

22-5160

IN THE
SUPREME COURT OF THE UNITED STATES

Robert V. Wonsch

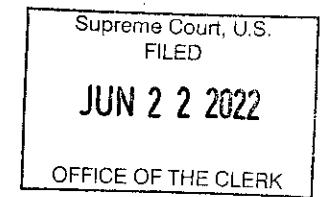
Petitioner

vs.

The State of Oklahoma

Respondent

ORIGINAL



ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES SUPREME COURT

*PETITION FOR A WRIT OF CERTIORARI,
Pursuant to 28 U.S.C.A. § 1257 (a)¹
&
Invoking Rule 11 of this Honorable Court*

*“Unprecedented and Res Nova Constitutional
Question(s) of Public Interest effecting the entire
American Scheme of Justice”*

*“The State of Oklahoma has refused to answer the constitutionality of the
Speedy Trial Statute(s) enacted by the State Legislature”*

June 20, 2022

“ORIGINAL” DATE SUBMITTED

Date AMENDED and resubmitted: July 18, 2022

¹ The Petitioner elected to file pursuant to §1257 as the Direct Collateral Review process grants the Honorable Court the jurisdiction to hear argument(s) pertaining to the Constitutionality of State Statute(s) and in doing so creating a NEW RETROACTIVE CONSTITUTIONAL LAW. The State of Oklahoma refused to answer his post-conviction and the State Supreme Court has stated the District Court is not required to answer.

THE PETITIONER PRESENTS THE FOLLOWING QUESTION(s):

1. May any State or Territory create, enact or enforce² any penal statute or constitutional provision in **CONTUMACY** of the Sixth Amendment right to a **Speedy Trial**?
2. What is the “time limit” of a **Speedy Trial** in a State³ criminal proceeding? *More so when the state fails to have a time limit for a Speedy Trial*⁴.
3. The Petitioner is challenging the constitutionality of the State of Oklahoma’s penal statute(s) and constitutional⁵ provision(s) governing the time limits of Speedy Trial, [*from the filing of information to arraignment and trial*], [Title 22, Ch. 11 § 812.1 to 812.17; Title 22, Ch. 1 § 13 and Oklahoma Constitution, Article II § 20⁶].
4. “Is it constitutional for a State to confine a **pre-trial detainee** in solitary confinement, [*administrative segregation*] for three (3) years, (1081 days)? All because he invoked his constitutional right(s) to a speedy trial and demanded the state’s discovery along with the refusal to sign the State’s volume(s) of plea offers”.
5. The Petitioner is challenging the **CONSTITUTIONALITY** of the Oklahoma Public Defender’s⁷, **POLICY AND PROCEDURE(s)**⁸.
6. The Petitioner is raising a question of constitutionality of whether a state may *conceal* vital **TRANSCRIPTS** from criminal defendant(s) filing appellate review⁹.

² *Violation(s) Article VI, clause 2 and the 14th Amendment*

³ This question pertains to all 50 state(s) and all territories of the United States -- NOT just OKLAHOMA

⁴ Oklahoma does not have a Penal Statute defining our right to Speedy Trial or its time limit(s).

⁵ Requesting that Oklahoma amend its State Constitution Article II § 20 to contain the language of the Speedy Trial Act; “...70 days to speedy trial...”

⁶ The Petitioner argues these law(s) are in direct contumacy of the United States Constitution; Article 6, clause 2; Sixth and Fourteenth Amendment(s).

⁷ known as the *Oklahoma Indigent Defense System*

⁸ *Exorbitance and contumacy of Faretta v. Cali.* 422 U.S. 806 (1975)

⁹ transcripts vital to proving their actual-factual innocence

**PARTIES TO THE PROCEEDING AND
LIST OF DIRECTLY RELATED PROCEEDINGS**

The Petitioner in this case is Robert V. Wonsch, pro-se [*and no other(s)*], **PERSONALLY** and on behalf of **WE THE PEOPLE**.

The Respondent in this case is the State of Oklahoma, who may be represented by and through the Oklahoma Attorney General's Office.

The proceeding(s) of this matter arise from a "*timely filed post-conviction*" that has gone unanswered by the State of Oklahoma and the State Supreme Court has refused jurisdiction, [*claiming the issue should have been raised upon direct appeal*]. His Habeas Corpus, [**"Wonsch v. Crow"** CIV-21-826-PRW (10th Cir.)], filing support his claim(s), herein.

As this Certiorari is filed in Direct Collateral Review of his post-conviction, pursuant to 28 U.S.C.A. § 1257 (a).

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PETITION FOR A, [- *res nova* -], WRIT OF CERTIORARI

Pursuant to 28 U.S.C.A. § 1257 (a)

Robert V. Wonsch, [*a destitute, pro-se, petitioner*], respectfully requesting a petition for a writ of certiorari to answer his meritorious, [**UNPRECEDENTED** and **RES NOVA**], constitutional question(s) that will have a profound impact upon the **American Scheme of Justice** with a serious effect of all State criminal proceeding(s), [*nationwide*¹⁰]. *This is pertaining to the time limits of speedy trial rights in state criminal trial(s)*¹¹.

¹⁰ **ALL 50 STATE(s) AND ALL TERRITORIES OF THE UNITED STATES OF AMERICA**

¹¹ The Oklahoma County District Attorney's Office admit(s) there is not a single penal statute in Oklahoma giving a criminal defendant a right to a speedy trial within any specific time limit – ATTACHED AS EXHIBIT.

In the review of the *Columbia Law Review*'s article published on December, 2003, [103 Colum L. Rev. 1919], titled: "Supreme Court Review of State-Court Determinations of State Law in Constitutional Cases", paragraph one, starting on line eight and continued:

*"Using **Bush v. Gore**¹² as a vehicle and building upon an examination of the adequate nonfederal ground doctrine and the implications of the Supremacy Clause, this Article establishes that some Supreme Court reexamination of State-Court determinations of state law 'antecedent' to the federal claim is not only indisputable, but quite familiar. It goes on to argue for independent judgment, rather than the more familiar 'fair support' standard, as the ultimate measure of the Supreme Court's jurisdiction authority to reexamine state law, supporting this normative assertion with extensive evidence from Supreme Court practice since the founding. The Article concludes by suggesting that the distinction between the two standards is important to litigants and should (but may not) be important to the Court because, contrary to critics' claims, in appropriate cases – **Bush v. Gore** among them – independent judgment can serve, rather than undermine, the values of 'OUR FEDERALISM'.*

{within the Introduction, ¶ 9} The Chief Justice's opinion could have been framed as follows:

... We believe that such review is appropriate here. If, as we have concluded, the validity of the election of the President of the United States presents a legal (not a political) question as to whether Article II has been violated, that legal issue should be fully examined and resolved by this opinion of the Florida Supreme Court with care and with respect.

In the understanding of Article VI, Clause 2, may a State impose its penal statute(s) or constitutional provision(s) to be superior to Congressional law and the United States Constitution? More so, may a State enact legislation that deprives "the Citizens of each State...to all Privileges and immunities of Citizens in the Several State(s)?" [Article IV, Clause 1]

The Petitioner attempted to cure the deficiencies with the State of Oklahoma, yet he was procedurally barred by Statute and case law(s) arising from the State Supreme Court, which prohibit the accused of filing any POST-CONVICTION remedies if that issue could have been raised within his DIRECT APPEAL¹³. The State of Oklahoma refused to hear the

¹² "Bush v. Gore" 531 U.S. 98 2000

¹³ "Logan v. State" 293 P3d 969 (2013) and 22 O.S. Ann. § 1086 "post-conviction review was neither designed nor intended to provide applicants another direct appeal"

merit(s) in Post-Conviction and/or Habeas. Further, the State of Oklahoma nor its court(s) would ever make a ruling that its penal statute(s) were unconstitutional. Making another post-conviction attempt or any other remedy FRUITLESS and a waste of resources. The Petitioner and **WE THE PEOPLE** need this Honorable Court to intervene and protect their Constitutional Rights. The State has violated the Speedy Trial provisions of the Sixth Amendment for over ONE HUNDRED YEARS and will not make any change until this Honorable Court steps in. **[Example: *Tribal Jurisdiction pursuant to McGirt*]**

Today, there is a serious conflict of current State penal statutes in contrast to the United State Constitution and Congressional law¹⁴ in America and Oklahoma.

All ***Fifty (50) State(s)*** in general are attempting to transgress the Fourteenth Amendment Doctrine and operate as independent “*countries*” by enacting Penal Statute(s) and Constitutional(s) provision(s) in direct conflict with and/or repugnant to the constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or Congressional treaties and statutes thereof.

Congress enacted 28 U.S.C.A. § 1257 to limit the State’s authority and power to create, enact and enforce penal statute(s), in conjunction with the United States Constitution. This is why the Petitioner filed his Certiorari in pursuance of the Statute and the preservation of his Constitutional right(s).

Oklahoma’s contumacy of the Sixth Amendment can be observed within the attached response of the Oklahoma County District Attorney’s Office. The State responded to a Post-Conviction for Speedy Trial violation(s)¹⁵.

¹⁴ Violation(s) of *Article VI cl. 2 and the XIV Amendment* of the United State(s) Constitution

¹⁵ The Petitioner assisted Mr. Black in the filing of his Post-Conviction and Habeas, pursuant to *Johnson v. Avery*

The Assistant District Attorney is quoted¹⁶:

“Oklahoma does not have a speedy trial act which sets forth a specific period of time for a matter to be brought to trial.”

Background of Proceeding(s)

The Petitioner was arrested January 4, 2016 for 6 charge(s). Upon invoking his constitutional right to a speedy trial the Petitioner was placed in **SOLITARY CONFINEMENT** for 1081 day(s) without access to any sort of law library, legal research or access to “competent” counsel. This also compelled the State to amend its charges to sexual battery and other sexual charges¹⁷.

The State of Oklahoma and its official(s) utilize solitary confinement as an offensive weapon, to coerce criminal defendant(s) into a plea deal, yet this Petitioner refused to plead guilty to a crime he did not commit and demanded his speedy trial, at all times.

After three years of solitary confinement and the **RECUSAL** of ALL Cleveland County District Judges, [resulting in the case being forwarded to the Administration District Court], and the reassignment of trial counsel, his trial finally commenced.

NOTED: {*The Petitioner never obstructed the proceeding(s) or caused any such delay(s) nor did he consent to any delay(s), nor was he a willing participant to any delay(s); as the record clearly reflects all delays were caused by the State or the Prosecution¹⁸.}*}

¹⁶ Attached as an exhibit – ***Black v. Chad Dennis*** (Habeas Corpus) attachment of.

¹⁷ Consistent with the #MeToo movement that commenced shortly after his arrest

¹⁸ Cleveland County Court Clerk’s Office, upon case number CF-2016-10 {www.OSCN.net & search case number}

The State's official(s) prolong every single trial within the state court(s) for YEAR(s)¹⁹ to ensure that all defendant(s) are rendered incapable of defending the allegation(s) in a jury trial, to maximize their conviction rates through plea deal(s) as more than **NINETY FIVE PERCENT** of all case(s) in Oklahoma result in a plea agreement²⁰.

Unfortunately, for most people in Oklahoma this deplorable act is too much for them to handle²¹ and thus resulting in the signing of a plea agreement, even though they are ever so **FACTUALLY INNOCENT**.

The State of Oklahoma depends on the deplorable conditions of county jails and their utilization of Administration Segregation as an offensive weapon, *[loop holes for Solitary Confinement]*, to secure convictions.

These deplorable and inhumane conditions are seen in the **MEDIA**, (weekly/monthly), with the death(s) and suicide(s) of so many **PEOPLE** in county jail(s) of Oklahoma. *[Even the Petitioner's own step-BROTHER died in the same jail, {Cleveland County}, the Petitioner was detained in - R.I.P. - Mr. Kyle Bates was also detained in the SAME SEGREGATION UNITS as this Petitioner]*. Heaven forbid it, but could you imagine if your mother or daughter was placed in one of Oklahoma's jails when they were driving through this state²²? Even more so when there is NOT a Constitutional or Statutory provision requiring the State to bring you or your loved one(s) to trial within an exact time limit.

In the sentencing phase of the trial, the Honorable District Judge Kissinger advised the Petitioner that he had a Constitutional right to transcripts at the public expense. Then the same judge denied all motion(s) for those transcript(s).

¹⁹ Because the lack of Statutory requirement(s) to bring the accused to trial within any such time-limits, pre-trial detainee(s) must choose between spending 3-7 years in County Jail or taking your case to Trial with a Public Defender who tells you upfront, they will withdraw if you demand trial.

²⁰ This is also why the State of Oklahoma was number one in incarcerating men and women, per capita.

²¹ Sitting within County Jail with no time limit(s) for trial and threat(s) of NO CREDIT FOR TIME SERVED.

²² A running joke in prison: "*Visit Oklahoma on vacation and leave on Probation*".

Through the Appellate procedure, the Petitioner requested his defense file from the Public Defender(s) and the Oklahoma Indigent Defense System's Office. The Public Defender(s) and the O.I.D.S. Office refused to provide their defense file and per their own policy will destroy that file at the FIVE (5) year anniversary of your judgment and sentencing. The State of Oklahoma and its official(s) ensure that all DESTITUTE criminal defendant(s) are prevented from filing appellate review of their conviction(s) by concealing all record(s).

The Appellate Counsel refused to confer with the Petitioner during the DIRECT APPEAL stage and stated that it was not feasible to do so. The Petitioner, *[in writing and filed with the Cleveland County District Courthouse]*, advised Appellant Counsel to argue his Speedy Trial right(s) that were violated by the State. The Petitioner even wrote out all the case law(s) and statute(s) that he demanded to be argued. Yet, Appellant Counsel flat out refused to add those meritorious constitutional question(s) to the DIRECT APPEAL. This was out of malice and aforethought. Had Appellant Counsel raised this issue within his DIRECT APPEAL, the Petitioner would be a free man.

*"A failure to raise a claim on appeal REDUCES that finality of appellate procedure, deprives the appellate court of an opportunity to review trial error, and under cuts the States' ability to enforce its procedural rules. As with procedural defaults at trial, these costs are imposed on the State regardless of the kind of attorney error that led to the procedural default."*²³

OKLAHOMA STATUTE(S)

CHALLANGED FOR "THEIR" CONSTITUTIONALITY

Oklahoma Title 22, Ch. 1, § 13 {attached herein as exhibit}

In all criminal action the defendant is entitled:

1. *To a speedy and public trial*²⁴

²³ "Murray v. Carrier" 477 U.S. 478, 91, L. Ed. 2D. 397, 1065 S.Ct. 2639 (1986)

²⁴ Clearly falls within the VOID-for-VAGUENESS DOCTRINE by failing to provide a definition to the statute and providing an exact time frame for a speedy trial.

2. *To be allowed counsel, as in civil actions, or to appear and defend in person and with counsel; and*
3. *To produce witnesses on his behalf, and to be confronted with the witnesses against him in the presence of the court*

Oklahoma Title 22, Ch. 11 § 812.1 (Right to speedy trial -- time limits)

- A. *If any person charged with a crime and held in jail solely by reason thereof is not brought to trial within one (1) year after arrest, the court shall set the case for immediate review as provided in §2 of this act, to determine if the right of the accused to a speedy trial is being protected.²⁵*
- B. *If anyone person charged with a felony crime who is held to answer on an appearance bond is not brought to trial within eighteen (18) months after arrest, the court shall set the case for immediate review as provided in §2 of this act, to determine if the right of the accused to a speedy trial is being protected.*

The provisions of §2²⁶ of this act are attached herein, for the court(s) review. This section proscribes the state may violate a citizen's right to a speedy trial for any reason without cause or notice to the accused.

These statute(s) *only* present a **COLORABLE** presentation of protecting the right(s) of criminal defendant(s) while in the same language violate(s) the right(s) of all the accused in the State of Oklahoma. The Petitioner is also challenging the **Oklahoma State Constitution Article II, § 20** for its ambiguities.

The application of the Statute(s) for Speedy Trial rest upon the Courts, not the defendant(s). The Oklahoma court(s) violate these statute(s) altogether and neglect providing a hearing within the allotted times proscribed by State Statute. This hearing is to be ordered by the Honorable Judge and is not a motion provided by defense counsel.

²⁵ **NOTED:** there is only a time limit for a hearing to determine if 'your' rights were being violated, yet **NO** time limits to be brought to TRIAL. Further, the State of Oklahoma neglects this Statute and the Petitioner never received this hearing.

²⁶ Contumacy of the Speedy Trail right(s) of the accused

Thus, the state does not even follow and/or enforce its own law(s), let alone adhere to the United States Constitution or the provisions set forth by Congress for Speedy Trial time limits.

The Oklahoma Constitution clearly provide(s) that a criminal defendant has the constitutional right to a speedy trial, pursuant to *Article II § 20* then *Article I § 1*, directs all residence of Oklahoma to the "Supreme Law of the Land". {Quoting}

"The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land."

The only Constitutional Statute governing a criminal defendant's right to a speedy trial was enacted by Congress in 1974. This law was clearly enacted in pursuance²⁷ of the ***SIXTH (6th) AMENDMENT*** of the United States Constitution, in order to properly define the definition of speedy trial for the layman to understand.

United State Title 18, Ch. 208, § 3161 §§ C.1.:

"In any case in which a plea of NOT GUILTY is entered, the trial of a defendant charged in an information or indictment with the commission of an offense SHALL commence within SEVENTY (70) DAYS from the filing date, (and making public), of information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such share is pending, whichever date last occurs."

This statute is written in the plain and ordinary language, so that any layman could understand their right(s). Even a criminal defense lawyer could understand and explain this statute to their client(s). Oklahoma's Penal Statute(s) are simply unconstitutional and ambiguous or one could argue that the Oklahoma Penal Statute(s) fall within the parameters of the **VOID-for-VAGUENESS DOCTRINE**, in which is a violation of the Fourteenth (14th) Amendment.

²⁷ "*William Marbury v. James Madison*", 5 U.S. 137 (1803) {see below citation}

THE STANDARD OF REVIEW for the constitutionality of any Penal Statute should be reviewed pursuant to:

"William Marbury v. James Madison" 5 U.S. 137 (1803)

An act of congress repugnant to the constitution cannot become law.

'I do solemnly swear that I will administer justice without respect to persons, and do equal rights to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as, according to the best of my abilities and understanding to the best of my abilities and understanding agreeably to the constitution and laws of the United States'

It is also not entirely unworthy of observation, that in declaring what shall be the supreme law of the land, the constitution itself is first mentioned; and NOT the laws of the United States, generally, but those only which shall be made in pursuance of the constitution, HAVE RANK.'

Finding, "imprisonment of the Petitioner(s) illegal because the ordinance upon which their conviction was based violated the equal protection clause of the 14th Amendment"²⁸. "That the question(s) of the constitutionality of the law(s) involved was a proper ground for considering a writ of habeas corpus.²⁹" "[A] defendant doctor entitled to habeas corpus because the State abortion statute was unconstitutional.³⁰"

Therefore, if an act of congress repugnant to the constitution cannot become law, in that respect, any State Penal Statute repugnant to Congressional or Constitutional Law cannot become law pursuant to the *United States Constitution Article VI clause 2; Article IV §2 clause I; the Sixth (6th) and Fourteenth (14) Amendment.*

²⁸ "Yick Wo vs. Hopkins" 118 U.S. 356, 373-374, 6 S. Ct. 1064, 1073, 30 L. Ed. 220, 227-228 (1886)

²⁹ "Ex parte Siebold" 100 U.S. 371, 376-377, 25 L. Ed. 717, 719 (1879)

³⁰ "Vuitah vs. Hardy" 473 F.2d. 1370 (4th Cir. 1973)

NATIONAL INTEREST

This is not simply a challenge of the constitutional right(s) to speedy trial in **Oklahoma**, but this expands to the populous of the United States of America, in an argument that **NO STATE** may constitutionally impose, enact or enforce³¹ any state penal statute or state constitutional provision, of any kind, governing a criminal defendant's United States Constitutional and Statutory Right to a Speedy Trial; as such was clearly defined by Congress in 1974³².

This Honorable Court has regarded the enactment of a law(s) and its constitutionality as "*those only which shall be made in pursuance of the constitution, have rank.*"³³ Therefore, any law made in contumacy or that are repugnant to the U.S. Constitution and/or that may disparage a person within the borders of the United States of any **privilege** or **immunities** is at face value *unconstitutional*³⁴.

QUESTION(s) OF WHETHER A STATE MAY CONCEAL VITAL TRANSCRIPTS

This Honorable Court has addressed the issues, [previously], of an indigent state prisoner(s) being forced to pay a FEE for Trial Transcript(s) vital to appeal³⁵.

This question is more specific to "*may a state deny a state DESTITUTE prisoner transcripts altogether?*"

More so when he claims those transcripts are material to his appellate review by proving his actual-factual innocence and/or that witness(es) committed perjury and **that perjury was the sole reason for the conviction.**

³¹ Fourteenth Amendment § 1; Article 6 Clause 2

³² U.S. Title 18, Chapter 208. ["SPEEDY TRIAL ACT"] § 3161 §§ C.1.

³³ "*William Marbury v. James Madison*", 5 U.S. 137 (1803)

³⁴ Invoking of Article IV clause 2 and Article VI clause 2 of the United States Constitution

³⁵ "*Griffin v. Illinois*" 351 U.S. 12 (1956) and "*Lane v. Brown*" 372 U.S. 477, 83 S.Ct. 768, 9 L. Ed. 2d 892 (1963) and "*Smith v. Bennett*" 365 U.S. 708, 81 S.Ct. 895, 6 L.Ed. 2d 39 (1961)

The State of Oklahoma and its Government officials working in the State Supreme Court, District Court(s) along with the Attorney General's Office have such a "**CONTUMACY**" for the ruling(s) of this Honorable Court that Oklahoma argues that such rulings have no legal hold on the State or its criminal proceeding(s). The Petitioner required his transcripts to prove his Actual-Factual Innocence and to impeach the State Police Officer along with other witness(es) who testified in his trial. This, not only obstructed the timeliness of his Habeas Petition but prevented him from raising his **factual predicate(s)** before the Honorable Court in his Habeas Petition.

MAY A STATE AND ITS OFFICIAL(s) SUBVERT THE RULING(s) OF THE UNITED STATES SUPREME COURT?

The Petitioner motioned for his transcripts at the expense of the public several time(s), [*citing the same information, herein*], and the Honorable District Judge Kiesinger denied every request, despite the same District Judge telling the Petitioner he had a constitutional right to transcripts at the expense of the public in the sentencing phase of this trial.

The transcripts in this case are BRADY material and MATERIAL to prove the perjured testimony offered in trial and the Petitioner's Actual-Factual Innocence.³⁶

The State of Oklahoma conceal(s) transcript(s) from all DESTITUTE pro-se litigants to prevent them from presenting FACTUAL PREDICATES to the Federal Court(s) of the State's misdeed(s), along with concealing the information that the *prosecution knowingly, intelligently and willingly putting witness[es] on the stand, with first-hand knowledge that the witness[es] were going to commit perjury*³⁷.

³⁶ Full argument(s) are in the "Certificate of Appealability and combined Brief" filed before the Tenth Circuit, attached here in as exhibit.

³⁷ In violation(s) of 12 O.S. § 451, 453, 455, 491, 492, 494, 495, 496, and 500

The State of Oklahoma and its official(s) subvert the several rulings of this Honorable Court³⁸, as those ruling(s) omit specific language **DIRECTING** the State(s) to provide all State Prisoner(s) with their Transcript(s) as a mandate. The referenced ruling(s) only stipulate that the State may not charge a fee and clarity that the denial of transcript(s) was repugnant to the United States Constitution.

Yet, this Honorable Court has not answered whether or not a state **MUST** provide the transcripts upon the request of a criminal defendant in appellate review and when do those transcripts need to be provided?

CONSTITUTIONALITY OF THE PUBLIC DEFENDERS POLICY

The Petitioner is further challenging the constitutionality of the Oklahoma Indigent Defense System's Policy³⁹ and Procedure. This challenge is of the entire policy and whether or not, [his *Public Defender(s)*], the O.I.D.S.⁴⁰ Office may conceal the defense file, evidence, discovery, *Brady* material, transcripts and even their own policy and procedure from their client(s) and the general public.

The O.I.D.S. office prohibit(s) their client(s) from participating in their own defense and legal strategy⁴¹ also preventing their client(s) of calling witness[es]⁴² to their defense. The public defenders further refused to present evidence that exonerate(s) them of all charges. As the Petitioner told his Public Defender of six witness(es) to call and where

³⁸ “*Griffin v. Illinois*” 351 U.S. 12 (1956) and “*Lane v. Brown*” 372 U.S. 477, 83 S.Ct. 768, 9 L. Ed. 2d 892 (1963) and “*Smith v. Bennett*” 365 U.S. 708, 81 S.Ct. 895, 6 L.Ed. 2d 39 (1961)

³⁹ The Public Defender's Office(s) in each county of Oklahoma

⁴⁰ Oklahoma Indigent Defense System [*enacted by Oklahoma Title 22, Ch. 25 § 1355*]

⁴¹ In direct violation and contumacy of “*FARETTA v. CALIFORNIA*” 422 U.S. 806 (1975)

⁴² The Petitioner's public defender refused to accept a list of witness(es) to be called in trial and told him that she is only going to challenge what the State put up. She did not call one single witness or present any evidence of value that she was advised to present.

volume(s) of surveillance video was that would have proven his ACTUAL-FACTUAL INNOCENCE. He was told, *“there is not a budget for our office to investigate wild or imaginative stories and hunt for evidence”*.

From the date of arrest and the initial meeting with his first public defender the Petitioner demanded to review all the state's evidence and for a speedy trial. He was told, [by Public Defender James B. Radford]:

“I do not know what your interpretation of a public defender is but let me make this clear to you. You do not pay my fees, the state does, therefore, I do not work for you, and you are not the lawyer, I am. I will not be told what to do by a client who thinks they know what the law is. You have no right to anything, except to either sign a plea agreement or go to trial.”

No person in the State of Oklahoma is permitted to see the State's evidence prior to any trial or plea agreement, [per O.I.D.S. policy]. The Petitioner's second public defender clarified this upon the record in open court and upon transcripts that the **O.I.D.S. Policy clearly states that the attorney is NOT required to present the information to their client(s)**, [By Public Defender Cindy Viol in the Burks Hearing].

The Constitutionality of the O.I.D.S. policy has such a significant and profound impact on 100% of all criminal defendant(s) in Oklahoma, [past, present and future], regardless of whether or not they demanded a speedy trial or fell under the pressure of an ambiguous plea agreement. Thus, raising all the issues to a public interest, pursuant to this Honorable Court's doctrine..

The unconstitutionality of a Public Defender's Policy is **not RES NOVA** from the Petitioner's understanding. The POLICY and PROCEDURE(s) of the State Public Defenders of Missouri was successfully challenged and proven to be unconstitutional and that the policy in itself prejudiced all criminal defendants of a competent lawyer and a fair proceeding.

The exact case information is unknown at this time, however the Petitioner and several inmates are researching this for his BRIEF and anticipation to be presented within a Public Hearing.

The real fact that the O.I.D.S. policy is subject to the Oklahoma Open Records Act, yet the office and State Official(s) conceals this policy and procedure from all criminal defendants and the public, shows their understanding that the policy in itself is unconstitutional and violates their client's rights and best interest.

The O.I.D.S. Appellant Counsel's policy is even more **EGREGIOUS** than his trial counsel as this policy does not require appellant counsel to even consult with their client(s), nor do they. The Appellant division of O.I.D.S. refuses to raise constitutional issues before the State Supreme Court to ensure their client(s) are procedurally barred from raising the issue(s) in Habeas review, despite the client puts those demands in writing.

As the Petitioner requested his Appellant Counsel to visit him and raise his speedy trial rights before the State Supreme Court, counsel flat out refused to do so⁴³.

The Petitioner argue(s) that every single denial of a **DIRECT APPEAL** was on the sole basis of the unconstitutional O.I.D.S. Policy and Procedure that overly prejudices all appellant(s) of adequate representation. Thus, nullifying the finality of every single judgment, to include his own direct appeal. In a true statement that the Public Defender(s) filing the **DIRECT APPEAL** is have a full copy of the record, and the first indication that their client went to a jury trial is clearly before them. Their first argument should have been speedy trial violation(s), upon every single **DIRECT APPEAL** filed before the State Supreme Court.

⁴³ In direct violation and contumacy of "**FARETTA v. CALIFORNIA**" 422 U.S. 806 (1975)

Should this question go unresolved, this Constitutional violation will acerbate the situation and will be continuously raised until resolved. All people residing within the borders of Oklahoma beg this Honorable Court to hear the arguments of this question.

As the O.I.D.S. Office only presents a **COLORABLE** presentation of effective assistance and fails on all merits⁴⁴.

FAILURE TO ACT UPON THIS WRIT - will further incentivize all STATE PUBLIC DEFENDERS, {nationwide}, to become more aggressive in their attempts to transgress fourteenth and sixth amendment doctrine. Seriously prejudicing all criminal defendant(s) of effective assistance of counsel, {past, present and future}.

OPINIONS BELOW

The Petitioner is challenging the constitutionality of several state statute(s), constitutional provision(s) enacted pursuant to Article II § 20⁴⁵ and the policy of the public defender's office.

The State of Oklahoma has created very specific statute(s) and the Oklahoma State Supreme Court has enacted various case law(s) prohibiting a destitute, state prisoner from raising issue(s) before the State Court(s) through post-conviction. One of those statute(s) cited by the Oklahoma Court of Criminal Appeal(s) would be **22 O.S. Ann. § 1086** "post-conviction review was neither designed nor intended to provide applicants another direct appeal"

⁴⁴ May fall within the Cronic Standard of representation but the Petitioner argue(s) this in a different light. If the Policy is unconstitutional he was never afforded counsel at all through any phase of his hearing, pursuant to a policy enacted by the State's official(s).

⁴⁵ Oklahoma Constitution

The State of Oklahoma already refused to hear his first Post-Conviction which raised several meritorious question(s) that are presented before this Honorable Court. The State's presumption is that if the State Court(s) apply mootness to valid constitutional question(s) those issue(s) were procedurally barred from review within the Federal Court(s).

The only way to preserve his Constitutional right(s) would be to present this Certiorari, to the Supreme Court of the United States. As in a real fact, would be the only court that could truly discern these issue(s).

The argument(s) pertaining to Speedy Trail time-limits and the constitutionality of **ANY** State created penal statute in contradiction to the federal "**SPEEDY TRIAL ACT**"⁴⁶ will have a serious impact upon the entire populous of the United States and will impact every State criminal defendant, *[past, present and future]*.

In review of "*Slack v. McDaniel*" 529 U.S. 473 (2000) it would be very difficult for any person to claim this Certiorari would not start and/or create a serious debate between reasonable **JURISTS**. The Petitioner was unable to find any case where these issue(s) were argued therefore, they would be unprecedented.

Because these issue(s) are unprecedented, the A.E.D.P.A. restrict(s) the Federal District Court(s) from reviewing these issue(s) and the State of Oklahoma clearly has no intention to review these issue(s), because of the ramification(s) of any such ruling in the Petitioner's favor.

⁴⁶ 70 DAYS TO A SPEEDY TRIAL

Left unresolved, all these issue(s) herein, will result in continuous ambiguity in the law and a constitutional right(s) to a Speedy Trial that will be continuously raised before the court(s) similar to the jurisdiction of Oklahoma⁴⁷ issue(s).

JURISDICTION

The Petitioner demanded a Speedy Trial at the early stages of his criminal proceedings, within the Cleveland County District Court of the State of Oklahoma. He was erroneously convicted of an offense that he truly did not commit. He instantaneously filed a DIRECT APPEAL, and demanded his Appellant Counsel to argue his Speedy Trial. His Counsel flat out refused to address the speedy trial issue(s) within the direct appeal.

After the State Supreme Court's ruling, the Petitioner filed [*a 300 plus page*], Post-Conviction challenging the Speedy Trial time limit(s) along with the constitutionality of the State Statute(s) governing those right(s). To this date, the State of Oklahoma has applied MOOTNESS and refused to answer his meritorious question(s) of constitutional law. Giving this Honorable Court its requisite subject matter jurisdiction to hear the argument(s) pursuant to 28 U.S.C.A. § 1257 (a).

Any Petitioner has ninety (90) days to file CERTITORARI with this Honorable Court after the State has rendered a ruling of the merit(s) filed before the State within a Direct Appeal or a Post-Conviction.

In this case the State of Oklahoma has erroneously applied mootness to his meritorious claim(s) filed in his original Post-Conviction. The Petitioner provided the State

⁴⁷ *It took 100 years to prove Oklahoma has never had jurisdiction of Indian Country – the Petitioner PRAYS this constitutional question does not take 200 years to resolve.*

and the State Supreme Court it “**OPPORTUNITY**” to hear the issue(s) and handle those issue(s) within the State Court. The State simply refuse(s) to hear any issue filed by a pro se litigant through post-conviction.

WE THE PEOPLE, pray this Honorable Court accept(s) jurisdiction of these meritorious question that have never been asked or answered by this Honorable Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- The United States Constitution, Article(s): IV § 2; VI § 2; Sixth (6th), Eighth (8th), Ninth (9th), Fourteenth (14th) Amendment(s).
- U.S. Title 18, Chapter 208. [“SPEEDY TRIAL ACT”] § 3161 §§ C.1. - - {in full and in part}
- Oklahoma State Constitution, Article: I § 1, 3; Article: II §6, 7, 8, 10, 17, 19, 20
- Oklahoma Title 22, Ch. 11, {in full and in part}, § 812.1 to 812.17 {*attached as exhibit – as material to the constitutionality claims*}
- Oklahoma Title 22, Ch. 1 § 13 {*attached as exhibit – as material to the constitutionality claims*}

STATEMENT OF THE CASE

The Petitioner was arrested January 4, 2016 for various charges that were amended when the prosecution could not ensure a conviction. Those charges were amended to **#MeToo** style of charge(s) that he never committed. He has attempted to prove his innocence ever since and all efforts were stymied by his own public defender and the state of Oklahoma. The State of Oklahoma concealed material evidence in violation(s) of BRADY⁴⁸ and that evidence

⁴⁸ “**Brady v. Maryland**” 395 U.S. (1969)

would have had a profound impact on the finality of his jury trial. Had the State of Oklahoma not concealed evidence and his Public Defender(s) actually presented adversarial arguments against the state's case to include calling of vital witness[es] and presentation of evidence, then consulted within him, the Petitioner would never been convicted in the first place.

The Petitioner filed a **DIRECT APPEAL** of the trial result(s), yet appellant counsel, [*O.I.D.S. Public Defender*], refused to raise the Speedy Trial issues before the Oklahoma State Supreme Court. This overly incompetent Appellant Counsel couldn't even file a timely brief before the court let alone present a question of constitutional law impacting the entire state of Oklahoma.

The Petitioner filed motions for Transcripts and Brady material and to the date of this filing has not been presented with any of this information. This information proves beyond any reasonable that the Petitioner is **ACTUALLY FACTUALLY INNOCENT** of all the allegation(s).

The Petitioner then filed for Post-Conviction without any discovery, transcripts or the vital Brady material in a blind attempt to prove his innocence and landed upon his face. As barred from the required information to **PROPERLY** file his Post-Conviction thus, failing to meet a **TECHNICAL** standard that caused him injury in the filing of his Habeas Petition. This is done by design by the State to ensure all State inmates are run afoul of the A.E.D.P.A. time-clock.

The Petitioner filed his Habeas Petition claiming Brady violations and Actual Factual Innocence and the Western District of Oklahoma construed this to a claim of legal innocence because the State concealed all vital and material Brady information required to prove his claims. This District Court held the Petitioner to an erroneously high burden to prove his Brady claims and Innocence and erroneously concluded the ruling(s) of the United States Supreme Court.

Any reasonable JURIST would debate whether or not the denial of transcripts and Brady material obstructed and hindered this appellate in pursuance of proving his ACTUAL FACTUAL INNOCENCE.

REASONS FOR GRANTING THE WRIT

IF any reasonable JURIST had actually reviewed this pleading in full, it would lead to a serious debate of the question(s)⁴⁹ proposed herein⁵⁰. Not just of the constitutionality of the law(s) in Oklahoma but whether or not any State of the Union could Constitutionally enact any penal statute or constitutional provision governing a **FEDERAL RIGHT TO SPEEDY TRIAL**.

This Honorable Court should GRANT this request for the **GREAT WRIT OF CERTIORARI** in the interest of the public and the preservation of the United States Constitution, [*the Supreme Law of the Land*], in compliance of the Fourteenth Amendment⁵¹.

Failing to grant this request of meritorious constitutional question(s) will only incentivized the State(s) to become more aggressive in their attempts to transgress Fourteenth (14th) Amendment doctrine which mandates the Bill of Rights to the States and limit(s) their authority to create, enact and enforce law which is contrary to the United States Constitution.

The Sixth (6th) Amendment right to a Speedy Trial is the most fundamental right in the American Scheme of Justice. The Petitioner was unable to locate any case raised before

⁴⁹ Question(s) of “*is a State Penal Statute constitutional when it deliberately omit(s) all language of time limits and fails to properly define the Sixth Amendment and does the Speedy Trial Act, apply to the States through the XIV Amend.*”

⁵⁰ “*Slack v. McDaniel*” 529 U.S. 473 (2000)

⁵¹ “*No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States...*”

this Honorable Court that challenged the constitutionality of a State creating, enacting or enforcing any penal statute or constitutional provision governing the **FEDERAL CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL.**

In review of all State Statutes across the United States, each state has "*erroneously*" defined speedy trial rights to be between 90 and 280 days. All these Statute(s) are impermissible when in review of the United States Constitution. "*No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*"

The Speedy Trial right is the most violated constitutional right in the United States by the prosecution, defense counsel, [*regardless of private counsel or public defined*], and the state court(s) without any regard to the criminal defendant's knowledge or consent. Simply because this fundamental right is so ambiguous that no layman could clearly understand their right(s).

"Although not applicable in this case, as this Petitioner demanded a Speedy Trial from the date of arrest - - as seen within the entire record" - - It is impermissible to waive a constitutional right when that waiver is not all knowing, intelligently and willingly entered. If the definition of a speedy trial is unconstitutional and overly ambiguous, how was this waiver of a speedy trial intelligently entered? Thus, any waiver of a Speedy Trial would be VOID?

Yet, the State Government(s) are arbitrarily waiving the Speedy Trial rights of **WE THE PEOPLE** without consent or knowledge and will continuously⁵² do so until this Honorable Court defines our constitutional rights so that the common layman will clearly

⁵² As seen in Oklahoma Title 22, Ch. 11 (*Dismissal of Prosecution*) § 812.2

understand this rights. Thus, requiring a public hearing on the merits of the case in alerting the general public of these rights, nationwide.

Any waiver of a speedy trial right should never be waived by counsel and only waived by a criminal defendant, *[personally]*, through an appearance before the Honorable Court. The criminal defendant should in his/her own words articulate to the court why they are waiving their speedy trial and articulating their understanding of this right. This hearing should be on transcript and a signed waiver should be presented to the court in that hearing and only signed in the presence of the Honorable Judge. As in a true sense that most waivers typically only benefit the Government⁵³.

This is on the premise that the Oklahoma Indigent Defense System, {Public Defenders Office}, will arbitrarily waive a criminal defendant's speedy trial without consulting their client or his/her best interest.

In review of all the Constitutional Right(s) a criminal defendant has through any criminal proceeding, the *Speedy Trial* right is the most fundamental right any person has. As this right is so profound it is to be of "**COMMON KNOWLEDGE**" to any lay person of the eighth grade, yet if we "polled" the populous within any random shopping mall, **maybe** 2% of the populous could even proclaim the time limits of a speedy trial or define it. In Oklahoma that percentage would be even less, [0.02%].

As the laws governing Speedy Trial in Oklahoma are *so ambiguous that not even an educated, trained and experienced lawyer* could even properly advise their client(s) of the time limits of a speedy trial, in the State of Oklahoma.

⁵³ The right to a Speedy Trial commenced upon the detention or arrest of a person accused of an offense. The accused is not required by any law to his right as it is guaranteed to protect the individual from the government. Thus, not demanding or invoking ones right to a speedy trial does not mean they waived their rights. Any waiver must be in writing before a Judge or Magistrate.

So if the laws and constitution are so ambiguous that not even a lawyer could define this fundamental, statutory and constitutional right to their clients. Then **WE THE PEOPLE** need this Honorable Court to properly define this right in plain and ordinary language so that the layman may understand their fundamental right(s) through any criminal proceeding and that **WE THE PEOPLE** may file proper appellate review, with the clear understanding of our constitutional rights, before the Honorable Courts.

Attached herein as an **EXHIBIT**, is a written response from the *Oklahoma County District Attorney's Office* to a State Post-Conviction pleading drafted by the Petitioner for a fellow inmate, Mr. Curwin D. Black, *{as this Petitioner is acting as his Jailhouse Lawyer through his appellate review}*, as his Post-Conviction argued the same exact merits filed in this Petitioner case(s).

The Assistant District Attorney presented their argument against a Post-Conviction for the dismissal of prosecution for Speedy Trial violation(s) and filed before the Oklahoma County District Court Clerks Office.

State's Response § II (Speedy Trial) ¶ 2, Line(s) 3-4; quoted:

“Oklahoma does not have a speedy trial act which sets forth a specific period of time for a matter to be brought to trial.” Lott v. State, 2004 OK CR 27, ¶6, n.2, 98 P.3d 318, 327, n.2”

The original document was filed upon Mr. Curwin D. Black's Habeas Corpus Petition as an exhibit, with the United States District Court, [Tenth Circuit], Western District of Oklahoma; case number **5:22-CIV-63-SLP**.

The Oklahoma County District Attorney's Office cited an Oklahoma State Supreme Court case which has **NO MERIT(s)** on the actual argument(s) made in the Post-Conviction or this CERTIORARI. **“LOTT”** was a ruling of the time limits between the dismissal of

information and the refiling of information and had nothing to do with the Speedy Trial time limits from arraignment to trial, through the **original proceeding**. It was an extremely poor attempt to further convolute a citizen's right to speedy trial by misleading the District Court through a faulty and erroneous Case Law.

Even the Oklahoma Prosecution clearly admit(s) the Laws governing the fundamental, statutory and constitutional right to a Speedy Trial are NON-EXISTANT. By nature of a **NON-EXISTANT LAW** is inherently a violation of the Petitioner's Constitutional Right to a speedy trial.

This was not done accidentally but by specific design of the State of Oklahoma to cause mass – CHAOS and ambiguity in criminal proceeding(s) to prevent any criminal defendant from “*understanding*” their statutory and constitutional rights.

A solid example of Oklahoma's contumacy of the Constitution and Congressional Law(s) maybe found in a century of case law(s) pertaining to TRIBAL JURISDICTION in Oklahoma.

The speedy trial violations are even more **EGREGIOUS** because the appellate counsel(s), [*public defender(s) office, aka: Oklahoma Indigent Defense System*], refuse(s) to raise speedy trial violation(s), through any **DIRECT APPEAL**.

Mostly due to their own ignorance of the law(s), as such law is so ambiguous that the O.I.D.S. Office lacks the acumen to understand this vague law to assist their client's best interest. The other part is that the State of Oklahoma pays their fees, and filing a meritorious constitutional claim in a direct appeal may result in the loss of their employment.

If any reasonable **JURIST** read this WRIT in its entirety, this argument would clearly spark a judicial debate of these constitutional right(s). This has become such a profound

issue, that it would actually call for a public hearing and debate with a published ORDER of relief.

CONCLUSION

WE THE PEOPLE, anticipate this Honorable Court's acceptance of the jurisdiction as to this **GREAT WRIT OF CERTIORARI**. The issue(s) herein are **UNPRESEDEDENTED** and **RES NOVA** as far as the Petitioner could find when he shepardized the issue(s).

The challenge of whether or not a State Government may propose, enact and enforce a penal statute that diminishes Congressional Law and Constitutional Law, is a serious question that ONLY could be answered by the **CHIEF JURIST** of the United States of America.

By passing and not hearing this writ would only incentivize the State(s) to become more aggressive in their attempts to transgress Fourteenth (*14th*) Amendment doctrine by passing **Article VI clause 2** of the United States Constitution, thus, leaving **WE THE PEOPLE**, *[stranded]*, without the protection of our great CONSTITUTION and the fundamental establishment of the American Scheme of Justice. What was the true intent of our founding father(s)? To grant the government to transgress the Constitution by enacting their own legislation is contrary to the establishment of the United States of America and repugnant to the American Scheme of Justice.

To date, the State and Federal Court(s) have refused to address the merits of these meritorious constitutional question(s), herein. The Petitioner prays this Honorable Court hear(s) this writ. It has been stated by the FIFTH Circuit Court:

"Judges, having ears to hear, hear not⁵⁴"

⁵⁴ "Freedom From Religion Foundation, Inc. v. Judge Mack" 4 F.4th 306 (5th Cir. 2021)

Thus, the Petitioner is PRAYING for the Chief JURIST(s) of the United States Supreme Court "having ears to hear, hear the cries of **WE THE PEOPLE**" and GRANT this GREAT WRIT OF CERTIORARI in the best interest of justice.

PRAYER FOR RELIEF

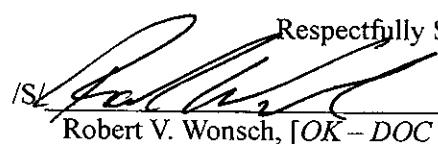
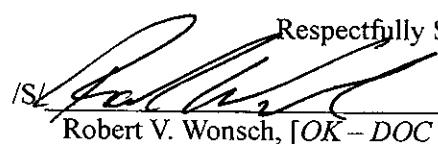
WE THE PEOPLE pray this Honorable Court accept Jurisdiction of this Great Writ of Certiorari and protect our CONSTITUTION from the State(s) who wish to diminish it. When the Petitioner was just an 18 year old man, he stood on the "yellow foot prints" at Marine Corps Recruit Depot in San Diego California and swore to defend the Constitution against all enemies, foreign and domestic. He never thought he would have to defend the Constitution against his home state and government official(s), more so as an innocent man incarcerated unlawfully.

WE THE PEOPLE pray this Honorable Court undertake this GREAT WRIT and enshrine a new **RETROACTIVE, CONSTITUTIONAL LAW.**

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares, (or certifies, or verifies, or states), under penalty of perjury that he is the Appellant in the above complaint action, that he has read the above complaint and that the information contained therein is true and correct. **28 U.S.C. § 1746** and **18 U.S.C. § 1621**

Executed at the Oklahoma State Reformatory, on the 20 day of June, 2022.


Respectfully Submitted,
/S/ 
Robert V. Wonsch, [OK - DOC # 828328]

AFFIDAVIT AND VERIFICATION OF MAILING

Petitioner/Appellant is interposing the "**PRISON MAIL BOX RULE**" in citing:

- "Hill vs. Lockhart" 487 U.S. 266 (1988). [U.S. Supreme Court]

Petitioner/Appellant certifies that a true and correct copy of the enclosed pleading(s) was hand delivered to the "PRISON STAFF" on the 20th day of JUNE, 2022.

This was certified by the facilities LAW LIBRARY and registered in the PRISON LEGAL MAIL LOG BOOK, then placed in the U.S. MAIL, [first class postage, prepaid].

To: United States Supreme Court
Attn: Clerk of Court
1 1st Street North East
Washington, DC 20543-0001

To: Office of the Attorney General
Attn: Mr. Peeler, T.
313 N.E. 21
Oklahoma City, OK 73105

To: Cleveland County Courthouse
Attn: Clerk of Court
200 South Peters Ave.
Norman, OK 73069

VERIFICATION

Petitioner/Appellant certifies under penalty of perjury, [*under the laws of Oklahoma*], that the foregoing is true to the best of HIS ability and correct. **28 U.S.C. § 1746 & 28 U.S.C. § 1621.**

Respectfully Submitted,


/S/ Robert V. Wonsch, [OK - DOC #828328]
Pro-Se Litigant
O.S.R.
P.O. Box 514
Granite, OK 73547