisdiction and **DISMISSES** this matter.

CONCUR: Lewis, P.J.; Kuehn, V.P.J.; Lumpkin, J.; Hudson, J.; Rowland, J.

6      **PR-2019-465**  
**McClain County**  
**Case No. CF-2010-47**  
**Honorable Leland W.**  
**Shilling**  
**Special Judge**

**LOUIS PERRY GAGLIERDI v. THE**  
**STATE OF OKLAHOMA**

**ORDER DECLINING JURISDICTION**

Rule 10.3, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019) requires an applicant seeking extraordinary relief to serve notice on the adverse party when requesting relief from this Court. Petitioner has failed to give adequate notice to the proper party. The Court **DECLINES** jurisdiction and **DISMISSES** this matter.

CONCUR: Lewis, P.J.; Kuehn, V.P.J.; Lumpkin, J.; Hudson, J.; Rowland, J.

7      **MA-2019-483**  
**Mayes County**  
**Case No. CRF-1993-105**  
**Honorable Shawn S.**  
**Taylor**  
**District Judge**

**PETE FRANK KERNS v. THE STATE**  
**OF OKLAHOMA**

**ORDER DECLINING JURISDICTION**

Rule 10.3, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019) requires an applicant seeking extraordinary relief to serve notice on

the adverse party when requesting relief from this Court. Petitioner has failed to give adequate notice to the proper party. The Court **DECLINES** jurisdiction and **DISMISSES** this matter.

CONCUR: Lewis, P.J.; Kuehn, V.P.J.; Lumpkin, J.; Hudson, J.; Rowland, J.

**IT IS SO ORDERED.**

**WITNESS MY HAND AND THE SEAL OF THIS COURT** this 17<sup>th</sup>  
day of September, 2019.

A handwritten signature in black ink, appearing to read "David B. Lewis", written over a horizontal line.

**DAVID B. LEWIS, Presiding Judge**

ATTEST:

John D. Hadden

Clerk



FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY MAY - 8 2020  
STATE OF OKLAHOMA

GEORGE A. CHRISTIAN JR.,  
Petitioner,

vs.

STATE OF OKLAHOMA,  
Respondent.

RICK WARREN  
COURT CLERK  
46

Case No. CF-1998-3134

**APPLICATION FOR POST-CONVICTION RELIEF SEEKING AN ORDER  
RECOMMENDING AN APPEAL OUT OF TIME**

**SUMMARY OF REQUEST**

The Petitioner, George A. Christian Jr., hereby apply for relief under the Post-Conviction Act, Section 1080 et seq. of Title 22.

1. On May 2<sup>nd</sup> 1999 Application for Post-Conviction Relief was filed May 13<sup>th</sup> 1999 and a timely application to withdraw his plea of guilty to this post-conviction in the above styled case.

2. He filed a post-conviction application with the trial court on November 1<sup>st</sup> 2016 which has not been finalized.

3. On November 14<sup>th</sup>, 2016 the state filed its response.

4. Petitioner filed a reply January 11<sup>th</sup> 2017 to the Post-Conviction seeking permission to file an out of time appeal, due to the fact that the Petitioner did not include a statement in the filings or other proof that a notice of seeking an order recommending an appeal out of time to appeal with the district court.

However, the notice to withdraw his plea was timely filed in the trial court on May 13<sup>th</sup> 1999. It is due to these facts that the Petitioner now seeks an order recommending an appeal out of time from this court.

## PETITIONER IS ENTITLED TO AN APPEAL OUT OF TIME

Petitioner seeks a post-conviction appeal out of time from this court. Requesting a recommendation for appeal out of time with this court is properly done under Title 22, h.18, App. Rule 2.1(E)(1)

1. Petitioner stated he entered his plea of guilty as a result of counsel being ineffective for not adequately advising his client to identify evidence which could have proved his innocence at the time and due to "unusual circumstances" occurring while being incarcerated while awaiting trial... Mr. Christian understanding was poisoned by Malcolm Savage's bad advice and his plea was therefore not knowing and voluntary.

The petitioner assert (s) he is actually Innocent, due to ineffective assistance of counsel in failure of trial counsel to properly utilize available evidence or adequately investigate to identify evidence which could have been made available during the course of the trial. See *Dewberry v. State*, 1998 OK CR 10, 954 P.2d 774. This court will utilize the following procedure in adjudicating applications regarding ineffective assistance of trial counsel based on evidence not in the record. This court has jurisdiction under the Post-Conviction Act, Section 1080-1086 et seq. of Title 22., the conviction and sentence violated due process as guaranteed by Amendments 4, 5, 6, and 14 to the U.S. Constitution Article II § 2, 6, 7, 10, 20 of the Oklahoma Constitution:

2. The matter was set for hearing before Honorable Susan Braggs on May 24<sup>th</sup> 1999, on that date, it was continued to June 2<sup>nd</sup> 1999, However, at that time the application was stricken by the Court for failure to present.
3. The defendant was not advised to the elements of the charge, and so the plea was not "intelligent" counsel did not provide the defendant with reasonably competent advice *Missouri v. Frye* 132 S.Ct 1399 (2012), *Hill v. Lockhart* 474 U.S. 82 (1985)( petitioner show he would not have pled guilty if adequately advised).
4. Vicki Hensley had testified in preliminary hearing held by Judge Humble on 8/24/98, that she was never kidnapped by Mr. Christian she drove from Norman to Oklahoma city

on her own accord and that the preliminary hearing testimony of Vickie Hensley proves he's innocent beyond a reasonable doubt.

5. *Blades v. State*, 2005 OK CR 1, 107 P.2d 607 explains the appropriate course of action when seeking an appeal out of time.

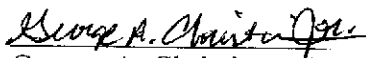
If Petitioner seeks an appeal out of time, the proper procedure is to file an application for a Post Conviction Relief with district court requesting an appeal out of time.... See also 22 O.S. Ch 18. App. Rule 2.1.E.(1).

This case is critical to these proceedings because it establishes that the proper instrument to be used is a post conviction application, thus, giving this Court jurisdiction to recommend an Appeal Out of Time and that 22 O.S. § 1086 is not applicable in this situation.

### **CONCLUSION AND ASKING**

Petitioner asks of This Honorable Court to issue a recommendation for appeal out of time as he has shown that he was denied an appeal through no fault of his own. The Petitioner withdrew his plea in a timely manner that was filed May 13<sup>th</sup> 1999.

Respectfully Submitted,

  
George A. Christian Jr. Pro se  
LCC Unit 4  
P.O. Box 260  
Lexington, Oklahoma 73051



**DECLARATION**

I do hereby solemnly swear (or) affirm their statements are accurate and true under the penalty of perjury:

George A. Christian Jr.  
Sign

George A. Christian Jr.  
Print

**CERTIFICATE OF SERVICE**

I do hereby certify I U.S. mailed the attached documents to the clerk of the court on 5-5-2020

George A. Christian Jr.  
Sign

George A. Christian Jr.  
Print

Court Clerk: Rick Warren  
405 County Office Bldg.,  
320 Robert S. Kerr Ave.,  
Oklahoma City, OK 73102

District Attorney David Prater  
320 Robert S. Kerr  
Oklahoma City Oklahoma 73102



FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

JUN - 9 2020

GEORGE A. CHRISTIAN, JR., )


Petitioner, )

v. )

THE STATE OF OKLAHOMA, )

Respondent. )

RICK WARREN  
COURT CLERK

46 

Case No. CF-1998-3134

**STATE'S RESPONSE TO SUPPLEMENTAL APPLICATION FOR POST-  
CONVICTION RELIEF**

COMES NOW the State of Oklahoma, by and through David W. Prater, the duly elected District Attorney of District Seven (7), Oklahoma County, State of Oklahoma, and Jennifer M. Hinsperger, Assistant District Attorney, and respectfully requests this Honorable Court to deny Petitioner's Application for Post-Conviction Relief, as supplemented, in all respects.

**STATEMENT OF THE CASE**

The full procedural history of this case is set forth in the State's November 14, 2016 response to Petitioner's original Application for Post-Conviction Relief. Petitioner filed that application on November 1, 2016, requesting an appeal out of time and other unspecified relief; it is still presently pending before this Court. On May 8, 2020, Petitioner, *pro se*, filed the instant Application for Post-Conviction Relief, which should be construed as a supplement to his earlier application. *See* 22 O.S. § 1086. Therein, Petitioner reasserts his request for a recommendation for an appeal out of time from his 1999 guilty plea in this case.

**ARGUMENT AND AUTHORITY**

As thoroughly discussed in the State's response to Petitioner's original application, his request for an appeal out of time should be barred by the doctrine of laches due to his inexcusable

seventeen-year delay in seeking relief. *See Thomas v. State*, 1995 OK CR 47, ¶ 15, 903 P.2d 328, 330; *Paxton v. State*, 1995 OK CR 46, ¶ 8, 903 P.2d 325, 327. Petitioner also fails to establish that he was denied an appeal through no fault of his own. *See Rule 2.1, Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18 App. (2020); *Dixon v. State*, 2010 OK CR 3, ¶ 5, 228 P.3d 531, 532. Petitioner's renewed request for an appeal out of time alleges no facts sufficient to overcome these previously addressed deficiencies.

**WHEREFORE**, the State of Oklahoma respectfully prays that this Honorable Court will deny Petitioner's Application for Post-Conviction Relief, as supplemented, in all respects.

Respectfully Submitted,

DAVID W. PRATER  
DISTRICT ATTORNEY

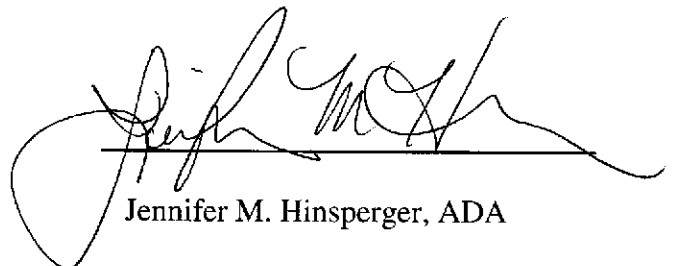
BY: 

JENNIFER M. HINSPERGER, OBA # 31586  
ASSISTANT DISTRICT ATTORNEY  
320 Robert S. Kerr, Suite 505  
Oklahoma City, OK 73102  
Phone: (405) 713-1600  
Fax: (405) 235-1567

### **CERTIFICATE OF MAILING**

This is to certify that a true and correct copy of the State's Response to Supplemental Application for Post-Conviction Relief was mailed on the date of filing to:

George Christian, Jr., # 276900  
Lexington Correctional Center  
P.O. Box 260  
Lexington, OK 73051

  
Jennifer M. Hinsperger, ADA



FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
THE STATE OF OKLAHOMA

JUL 13 2020

GEORGE A. CHRISTIAN JR.

Petitioner,

Vs.

THE STATE OF OKLAHOMA

Respondent,

RICK WARREN  
COURT CLERK

46

CASE NO. CF-1998-3134

(EVIDENTIARY HEARING DEMANDED)

REPLY TO STATE'S RESPONSE TO SUPPLEMENTAL APPLICATION FOR POST-  
CONVICTION RELIEF

COMES NOW, George A. Christian Jr., Petitioner acting pro se, and request this Honorable Court to grant Petitioner's Application for Post-Conviction Relief, as supplemented, in all respects.

STATEMENT OF THE CASE

The full procedural history of this case is set forth in the Petitioner's original Application for Post-Conviction Relief filed on November 1<sup>st</sup>, 2016, requesting an appeal out of time and other relief available; it is still presently pending before this Court. On May 8<sup>th</sup>, 2020, Petitioner, pro se, filed the instant Application for Post-Conviction Relief, which should be construed as finding in favor of the applicant. See 22 O.S. § 1085. Therein, Petitioner reasserts his request for consideration for application for post-conviction relief from his 1999 guilty plea in this case.

ARGUMENT AND AUTHORITY

Petitioner's plea in case numbered above, was not entered knowingly and intelligently as thoroughly discussed in the Petitioner's original application, *Simpson v. State*, 2010 OK CR 6, ¶ 53, 230 P.3d 888, 905-06 this court reviews the application along with supporting affidavits to see if it contains sufficient evidence to show this court by clear and convincing evidence that there is a strong possibility trial counsel was ineffective for failing to utilize or identify the

complained of evidence. See Rule 3.11(B)(3)(b) *Rules of the Oklahoma Court of Criminal Appeals* Title 22, Ch.18, App (2017). See *United States v. Maez*, 915 F.2d 1466, 1468 (10th Cir. 1990), cert denied, 498 U.S. 1104, 111 S.Ct. 1005, 112 L.Ed.2d 1087 (1991)( for a plea to be valid it "must be based on the defendants intelligent conclusion that the record before the judge contains strong evidence of actual guilt) *United States v. Pollard*, 959 F.2d 1011, 1021(D.C.Cir) cert denied, 506 U.S. 915, 113 S.Ct. 322,121 L.Ed 242 (1992). *North Carolina v. Alford*, 400 U.S. 25 (1970) (Guilty pleas; individual state may refuse to accept guilty pleas that accompany protestations of innocence) *Lafler v. Cooper* 566 U.S. 156 132 S.Ct. 1376, 182 L.Ed 2d 398 (2012) was requiring the prosecution to "reoffer the plea proposal" his understanding though was poisoned by his counsel's ineffective assistance and his plea was therefore not knowing and voluntary, and because the defendant was not advised to the elements of the charge, and so the plea was not "intelligent" counsel did not provide the defendant with reasonably competent advice *Missouri v. Frye* 132 S.ct 1399 (2012). The court must first determine if the defendant is competent through interrogation of the defendant and counsel regarding past and present mental state, as well as observation of the defendant's demeanor before the court. *Boykin v. Alabama* 395 U.S. 238 (1969) The guilty plea not intelligent, the court must also advise the defendant of the nature and consequences of the guilty plea, this should include advising the defendant of the right to trial counsel, the right to a jury trial, the right to confront witnesses, the privilege against self incrimination, and the range of punishment for the crime charged. In order to demonstrate ineffective assistance of counsel, a petitioner must make two showings: (1) counsel's performance was so seriously deficient that representation fell below an objective standard of reasonableness and was not within the range of competence demanded of attorneys in criminal cases; and (2) but for counsel's unprofessional errors, there is a reasonable probability that the

result of the proceeding would be different Strickland v. Washington, 466 U.S. 668, 687-88, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674 (1984). In order to satisfy the prejudice requirement of *Strickland* in the context of a guilty plea, a petitioner must show that, but for the error of counsel, he would not have pled guilty and would have instead insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59, 106 S. Ct. 366, 370, 88 L.Ed. 2d 203 (1985); Lozoya v. State, 932 P.2d 22, 31 (Okla.Cr. 1996). Failure to disclose evidence is a violation of Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L. Ed 2d 215 (1963). It is the burden of the party claiming that the evidence has been withheld to show that the evidence was in, fact, withheld," Van Woudenberg v. State, 942 P.2d 224, 227 (Okla.Cr. 1997). The ultimate fact that there was never a kidnapping, Vicki Hensley and (or) no one testified to those facts and the investigator reports and the preliminary hearing transcripts would prove along with the first responders incident reports there was never a kidnapping and this was exculpatory evidence within the meaning of *Brady* that actually exists and that the district attorney's office has in their possession these reports to prove that such evidence exists and was improperly withheld by the prosecutor's, this claim overcomes the presumption of regularity in court proceedings. In reference to this claim Napue v. Illinois, 360 U.S. 264 (1959) may suggest that there is prosecutorial misconduct in failing to correct false or misleading testimony. Included in this principle, is the presumption that prosecutors, as officers of the court, do not suborn perjury or otherwise allow false testimony to go uncorrected. Cargle v. State, 947 P.2d 584, 589 (Okla.Cr. 1997); Hatch v. State, 924 P.2d 284, 295-96 (Okla.Cr. 1996). In order to obtain relief upon such an allegation, Petitioner bears the burden of establishing that (1) false or misleading testimony was presented, (2) that the prosecutor knowingly used such testimony and (3) that the testimony was material to guilt or innocence. Omazla v. State, 911 P.2d 286, 307 (Okla.Cr. 1995). When a criminal defendant has been wrongfully advise to plead

guilty to a crime he did not commit and is actually innocent, *Mabry v. Johnson* 467 U.S. 504 (1984) guilty plea coerced, the state should not be allowed to convict innocent people by any means to satisfy a conviction rate due to ineffective assistance of counsel and prosecutorial misconduct. Counsel has a duty to make sure there is sufficient information here from which the district court could conclude it was not sending an innocent man to prison. See *United States v. Maez*, 915 F.2d 1466, 1468 (10<sup>th</sup> Cir. 1990), cert denied, 498 U.S. 1104, 111 S.Ct. 1005, 112 L.Ed.2d 1097 (1991) (for a plea to be valid it "must be based on the defendant's intelligent conclusion that the record before the Judge contains strong evidence of actual guilt.") *United States v. Pollard*, 959 F.2d 1011, 1021 (D.C. Cir.) cert denied, 506 U.S. 915, 113 S.Ct. 322, 121 L.Ed.2d 242 (1992). The attorney general has filed a motion to dismiss the purported appeal upon the grounds that the judgment and sentence of the courts has long since been satisfied, the judgment is at end, and the court was without jurisdiction to modify, suspend, or otherwise alter the judgment. In support thereof the case of *Tracy v. State*, 24 Okl. Cr. 144, 145, 216 P. 941. This contention was also supported in the case of *Hall v. State*, Okl. Cr. 1957, 306 P.2d 361, 362, an Oklahoma case wherein the court said:

"Satisfaction of the judgment and sentence in a criminal case puts an end to the court's power over the criminal judgment."

In the present case the defendant has served his time, satisfied the judgment and sentence of the trial court and the case is at an end. Trial court was without jurisdiction to grant relief after the judgment had been satisfied.

However, as finding in favor of the applicant. See 22 O.S. § 1085. His request for an appeal out of time should not be barred by the doctrine of laches during to his excusable seventeen-year delay seeking relief. See *Thomas v. State*, 1995 OK CR 47, ¶ 15, 903 P.2d 328,

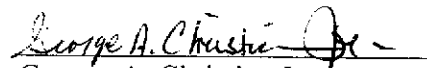
330; *Paxton v. State*, 1995 OK CR 46, ¶ 8, 903 P.2d 325, 327. The ineffective assistance of counsel claim on appeal should be considered See Rule 2.1, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18 App. (2020); *Dixon v. State*, 2010 OK CR 3, ¶ 5, 228 P.3d 531, 532.. An assertion of this error waives the bar of 22 O.S. § 1086 and res judicata, and any argument by the state that is barred. The petitioner's rights to appeal is dependent upon the ability to prove he/she was denied an appeal through no fault of his/her own. See *Blades v. State*, 2005 OK CR 1, 107 P.2d 607; see also *Smith v. State*, 1980 OK CR 43, 611 P.2d 276. The due process rights under the Oklahoma Constitution Article II § 6. and the fundamental right to an effective appeal counsel is protected by the Sixth (6<sup>th</sup>) and Fourteenth (14<sup>th</sup>) Amendments of the United States Constitution. Thus, making in applicable under Title 22 O.S. § 1080, subsections (a), (d), and (f)., a petitioner's right for this reason alone his counsel made error so serious that counsel was not functioning as counsel guaranteed a defendant by the Sixth Amendment and that counsel's deficiencies were predicable to his defense the trial court made one or more decisions which were based on an objectively unreasonable determination of the facts and/or an unreasonable application of clearly established law *Strickland*. Each of the propositions of error are "issues that were not raised previously on direct appeal, but which could have been raised, are waived for further review." *Logan v. State*, 2013 OK CR 2, ¶ 3, 293 P.3d 969, 973; see also *Johnson v. State*, 1991 OK CR 124, ¶ 3-4, 823 P.2d 370,372; *Castro v. State*, 1994 OK CR 53, ¶ 2, 880 P.2d 387, 388. an exception to this rule exist where a court finds sufficient reason for not asserting or inadequately presenting an issue in prior proceeding 22 O.S. § 1086 This requires a showing that some impediment external to the defense prevented the petitioner and counsel from properly raising the claim. *Johnson*, 191 OK CR 124, ¶ 7, 823 P.2d at 373. This bad advice from counsel convicted the petitioner of a crime he did not commit which proves the burden of



establishing that these claims of ineffective assistance of counsel at trial could not have been previously raised and thus is not procedurally barred. *Robinson v. State*, 1997 OK CR 24, ¶ 17, 937 P.2d 101, 108.

WHEREFORE, the Petitioner respectfully prays that this Honorable Court will grant Application for Post-Conviction Relief, as supplemented, in all respects.

Respectfully Submitted,

  
George A. Christian Jr.  
Lexington Correctional Center  
P.O. Box 260  
Lexington, OK 73051

### DECLARATION

I do hereby solemnly swear (or) affirm their statements are accurate and true under the penalty of perjury:

George A. Christian Jr.  
Sign

George A. Christian Jr.  
Print

### CERTIFICATE OF SERVICE

I do hereby certify I U.S. mailed the attached documents to the clerk of the court on 8<sup>th</sup> August 2012  
~~a true and correct copy of the foregoing was mailed, via first class prepaid by the US Postal Service to the~~  
~~clerk of the court~~

George A. Christian Jr.  
Sign

George A. Christian Jr.  
Print

Jennifer M. Hinsperger, OBA#31586  
Assistant District Attorney  
320 Robert S. Kerr, #505  
Oklahoma City, OK 73102

✓

Subject To Acceptance Or Rejection By the Court  
Of Criminal Appeals Of the State Of Oklahoma.  
ment is Accepted As Tendered For  
Filing This 8th Day Of March 2021

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

**GEORGE A. CHRISTIAN JR.,**  
Appellant/Petitioner,

vs.

**THE STATE OF OKLAHOMA,**  
Respondent.

**RECEIVED**

MAR 08 2021

ATTORNEY GENERAL

COURT CLERK  
COURT OF CRIMINAL APPEALS

DEPUTY CLERK

Case No. CF-1998-3134

Case No. PC-2021-75

**AMENDED PETITION IN ERROR WITH BRIEF IN SUPPORT**

Appellant/Petitioner, a state prisoner, comes before this Honorable Court, pro se. in accordance with Rule 5.2(C), Rules of the Oklahoma Court of Criminal Appeals, and, for his Petition in Error, in the above-styled caption and numbered cause, states:

1. The statutory authority and type of appeal the appellant/petitioner is filing:
  - a) This is an appeal from Final judgment under the Post-Conviction Act;
  - b) The Procedures and Statutory Authority is provided by Rule 5.2(C), et seq., Rules of Oklahoma Court of Criminal Appeals, Title 22, Ch. 18, App. 2005; and Title 22 O.S. § 1080 et seq.
2. The trial court from which the appeal is being lodged and the trial case number:
  - a) Oklahoma County District Court
  - b) Case No. CF-1998-3134
3. The date on which the District Court's final Order being appealed was entered, and the name of the Judge:
  - a) January 5<sup>th</sup>, 2021
  - b) Honorable Timothy R. Henderson, Oklahoma County District Judge
4. The date on which the Notice of Intent to Appeal was filed:
  - a) January 19<sup>th</sup>, 2021

**RECEIVED**

MAR - 8 2021

**CLERK'S OFFICE**

5. The crime, together with a citation to the statute or ordinance of which the appellant was convicted:
  - a) Kidnapping O.S. 21 §741
6. The Judgment and Sentence imposed and the date of pronouncement:
  - a) A finding of guilt was made by a Judge after a plea of guilty was tendered;
  - b) On May 3<sup>rd</sup>, 1999, in accordance with the District Attorney's recommendation, a term of 5 years probation under the supervision of the Oklahoma Department of Corrections was imposed by the Honorable Susan Braggs the presiding judge.
7. If a motion for a new trial was filed, the date the motion was filed and the date it was denied:
  - a) N/A
8. Whether or not the appellant/petitioner has been admitted to bail:
  - a) The appellant/petitioner bail has been exonerated and has currently completed the sentence imposed.
9. The nature of the relief the appellant seeks:
  - a) The nature of the relief sought is Petitioner requests this Honorable Court to vacate the District Court's order denying relief and remand with instructions to make findings of facts and conclusions of law; or to remand instructions to set aside a judgment void on its face as shown by the record.

Respectfully Submitted,

  
(Petitioner's sign)

## **BRIEF IN SUPPORT**

**COMES NOW**, George A. Christian Jr., hereinafter to be known as 'Appellant', before this Court appealing the District Court denial of relief sought in Oklahoma County Case No. **CF-1998-3134**.

Appellant sought relief on Procedures and Statutory Authority is provided by Rule 5.2, et seq., Rules of Oklahoma Court of Criminal Appeals, Title 22, Ch. 18, App. 2005; and Title 22 O.S. § 1080--1086 et seq. and seeks appellant court review to redress a due process violation, specifically as demonstrated in this Petition in Error with Brief in Support.

Appellant comes before this Court as a pauper and without any legal education or training, and as such, hereby requests that the protections afforded to a pro-se applicant be provided, and this motion be viewed in a light most favorable to the Petitioner, as held by the courts of *Haines v Kerner*, 92 S.Ct. 594 (1972) and *Hall v Bellmon*, 935 F.2d 1106 (1991).

### **STATEMENT WITH BRIEF IN SUPPORT**

The Appellant's proposition's was not properly addressed by the District Court's attempt to mimik the state's response verbatium on the Entry of Judgment' and Conclusion of Facts, as the attached order demonstrates to the petition in error.

The District Court held that the withdraw of the plea was timely..... Appeal was out of time, due to the ineffectiveness of Malcolm Salvage, in filling out the plea of Guilty/Summary of facts that is in error, and of no fault of the Appellant's.

The Court maintained that the Appellant reasons are unclear from the record, and asserted that the petitioner abandoned his request which is untrue, which by its creation deems and creates a liberty interest as well as a due process protection.

Appellant filed a response to the District Court notifying them that a timely Request for Appeal Out-of-Time had been filed. The District Court failed to address this matter in the Judgment set forth, thus depriving the Appellant of a reviewable error. So, in search of resolution, this question is presented in this cause before this Court.

Due process violations as set forth in the appeal process that has been exhausted to the best of the Appellant's abilities. Specifically, the Appellant attempted to comply to the terms set forth in post-conviction relief, however, whether by error or neglect, the proper procedure to secure the remedy is the filing of a post-conviction application in district court where findings of fact and conclusion of law should be made as to whether application was denied a direct appeal through no fault of his own, which issue is the crucial one to appeal out of time. *See Pierce v. State*, Okl.Cr., 456 P.2d 126 (1969).

#### **GROUND S RAISED IN APPEAL**

1. The investigator never contacted the witness Vicki Hensley on her own accord in preliminary hearing proves he's innocent beyond a reasonable doubt, who dated the Appellant and actually drove to his home in Oklahoma City from Norman Oklahoma. This witness's statement was definitely exculpatory in nature and vital to the Appellant's defense. Trial counsel failure to properly utilize available evidence or adequately investigate to identify evidence which could have been made available during the course of the trial. See *Dewberry v. State*, 1998 OK CR 10, 954 P.2d 774. This is but one violation of due process.

Appellant was not provided copies of the witness statements made against him, open or confidential, and therefore could not effect an adequate defense as these statements are pertinent to the charge and contain mitigating circumstances and exculpatory information. This court will utilize the following procedure in adjudicating applications regarding

ineffective assistance of trial counsel based on evidence not in the record. This court has jurisdiction under the Post-Conviction Act. Section 1080-1086 et seq. of Title 22., the conviction and sentence violated due process as guaranteed by the U.S. Constitution to Amendments 4,5,6, and 14, and the Okla. Const Art, II §§ 2,6,7,10, and 20.

2. The misconduct of Malcolm Salvage is why the Appellant convicted of a kidnapping that was never a kidnapping. Nowhere is there any evidence of a kidnapping. This due process violation speaks to the lack of evidence.
3. Malcolm Salvage filed a demurrer motion to quash on 1/11/99 for insufficient evidence which is clear and convincing evidence in support of the claims of counsel's ineffectiveness for failing to have a hearing on the motion before he plead guilty to a crime he did not commit. This is not the logic of effective counsel, and by his own signature thereto, depending on how you view it he had not discussed these rights with the petitioner because he didn't find out about the motion to quash until Seventeen years later. Preliminary hearing transcripts and police reports will demonstrate, that the state and Malcolm Salvage knew Vicki Hensley was in the room with Stanley smoking crack in the bathroom, and when she came outside she gave Mr. Christian the keys to drive because she was to high on crack. She originally had just got off work and left her mother's house who lives in Norman, going to Mr. Christian's home in Oklahoma City before she made a pit-stop to do drugs at Stanley's who lives several blocks from Mr. Christian's home and therefore the Appellant's right to due process was again violated. This alone is grounds for reversal.
4. Petitioner entered a plea of guilty base on systemic racism twenty years ago, which has had a long term effect on which was the beginning of a racially bias system here in the State of Oklahoma which have caused many due process violations.

5. The district court failed to properly respond to the Appellant's Request for Appeal Out-of-time, Malcolm Salvage failed to effectively represent Petitioner and that there was a misunderstanding as to who would perfect appeal after plea withdrawal after he knew the petitioner was not guilty of kidnapping Vicki Hensley on April 11<sup>th</sup> 1998 the matter was originally set on May 24<sup>th</sup> 1999 for hearing before Honorable Susan Bragg, on that date it was continued to June 2<sup>nd</sup> 1999. However, the record reflects at that time the application was stricken by the court for failure to present. Petitioner was not fully advised of his right to appeal his conviction or the procedure necessary therein: and that he did not knowingly waive the right to appeal his conviction within the time allowed by law. On a plea of Guilty or after a finding of Guilty that the accused must be advised of his right to appeal, the right to be represented by a court appointed counsel on appeal, the right to a case made at public expense, that notice of intent to appeal and request for a case made must be made within 10 days of the date of judgment and sentence, and there upon the court must inquire of the prisoner if he desires the appeal, desires a case made, or desires appointment of counsel, the defendant was not advised of the elements of the charge, and so the plea was not "intelligent" counsel did not provide the defendant with reasonably competent advice *Missouri v. Fry* 132 S.Ct 1399 (2012), *Hill v. Lockhart* 474 U.S. 82 (1985)(petitioner shows he would not have pled guilty if adequately advised) denying Appellant a proper due process review.
6. *Blades v. State*, 2005 OK CR 1, 107 P.2d 607, explains the appropriate course of action when seeking an appeal.

If Petitioner seeks an appeal out of time, the proper procedure is to file an application for a Post Conviction Relief with district court requesting an appeal out of time.... See also 22 O.S. Ch 18. App. Rule 2.1.E.(1).



Explain: petitioner submits that this error did not exist at the time and could not be raised on direct appeal. The Petitioner withdrew his plea in as timely manner on May 13<sup>th</sup> 1999, Malcolm Salvage's conduct has been overlooked by the State as to the doctrine of laches due to the ineffective counsel. In any case, Petitioner is entitled to an appeal out of time and any procedural bar argument submitted by the State is prohibited by Article II § 6 of the Oklahoma Constitution:

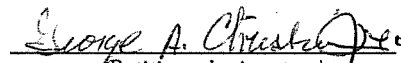
The court of justice of the State shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property or reputation: and right and justice shall be administered without sale, denial, delay, or prejudice.

### CONCLUSION

**THEREFORE**, it is requested that this Honorable Court to issue a recommendation for appeal out of time as he has shown that he was denied an appeal through no fault of his own, and to reverse the District Court's Judgment Order, and directs that this matter vacated and remand request to review Discovery and for Evidentiary hearing with alternative Order granting Petitioner an Appeal Out of time.

It is so prayed and requested.

Respectfully Submitted,

  
(Petitioner's signature)

George A. Christian Jr. #276900  
LCC Correction Center Unit 6-N2-124  
P.O. Box 260  
Lexington, OK. 73051

**VERIFICATION**

STATE OF OKLAHOMA     )  
                                      ) ss.  
COUNTY OF CLEVELAND)

**VERIFICATION/DECLARATION UNDER PENALTY OF PERJURY**

Pursuant to 12 O.S. Supp. 2002 § 426, the Petitioner states under penalty of perjury and under the laws of Oklahoma that the foregoing is true and correct; that the Petitioner has read the foregoing and affixed his signature hereto at the Lexington Correctional Center on this 4<sup>th</sup> day of March, 2021. Pursuant to 12 O.S. § 491 et seq., 22 O.S. § 748, Rule 4 (c) Rules of the District Courts of Oklahoma.

1s/ George A. Christian Jr.  
George A. Christian Jr.  
Print Name

**CERTIFICATE OF SERVICE**

I, George A. Christian Jr., the undersigned hereby certify that on the 4<sup>th</sup> day of March, 2021, I mailed a true and correct copy of the foregoing by placing same into the institutional legal mailing system at the Lexington Correctional Center with postage prepaid thereon to:

1s/ George A. Christian Jr.  
(signature)

Court Clerk:  
320 Robert S. Kerr  
Oklahoma City, OK 73102

Oklahoma Court of Criminal Appeals  
2100 N Lincoln Blvd,  
Oklahoma City, Oklahoma 73105

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

JAN -7 2021

RICK WARREN  
COURT CLERK

GEORGE ALLEN CHRISTIAN, JR., )

Petitioner, )

v. )

THE STATE OF OKLAHOMA, )

Respondent. )

Case No. CF-1998-3134

47 \_\_\_\_\_

**ORDER DENYING APPLICATION FOR POST-CONVICTION RELIEF**

**MATERIALS REVIEWED FOR DECISION**

The Court has reviewed the following materials before making its decision:

1. Petitioner's pleadings for Post-Conviction Relief.
2. State's Response to Petitioner's pleadings and attachments thereto.

**FINDINGS OF FACT**

Petitioner was charged by Information with the following crimes in Oklahoma County Case No. CF-1998-3134: Count 1, Kidnapping, AFCF (2 or More); Count 2, Robbery in the First Degree, AFCF (2 or More); Count 3, Assault and Battery with a Dangerous Weapon, AFCF (2 or More); and Count 4, Forcible Oral Sodomy, AFCF (2 or More). On May 3, 1999, Petitioner, represented by counsel, entered a plea of guilty before the Honorable Susan Bragg. Pursuant to plea negotiations, the State agreed to dismiss the second page of the Information as well as the charges in Counts 2 through 4. The State further recommended that Petitioner be sentenced to five years imprisonment, to be suspended in full, on the remaining charge of Kidnapping in Count 1. The court accepted the plea and sentenced petitioner accordingly. Petitioner was advised of and acknowledged his right to appeal and the manner in which to invoke that right.

By letter to the Court dated May 2, 1999, and filed on May 13, 1999, Petitioner, pro se, filed a timely application to withdraw his plea of guilty. Therein, Petitioner stated he entered his plea of guilty as a result being under a lot of pressure at the time and due to "unusual circumstances" occurring while being incarcerated while awaiting trial. The matter was originally set for hearing before the Honorable Susan Bragg on May 24, 1999. However, at that time the application was stricken by the court for failure to present.

On November 1, 2016, Petitioner, pro se, filed an Application for Post-Conviction Relief requesting an appeal out of time or other unspecified collateral relief. On the same date, Petitioner also filed an "Application for Appeal Out of Time," and a "Motion to Withdraw Plea of Guilty. Within his combined pleadings, Petitioner raises the following arguments:

1. Petitioner received ineffective assistant of counsel where counsel failed to conduct a reasonable pre-trial investigation and otherwise had a conflict of interest;
2. Petitioner's plea of guilty was entered without deliberation and through ignorance;
3. The prosecutor improperly withheld exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), improperly coerced the victim to testify at preliminary hearing, made improper statements during preliminary hearing, and failed to correct false testimony at preliminary hearing.
4. The trial Court made an unspecified decision that was based upon an unreasonable determination of the facts and contrary to clearly established federal law; and
5. Petitioner is entitled to an appeal out of time where he was not advised of his right to appeal and where counsel failed to automatically initiate an appeal following his plea of guilty.

#### CONCLUSIONS OF LAW

Petitioner asks this Court to consider the allegations of error presented and recommend that he granted an appeal out of time or grant him other unspecified relief. However, as discussed herein, Petitioner is not entitled to an appeal out of time or any other collateral relief.

I. Petitioner is Not Entitled to a Post-Conviction Relief Out of Time

Petitioner has filed pleadings entitled “Application for Appeal Out of Time” and “Motion to Withdraw Plea of Guilty.” Additionally, within his Application for Post-Conviction Relief, Petitioner asserts that he was denied his right to appeal through no fault of his own where neither the Court nor defense counsel advised him of his right to appeal and where counsel failed to automatically initiate an appeal following the plea. However, Petitioner’s request for an appeal out of time is denied as unseasonable and otherwise without merit.

A. Laches

Initially, any request for appeal out of time is barred by laches. It has long been held that “[a] defendant in a criminal case may waive any right not inalienable, given him by the Constitution or by the statute, either by express agreement or conduct, or by such failure to insist upon it in seasonable time....” *Sarsycki v. State*, 540 P.2d 588, 590 (Okla. Cr. 1975) (quoting Syllabus of *Rapp v. State*, 413 P.2d 915 (Okla. Cr. 1966)). Consistent with this principle, the Court of Criminal Appeals has held that the doctrine of laches can be invoked where the circumstances of a case indicate that the petitioner has forfeited the right to an appeal out of time by his own inaction in requesting such relief. *Thomas v. State*, 903 P.2d 328, 330-32 (Okla. Cr. 1995).

In *Thomas v. State*, 903 P.2d 328 (Okla. Cr. 1995), the Petitioner’s counsel on direct appeal failed to file a brief on his behalf. *Id.* at 329. The Court of Criminal Appeals reviewed the record for fundamental error and, finding none to exist, affirmed the Petitioner’s conviction and sentence. *Id.* Eighteen years later, the Petitioner filed an Application for Post-Conviction Relief claiming,

*inter alia*, to have been denied a direct appeal through no fault of his own where his attorney failed to file an appellate brief on his behalf. *Id.* At 328-29. The Court noted that the Petitioner appeared to have been denied an appeal through no fault of his own, but concluded that he was not entitled to an appeal out of time. *Id.* at 330-31. In recounting its long history of invoking the doctrine of laches in the context of collateral relief, the Court noted that of concern is the State's ability to locate evidence and witnesses after passage of long periods of time should a new trial be granted. *Id.* at 331. As the Petitioner failed to make a seasonable request for an appeal out of time, the Court found that the doctrine of laches was properly invoked to deny his claim. *Id.* at 332.

In the present case, Petitioner entered his plea of guilty over seventeen years ago before requesting to withdraw his plea and now brings the instant request for relief for the first time. Certainly if Petitioner, was serious about pressing claim for an appeal out of time, he could have done so long before now; his failure to do so in a timely manner now warrants invocation of the doctrine of laches. The circumstances of this case, therefore, indicate a waiver by Petitioner of an entitlement to an appeal out of time. For this reason alone, petitioner's request for an appeal out of time is denied.

#### B. Appeal Out of Time

Even if this Court were not to apply the doctrine of laches, Petitioner's claim is insufficient to demonstrate entitlement to an appeal out of time. "[A] defendant waives his right to appeal when he is aware of that right, but does not bring an appeal within the statutory time period." *Bickerstaff v. State*, 669 P.2d 778, 779 (Okla. Cr. 1983). "The mere absence of an appeal of a conviction does not warrant a granting of an appeal out of time ... where the convict knew of said right but failed to perfect an appeal as required by law." *Whitforth v. State*, 450 P.2d 851, 852 (Okla. Cr. 1969). A petitioner seeking an appeal out of time must show that he was denied an appeal

through no fault of his own. *Smith v. State*, 611 P.2d 276, 277 (Okla. Cr. 1980), *modified in part on other grounds*, *Blades v. State*, 107 P.3d 607 (Okla. Cr. 2005).

It is well settled that the decision of whether or not to take an appeal is the defendant's alone to make. *Jones v. Barnes*, 463 U.S. 745, 751, 103 S. Ct. 3308, 3312, 77 L. Ed. 2d 987 (1983); *Buchanan v. Page*, 451 P.2d 17, 18 (Okla. Cr. 1969). As the decision to appeal belongs to the defendant, it is incumbent upon him to advise the Court or counsel of his desire to appeal within the time provided therefor. As aptly stated by the Court of Criminal Appeals:

Where a defendant knowingly fails to indicate to the Court or to his attorney that he desires to appeal his conviction, he cannot be heard to complain that he has been denied any right. Accordingly, such a defendant forfeits the right to appeal his conviction.

*Martin v. Page*, 457 P.2d 829, 831 (Okla. Cr. 1969); *see also Roe v. Flores-Ortega*, 528 U.S. 470, 478, 120 S. Ct. 1029, 1035, 145 L. Ed. 2d 985 (2000) (holding that that absent an express request or some other manifestation of the client's wish to invoke his or her right to appeal, counsel is not required to take steps to bring an appeal).

Contrary to his assertions, Petitioner was expressly advised that to invoke his right to appeal, he was required to file an application to withdraw his plea within ten days. Petitioner was further advised that, if his application was denied after a hearing on the matter, he could perfect a certiorari appeal to the Court of Criminal Appeals. In addition, counsel, by his signature thereto, further affirmed that he had discussed these rights with Petitioner. In fact, the record indicates that Petitioner sought to invoke his right to appeal by requesting to withdraw his plea of guilty. For reasons that are unclear from the record, however, Petitioner abandoned his request. In so doing, he affirmatively waived his right to appeal. Having waived his right to appeal, Petitioner is not entitled to an appeal out of time and his request for such relief must be denied.

## II. Petitioner is Not Entitled to Post-Conviction Relief

In the alternative, Petitioner asks this Court to consider his remaining allegations of error and grant him unspecified relief. However, Petitioner is not entitled to post-conviction relief. The Post-Conviction Procedure Act, Title 22 O.S. § 1080, *et seq.*, is the proper vehicle by which a petitioner can challenge the legality of the conviction or sentence imposed. 22 O.S. 2011, § 1080; *et seq.*, *Mahler v. State*, 783 P.2d 973, 973 (Okla. Cr. 1989). However, the Act is neither a substitute for a direct appeal nor a means for a second appeal. *Maines v. State*, 597 P.2d 774, 775-76 (Okla. Cr. 1979); *Fox v. State*, 880 P.2d 383, 384 (Okla. Cr. 1994). The scope of this remedial measure is strictly limited and does not allow for litigation of issues available for review at the time of direct appeal. *Castro v. State*, 880 P.2d 387, 388 (Okla. Cr. 1994). Issues that were not raised on direct appeal, but could have been raised are waived. *Fields v. State*, 946 P.2d 266-69 (Okla. Cr. 1997). All issues that have been previously raised and ruled upon are barred from consideration by the doctrine of res judicata, *Id.*

An exception to these rules exists where a court finds sufficient reason for not asserting or inadequately presenting an issue in prior proceedings or “when an intervening change in constitutional law impacts the judgment and sentence.” *Bryson v. State*, 903 P.2d 333, 334 (Okla. Cr. 1995); 22 O.S. 2011 § 1086. Sufficient reason for failing to previously raise or adequately assert an issue requires a showing that some impediment external to the defense prevented the petitioner and counsel from properly raising the claim. *Johnson v. State*, 823 P.2d 370, 373 (Okla. Cr. 1991).

In the present case, each of Petitioner’s arguments could have been raised in an application to withdraw his plea and thereafter, on certiorari appeal. Petitioner does not offer this Court any reason, external to the defense, for failing to previously assert these issues. Thus, consideration of



these propositions of error is barred by the doctrine of waiver. The Court of Criminal Appeals has stated that where a claim is procedurally barred, there is no need to address the merits of the issues presented. *Boyd v. State*, 915 P.2d 922, 924 (Okla. Cr. 1996). As aptly stated by the Court:

In the case sub judice, Petitioner was afforded an opportunity to pursue a direct appeal; he specifically decline to do so. As a result, he is bound by that earlier decision; as a consequence of that decision, he has forfeited his right to have this Court consider [issues], which would have been readily available for that direct appeal.

*Wallace v. State*, 935 P.2d 366, 370 (Okla. Cr. 1997) (citation omitted). Accordingly, the allegations of error raised by Petitioner need not be addressed and the Application for Post-Conviction Relief is denied as a matter of law.

#### A. Laches

In addition to the procedural bar of waiver, Petitioner's allegations of error should be barred by laches. It has long been held that "[a] defendant in a criminal case may waive any right not inalienable, given him by the Constitution or by the statute, either by express agreement or conduct, or by such failure to insist upon it in seasonable time ...." *Sarsycki v. State*, 540 P.2d 588, 590 (Okla. Cr. 1975) (quoting Syllabus of *Rapp v. State*, 413 P.2d 915 (Okla. Cr. 1966)). Consistent with this principle, the Court of Criminal Appeals has held that the doctrine of laches can be invoked where the circumstances of a case indicate that the petitioner has forfeited the right to collateral relief by his or her own inaction in seeking the same. *Paxton v. State*, 903 P.2d 325, 327 (Okla. Cr. 1995); *Thomas v. State*, 903 P.2d 328, 332 (Okla. Cr. 1995). While federal courts require the state to demonstrate actual prejudice before laches is triggered, there is no such requirement under Oklahoma law. *Id.* Rather, "[t]he applicability of the doctrine of laches necessarily turns on the facts of each particular case." *Id.*

The Court of Criminal Appeals has set forth an even more stringent standard where a petitioner seeks to collaterally challenge a sentence after it has been discharged; “a trial court is without jurisdiction to modify, suspend, or otherwise alter a judgment which has been satisfied except to set aside a judgment void on its face as shown by the record.” *Fitchen v. State*, 826 P.2d 1000, 1001 (Okla. Cr. 1992). A judgment is not void on its face where the trial court had jurisdiction of the person, jurisdiction of the subject matter, and authority under the law to pronounce judgment and sentence as rendered. See *Bumpus v. State*, 925 P.2d 1208, 1210 (Okla. Cr. 1996) (citing *In re Brewster*, 284 P.2d 755, 757 (Okla. Cr. 1955)).

Petitioner entered his plea of guilty over twenty years ago. Petitioner does not contest and the record reflects that the trial court in the present case had jurisdiction over Petitioner, as well as the subject matter, and had authority to impose judgment and sentence. By its very terms, Petitioner’s sentence has expired. As such, this Court has no authority to vacate or otherwise modify the Judgment and Sentence. Petitioner’s claims are wholly without merit.

#### B. Voluntary Nature of the Plea

In his motions and Application for Post-Conviction Relief, Petitioner challenges the voluntariness of his plea of guilty claiming it was entered through ignorance and without deliberation. It is axiomatic that a plea of guilty must be entered into in a knowing and voluntary manner. A plea of guilty is valid where the record reflects it to be a product of the voluntary and intelligent choice between alternative courses of action available to the defendant. *North Carolina v. Alford*, 400 U.S. 25, 31, 91 S. Ct. 160, 164, 27 L. Ed. 2d 162 (1970). In *King v. State*, 553 P.2d 529 (Okla. Cr. 1976), the Court of Criminal Appeals announced the procedures a trial court should follow in accepting guilty pleas. “The plea acceptance guidelines are thought to assemble numerous

facts which bear materially on the voluntary, knowing, understanding and intelligent quality of tendered guilty pleas ....” *State v. Durant*, 609 P.2d 792, 794 (Okla. Cr. 1980).

Under *King*, the court must first determine if the defendant is competent. *King v. State*, 553 P.2d 529, 534 (Okla. Cr. 1976). This should be accomplished through interrogation of the defendant and counsel regarding past and present mental state, as observation of the defendant’s demeanor before the court. *Id.* A court must also advise the defendant of the nature and consequences of the guilty plea. *Id.* This should include advising the defendant of the right to trial counsel, the right to a jury trial, the right to confront witnesses, the privilege against self-incrimination, and the range of punishment for the crime charged. *Id.* at 534-335.

In addition, the court must advise the defendant that by exercising the right to a jury, the State will be required to prove the allegations contained in the information beyond a reasonable doubt, and that by entering the plea of guilty he waives these rights. *Id.* at 535. The mandates of *King* also require the trial court to determine the voluntariness of the plea, including whether or not plea is the result of force, threats, or coercion. *Id.* Where the court determines the plea is the result of a plea agreement, the court shall inquire as to the factual basis of the plea and require full disclosure of the terms of the plea agreement, *Id.*

As reflected by the record, the trial court followed the guidelines of *King* in accepting Petitioner’s plea of guilty, The Court began by inquiring of Petitioner’s competence to understand the proceedings. Petitioner stated he had a high school education and was able to read and understand the questions on the Plea of Guilty Summary of Facts form. Petitioner advised that he had not taken any medications or other substances nor had he failed to take necessary medication such that would his ability to understand the proceedings would be affected. Petitioner further

advised that he had no history of mental illness. Petitioner was asked "Do you understand the nature and consequences of this proceeding?" to which Petitioner responded "yes." In addition to the inquiry of Petitioner, defense counsel advised the court that Petitioner was able to assist in his defense and was able to understand the nature and consequences of the proceedings such that his plea was knowingly and voluntarily entered.

At the time of the plea, Petitioner acknowledged that he received a copy of the Information and understood the crimes with which he was charged. Petitioner was advised of the range of punishment for Kidnapping. In accepting the plea of guilty, the court advised petitioner of his right to jury trial and associated rights. Petitioner acknowledged that he understood that he would waive these rights upon his plea of guilty.

Petitioner advised the court that he had fully discussed the charges against him with counsel and wished to enter his plea of guilty because he committed the acts as alleged by the State. He further provided a written statement in support of the factual basis for the plea. In accordance with *King*, the trial court inquired of the voluntariness of the plea to which Petitioner advised that he entered the plea of his own free will without coercion from any source. Finally, Petitioner stated, under oath, that the answers contained in the Summary of Facts form were true and correct and that he may be prosecuted for perjury for any false statements made therein.

The record before this Court is unequivocally clear and Petitioner's plea of guilty was an intelligent choice among alternative courses of action and, thus, was knowingly and voluntarily entered. Petitioner's claim to the contrary is without merit and is rejected.

#### C. Effective Assistance of Counsel

In what he labels as his first, third, fourth, sixth, and eighth propositions of error, Petitioner contends he received ineffective assistance of counsel. Although raised in five separate claims, Petitioner fails to clearly articulate the separate errors he believes to have been committed by counsel. He does, however, state that counsel was ineffective in failing to conduct adequate investigation and formulate a theory of defense. He further claims counsel had a conflict of interest. These allegations will be addressed in turn.

#### 1. Conflict of Interest

In his sixth proposition of error, Petitioner makes passing reference to counsel having a conflict of interest. A conflict of interest arises where counsel “owes conflicting duties to the defendant and some other person.” *Allen v. State*, 874 P.2d 60, 63 (Okla. Cr. 1994). Where no objection on the basis of a conflict of interest is made during the court proceedings, a petitioner seeking to establish a claim of ineffective assistance of counsel thereon must establish the existence of an actual conflict of interest that adversely affected counsel’s performance. *Cuyler v. Sullivan*, 446 U.S. 335, 348-49, 100 S. Ct. 1708, 1718-19, 64 L. Ed. 2d 333 (1980); *Carey v. State*, 902 P.2d 1116, 1118 (Okla. Cr. 1995). The mere “possibility of a conflict is insufficient to impugn a criminal conviction.” *Id.*, 446 U.S. at 350, 100 S. Ct. at 1719; *Banks v. State*, 810 P.2d 1286, 1296 (Okla. Cr. 1991). “[U]ntil a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for his claim of ineffective assistance.” *Id.*, 446 U.S. at 350, 100 S. Ct. at 1719.

In the present case, Petitioner claims counsel was under a conflict of interest, but does not specify on what basis he believes counsel was representing competing interests. Petitioner’s vague allegation does nothing to demonstrate the existence of an actual conflict of interest. In the absence of an actual conflict of interest, Petitioner must demonstrate actual harm. This he cannot do.

Petitioner offers this Court nothing to demonstrate that he would not have otherwise entered his plea of guilty. Petitioner has failed to establish either the existence of an actual conflict of interest or actual harm from a potential conflict and, thus, his challenge to the efficacy of counsel must fail.

## 2. Generalized Claims of Ineffectiveness

Like his claim of a conflict of interest, Petitioner's remaining challenges to counsel's performance are vague and conclusory. These, however, do not entitle him to relief.

The analysis of a claim of ineffective assistance of counsel "begins with the presumption that trial counsel was competent to provide the guiding hand that the accused needed, and therefore the burden is on the accused to demonstrate both deficient performance and resulting prejudice." *Turrentine v. State*, 965 P.2d 955, 970 (Okla. Cr. 1998). In order to demonstrate ineffective assistance of counsel, a petitioner must make two showings: (1) counsel's performance was so seriously deficient that representation fell below an objective standard of reasonableness and was not within the range of competence demanded of attorneys in criminal cases; and (2) but for counsel's unprofessional errors, there is a reasonable probability that the result of the proceedings would be different. *Strickland v. Washington*, 466 U.S. 688, 687-88, 104 S. Ct. 2052, 2064, 80 L. Ed.2d 674 (1984).

In order to satisfy the prejudice requirement of *Strickland* in the context of a guilty plea, a petitioner must show that, but for the error of counsel, he would not have pled guilty and would have instead insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59, 106 S. Ct. 366, 370, 88 L. Ed. 2d 203 (1985); *Lozoya v. State*, 932 P.2d at 31 (Okla. Cr. 1996). A petitioner must do more than simply state that, but for counsel's error, he would not have pled guilty, for any court would find such a statement suspect. *Lozoya*, 932 P.2d at 31. If a petitioner cannot demonstrate he was

prejudiced, a court need not determine if counsel's performance was deficient. *Howell v. State*, 967 P.2d 1221, 1226 (Okla. Cr. 1998), *overruled in part on other grounds*, *Fitzgerald v. State*, 61 P.3d 901, 905 (Okla. Cr. 2002).

Applying these principles to the case at bar, Petitioner's challenge to the efficacy of counsel must fail. As presented, Petitioner's challenges to the effectiveness of counsel are nothing more than conclusory allegations of deficient performance. Yet, "[c]onclusory allegations, standing alone, will never support a finding that an attorney's performance was deficient." *Smith v. State*, 955 P.2d 734, 738 (Okla. Cr. 1998); *see also*, *Perry v. State*, 853 P.2d 198, 203 (Okla. Cr. 1993) (generalized claim of ineffectiveness for failing to file motions insufficient to meet burden under *Strickland*); *Trice v. State*, 912 P.2d 349, 355 n.24 (Okla. Cr. 1996) ("bare allegations of defense counsel's unpreparedness do not support a claim of ineffective assistance of counsel"); *Boyd v. State*, 839 P.2d 1363, 1373 (Okla. Cr. 1992) (generalized claim of inadequate investigation and preparation and failure to file unspecified motions insufficient to establish claim of ineffective assistance).

In rejecting Petitioner's claim, it need only be noted:

The principle value of counsel to the accused in a criminal prosecution often does not lie in counsel's ability to recite a list of possible defenses in the abstract, nor in his ability, if time permitted, to amass a large quantum of factual data and inform the defendant of it. Counsel's concern is the faithful representation of the interest of his client and such representation frequently involves highly practical considerations as well as specialized knowledge of the law. Often the interests of the accused are not advanced by challenges that would only delay the inevitable date of prosecution ..., by contesting all guilty .... A prospect of plea bargaining, the expectation or hope of a lesser sentence, or the convincing nature of the evidence against the accused are considerations that might well suggest the advisability of a guilty plea ....

*Braun v. State*, 909 P.2d 783, 796 (Okl.Cr. 1995) (quoting *Brady v. United States*, 397 U.S. 742, 756-57, 90 S. Ct. 1463, 25 L. Ed. 2d 747 (1970)). This principle applies with equal force to the case at bar.

There is nothing to suggest that counsel's advice that Petitioner enter a plea of guilty was made with anything but primary concern for his interests after professional evaluation of the evidence against him. The record reflects that Petitioner fully discussed the charges against him and any possible defenses with counsel and was satisfied with counsel's advice in the matter. Having failed to satisfy either inquiry of the *Strickland* standard, petitioner's claim is denied.

#### D. Prosecutorial Misconduct

In what he labels as his seventh proposition of error, Petitioner appears to assert multiple claims of prosecutorial misconduct. Although it is far from clear, Petitioner appears to urge that the State failed to disclose exculpatory evidence, improperly coerced the victim to testify at preliminary hearing, made improper statements at preliminary hearing, and failed to correct false testimony at preliminary hearing.

##### 1. Failure to Disclose Evidence

Initially, Petitioner avers the prosecutor failed to disclose exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963). "There is a presumption of regularity in the trial court proceedings. As a consequence, it becomes the burden of the convicted defendant on appeal – whether on direct appeal or post-conviction – to present to this Court sufficient evidence to rebut this presumption." *Brown v. State*, 933 P.2d 316, 324-25 (Okl. Cr. 1997) (citations omitted). Included in this principle, is the presumption that prosecutors, as officers of the court, adhere to their duty to disclose evidence. *Id.*; *McCarty v. State*, 989 P.2d 990, 997 (Okl.Cr. 1999). "It is the burden of the party claiming that the evidence has been withheld



to show that the evidence was, in fact, withheld.” *Van Woudenberg v. State*, 942 P.2d 224, 227 (Okla. Cr. 1997).

Petitioner’s claim of prosecutorial misconduct is entirely insufficient to overcome the presumption of regularity. Petitioner has failed to demonstrate that exculpatory evidence within the meaning of *Brady* actually exists. In fact, while he claims evidence was withheld, he doesn’t specify what that evidence was. Even if it presumed that such evidence exists, Petitioner has wholly failed to demonstrate that on March 8, 1999, the State filed a Notice of Open file Discovery. Having failed to make any showing that exculpatory evidence within the meaning of *Brady* existed and was improperly withheld by the prosecutor, Petitioner’s claim does not overcome the presumption of regularity in court proceedings. Accordingly, Petitioner’s claim to the contrary is denied.

## 2. Failure to Correct False Testimony

In his seventh proposition of error, Petitioner states that the prosecutor concealed a crime, but does not specify what that crime was or who committed it or how it was concealed by the State; his reference to *Napue v. Illinois*, may suggest that his intended claim is one of prosecutorial misconduct in failing to correct false or misleading testimony.

As noted in the preceding section, “There is a presumption of regularity in the trial court proceedings.” *Brown v. State*, 933 P.2d 316, 324-25 (Okla. Cr. 1997) (citation omitted). Included in this principle, is the presumption that prosecutors, as officers of the court, do not suborn perjury or otherwise allow false testimony to go uncorrected. *Cargle v. State*, 947 P.2d 584, 589 (Okla. Cr. 1997); *Hatch v. State*, 924 P.3d 284, 295-96 (Okla. Cr. 1996). In order to obtain relief upon such an allegation, Petitioner bears the burden of establishing that (1) false or misleading testimony was

presented, (2) that the prosecutor knowingly used such testimony and (3) that the testimony was material to guilt or innocence. *Omalza v. State*, 991 P.3d 286, 307 (Okla. Cr. 1995).

As with the other allegations of error presented by this Application for Post-Conviction Relief, Petitioner's claim of prosecutorial misconduct on this basis is vague conclusory. In fact, Petitioner fails to identify what portion of the victim's testimony at preliminary hearing was false or misleading. Nor does Petitioner explain how the prosecutor knew such testimony was false. An unsupported, self-serving claim such as this is entirely insufficient to overcome the presumption of regularity in trial proceedings. Certainly, such a vague allegation falls drastically short of demonstrating that the prosecutor knowingly presented false testimony and that the same was material to Petitioner's guilt or innocence. Accordingly Petitioner's claim of prosecutorial misconduct on this allegation is denied.

### 3. Improper Conduct at Preliminary Hearing

In his final claim of prosecutorial misconduct, Petitioner appears to urge that the prosecutor improperly coerced the victim to testify at preliminary hearing and made improper statements during the hearing. Apart from procedural bar of waiver, any claims in this respect have been waived by Petitioner's plead. *Berget v. State*, 824 P.2d 364, 372 (Okla. Cr. 1991); *Rodgers v. State*, 483 P.2d 1375, 1376 (Okla. Cr. 1971); *Ledgerwood v. State*, 455 P.2d 745, 746-47 (Okla. Cr. 1969). So too has the United States Supreme Court. "[A] When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." *Tollett v. Henderson*, 411 U.S. 258, 267, 93 S. Ct. 1602, 1608, 36 L.Ed. 2d 235 (1973).

Petitioner's conviction is the result of his own voluntary admission of guilt. Accordingly, he is now estopped from urging entitlement to relief on the grounds that defects, constitutional or otherwise, occurred in the preliminary hearing prior to the entry of his plea.

#### E. Trial Court Error

Throughout his application, Petitioner states that the trial court made one or more decisions which were based on an unreasonable determination of the facts and/or an unreasonable application of clearly established law. Beyond mere assertions that error occurred, Petitioner makes no attempt to develop his claims. The Court of Criminal Appeals has long held: "a party complaining of error must show not only that some error occurred, but also that some injury resulted from the error." *Carpenter v. State*, 929 P.2d 988, 994 (Okl.Cr. 1996). At best, Petitioner's allegation establishes nothing more than error in the abstract for which he has neither articulated nor proven prejudice. As such, Petitioner is not entitled to collateral relief on these grounds and his claims to the contrary are denied.

#### III. Request for Discovery and Evidentiary Hearing

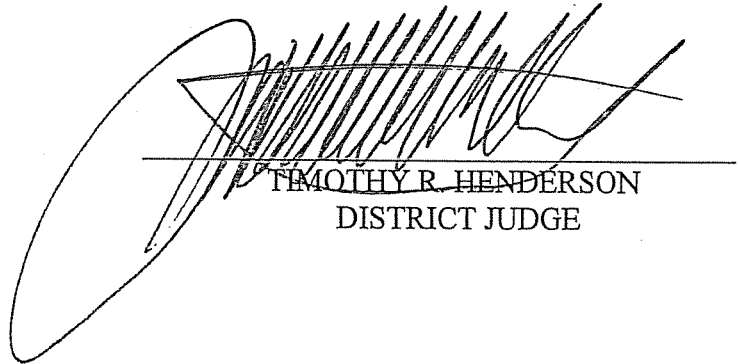
Finally, within his application and by separate motion, Petitioner requests this Court to allow him to conduct discovery. The Court of Criminal Appeals has recognized that neither the Oklahoma Discovery Code nor the Oklahoma Criminal Discovery code apply to post-conviction proceedings. *Bland v. State*, 991 P.2d 1039, 1041 (Okl.Cr. 1999). In fact, a court is not authorized to order discovery on issues it is precluded from considering. *Cargle v. State*, 947 P.2d 584, 590 (Okl.Cr. 1997). As Petitioner's claims are procedurally barred by the doctrine of waiver, this Court has not authority to grant Petitioner's request.

## CONCLUSION

Petitioner was fully advised of his right to appeal and the manner in which to invoke that right. By abandoning his application to withdraw plea of guilty, Petitioner affirmatively waived his right to appeal. Accordingly, Petitioner's is not entitled to an appeal out of time. Nor is Petitioner entitled to collateral relief. Petitioner's Propositions of error are not proper for post-conviction review as they could have been raised in a timely appeal. Petitioner does not offer this Court sufficient reason to avoid application of the doctrine waiver. Thus consideration of those arguments is procedurally barred. In addition, the doctrine of laches is applied to preclude collateral challenge to Petitioner's convictions. Apart from the procedural bars of post-conviction review and the doctrine of laches, Petitioner's claims are without merit.

**It is therefore ORDERED** by the Court, for the reasons set out above, Petitioner's Application for Post-Conviction Relief is denied.

Dated this 5<sup>th</sup> day of January, 2021.



TIMOTHY R. HENDERSON  
DISTRICT JUDGE

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

JAN -7 2021

**RICK WARREN** COURT CLERK  
Oklahoma County  


## NOTICE OF RIGHT TO APPEAL

A final judgment under this act [Post-Conviction Procedure Act, 22 O.S. § 1080, *et seq.*] may be appealed to the Court of Criminal Appeals on petition in error filed either by the applicant or the State within thirty (30) days from entry of the judgment. Upon motion of either party on filing of notice of intent to appeal, within ten (10) days of entering the judgment, the district court may stay the execution of the judgment pending disposition on appeal; provided the Court of Criminal Appeals may direct the vacation of the order staying the execution prior to final disposition of the appeal. 22 O.S. § 1087. The party desiring to appeal from the final order must file a Notice of Post-Conviction Appeal with the Clerk of the District Court within twenty (20) days from the date the order is filed in the District Court. Rules 2.1(E)(1) & 5.2(C)(1), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18 App. (2018).

## CERTIFICATE OF SERVICE

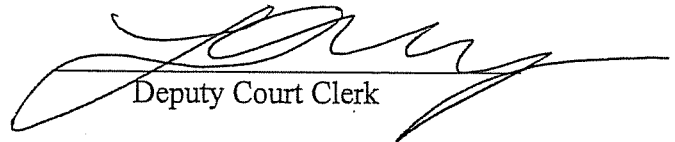
I hereby certify that on the 7<sup>th</sup> day of January, 2021, I mailed a certified copy of the above and foregoing order, with postage thereon fully prepaid, to:

George Christian, Jr.,  
Lexington Correctional Center  
Post Office Box 260  
Lexington, OK 73051

Oklahoma Court of Criminal Appeals  
2100 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73105

and that a true and correct copy of the above and foregoing order was hand-delivered to:

Jennifer Hinsperger, Assistant District Attorney  
Oklahoma County District Attorney's Office

  
Deputy Court Clerk