

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA

Richard Patrick Spaulding.

Petitioner, Pro Se,

v.

CASE NO. _____

State of Oklahoma,

Respondent.

Application for Extension of Time to File Petition for Writ of Certiorari

To the Honorable Sonya Sotomayor, Justice of the United States and Circuit Justice for the 10th Circuit:

Pursuant to Rule 13 of the Rules of this Honorable Court, the Petitioner, a pauper acting Pro Se, prays that an order be entered extending the time for filing a Petition for Writ of Certiorari to and including September 2, 2022. The Petitioner is a prison inmate in the custody of the Oklahoma Department of Corrections (“OKDOC”). This application is submitted more than 10 days prior to the scheduled filing date for the petition.

The pertinent dates are:

April 5, 2022	Oklahoma Court of Criminal Appeals (“OCCA”) affirms the Tulsa County District Court’s denial of Post-Conviction Relief. The OCCA does not consider Petitions for rehearing of Post-Conviction appeal decisions as a matter of rule (Rule 5.5 of the Rules of the Oklahoma Court of Criminal Appeals).
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July 4, 2022 Expiration of time for filing Petition for Writ of Certiorari in this Court, unless extended.

September 2, 2022 Expiration of requested 60-day extension of time for filing a petition in this Court.

This extension is needed for the following reasons:

1. Petitioner was transferred from the James Crabtree (“JCCC”) prison in Helena, OK on February 8, 2022 to the Oklahoma State Reformatory (“OSR”) in Granite, Oklahoma after it was discovered he had notified the US Attorney for the Western District of Oklahoma of numerous criminal acts and civil rights violations perpetrated by JCCC staff. Petitioner’s Post-Conviction appeal was still pending at this time.
2. Petitioner filed notice of his changed address with the OCCA after arriving at OSR.
3. On April 5, 2022, the OCCA issued an order affirming the Tulsa District Court’s denial of Post-Conviction relief (Tulsa County Case #CF-17-682). The clerk of the OCCA mistakenly sent that Court’s April 5, 2022 Order to JCCC.
4. JCCC refused to accept delivery or forward the OCCA, marking the envelope “RTS” (Exhibit 1). This action violated OKDOC’s written policy (OP-030117 Section V, Subpart 5), which requires that every facility forward all received legal mail to transferred inmates. As JCCC had been in written contact with the Petitioner on other issues via that facility’s law library and mail room, JCCC’s staff in those departments

were well aware of Petitioner's new address and the policy requirements of OKDOC OP-030117.

5. OCCA's clerk received the returned Order on April 14, 2022 (see Exhibit 1).
6. OCCA's clerk re-mailed the Order on May 23, 2022 (Exhibit 2)
7. Petitioner received the OCCA order at OSR on May 24, 2022 (Exhibit 2)
8. The total delay of some 49 days was impossible for the Petitioner to foresee or prevent. Petitioner has filed grievance with the OKDOC notifying them of the issue and his belief that the act may constitute further retaliation for his efforts to reach law enforcement (Exhibit 3).
9. The Petitioner has no legal training and truly needs every day of research and work he can get in order to timely and properly present his Petition before this Court. The loss of 49 days severely prejudices the Petitioner should this Court choose not to appoint experienced counsel. As a prison inmate, Petitioner has no court website access to have known of the existence or content of the OCCA order until he finally received it on May 24, 2022.

Attached exhibits 1 & 2 are photocopies of envelopes used by the Court Clerk and document the dates (stamped with receive and send and postmark dates).

Exhibit 1 – The 1st OCCA order delivery envelope, postmarked "04/05/2022", "RTS", and Received again at the OCCA when returned:

"RECEIVED
APR 14 2022
CLERK'S OFFICE"

Exhibit 2 – The 2nd OCCA order delivery attempt, postmarked “05/23/2022” (upper right corner) and stamped received by the OSR prison facility:

“RECEIVED

MAY 24 2022

OSR”

The Petitioner’s case before this Court will raise as its primary question the State of Oklahoma’s jurisdiction in Indian Country reservation lands whose defining treaties reserve criminal and civil jurisdiction over matters within the reservation to the Creek-Muskogee tribe and the United States, regardless of the Indian status of those involved. This is a serious issue with potentially precedential import to the much of Eastern Oklahoma, with serious consequences for the validity of the State of Oklahoma’s jurisdictional authority on the treaty protected Indian reservation lands of the Creek-Muskogee Nation. The OCCA incorrectly identified this matter as a simple McGirt Indian in Indian Territory jurisdiction case on basis of his merely citing this Court’s McGirt ruling in his list of authorities and denied relief without stating review of any portion of the record or giving findings of fact and conclusions of law to any of the Petitioner’s propositions for relief or the treaties and supremacy clause protections to which Petitioner and the Muskogee Nation have always been entitled.

The second matter to be put before this Court involves the OCCA’s due process violation in deciding it will not honor the statutory law of the Oklahoma Post-Conviction procedures (22 OS § 1080 et sequitur) which guarantee relief from convictions which the state District Court lacked jurisdiction to impose. Further, this Court’s attention to the equally unconstitutional decision the

OCCA uses to support this position (*State ex rel. Matloff v. Wallace*, 2021 OK CR 21, 497 P.3d 686) and the fact that *Matloff* ignored more recent precedents set forth by this Court regarding relief and jurisdictional challenge impacts on facially void State convictions rendered without proper jurisdiction.

Thirdly, Petitioner ask this Court to determine whether issuance of numerous nearly identical orders denying relief without consideration of the record or propositions of error to Oklahoma Post-Conviction appeal cases solely because the appeal briefs cite *McGirt* violates prisoner both the substantive and procedural due process rights of Oklahoma prison inmates challenging void criminal convictions rendered in violation of the Supremacy Clause of the US Constitution and the unabrogated Indian treaties to which the US is a signatory. Oklahoma has taken the position that a void conviction issued without jurisdictional authority becomes permanently valid through the State's years of unlawfully ignoring the treaties and reservation lands. This is tantamount to claiming that the victim of a kidnapping becomes the lawful ward of the kidnapper should they manage to prevent the victim from enjoying or asserting their liberty for a period of time.

Such serious matters deserve this Court's consideration, counsel skilled to the task of presenting and defending such important jurisdictional matters impacting nearly half of Oklahoma, and the time necessary to properly prepare and present these matters to the Court.

Petitioner will and does seek appointment of Counsel, as he feels is too serious a matter for his liberty and that of numerous other inmates and to the citizens of the United States in general (and

nearly all of Eastern Oklahoma in particular) to leave to his ignorance and inexperience with such complex and serious matters to this Court. It is critical to the interests of the Indian Nations of Oklahoma, the Indian and Non-Indian US Citizens whose daily lives and right to Courts of competent jurisdiction are protected by ensuring the full, fair, and thorough presentation of these matters by counsel experienced in these areas of law and the argumentation of the Constitutional rights of the citizens of the United States before this Court.

P.S. PETITIONER HAS ARTHRITIS AND APOLOGIZES FOR HIS HANDWRITING OF SOME ITEMS HEREIN.

Wherefore, it is respectfully requested that the time for filing the petition before this honorable Court be extended to and including September 2, 2022, and for such further relief as this Court deems proper.

Date: JUNE 2, 2022

Respectfully Submitted,



Richard P Spaulding #797250

OSR G2-112

PO Box 514

Granite, OK 73547

(580) 480-3700

Included Documents:

Application for Time Extension (this document)

Exhibit 1- Copy of envelope marked as refused delivery by JCCC and USPS

Exhibit 2 – Copy of re-mailed envelope as received May 24, 2022

Exhibit 3 – Copy of the Petitioner's Request To Staff/Grievance sent to OKDOC.

Copy of OCCA's April 5 Order Affirming Denial of Post-Conviction Relief

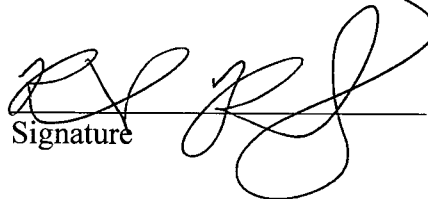
I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 2 day of JUNE, 2022 at the Oklahoma State Reformatory, 1700 East First Street, Granite, Oklahoma 73547, in the County of Greer.

JUNE 2, 2022
Date


Signature

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that I placed this pleading and its attachments in the prison mailing system for delivery with correct postage affixed on this 2 day of JUNE, 2022.

JUNE 2, 2022
Date


Signature