

APPENDIX A

ORDER DENYING FROM THE OKLAHOMA COURT OF CRIMINAL APPEALS

ORIGINAL



IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

MAY 25 2022

JOHN D. HADDEN
CLERK

TIMOTHY J. HILL,

Petitioner,

v.

THE STATE OF OKLAHOMA,

Respondent.

No. PC-2021-1311

ORDER AFFIRMING DENIAL OF POST-CONVICTION RELIEF

Petitioner, pro se, appeals the denial of post-conviction relief by the District Court of Pontotoc County in Case No. CF-2012-488. Before the District Court, Petitioner asserted that the District Court lacked jurisdiction to convict and punish him. See *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020). In *State ex rel. Matloff v. Wallace*, 2021 OK CR 21, 497 P.3d 686, cert. denied, 142 S. Ct. 757 (2022), this Court determined that the United States Supreme Court decision in *McGirt*, because it is a new procedural rule, is not retroactive and does not void final state convictions. See *Matloff*, 2021 OK CR 21, ¶¶ 27-28, 40, 497 P.3d at 691-92, 694.

The conviction in this matter was final before the July 9, 2020, decision in *McGirt*, and the United States Supreme Court's holding in *McGirt* does not apply.

Therefore, the District Court's order denying post-conviction relief is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2022), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this

25th day of May, 2022.


SCOTT ROWLAND, Presiding Judge

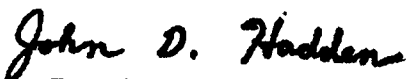

ROBERT L. HUDSON, Vice Presiding Judge


GARY L. LUMPKIN, Judge


DAVID B. LEWIS, Judge


WILLIAM J. MUSSEMAN, Judge

ATTEST:



Clerk

PA

APPENDIX B

**ORDER DENYING FROM THE PONTOTOC COUNTY DISTRICT
COURT**

IN THE DISTRICT COURT IN AND FOR PONTOTOC COUNTY

STATE OF OKLAHOMA

FILED

STATE OF OKLAHOMA,)
Plaintiff,)
vs.)
TIMOTHY J. HILL,)
Defendant.)

Case No. CF-2012-488

OCT 12 2021

KAREN MUNICK, Court Clerk
Pontotoc County, Oklahoma
By B. Swann
Deputy

ORDER DENYING APPLICATION FOR POST-CONVICTION RELIEF
WITH FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter came on for hearing on October 8, 2021, pursuant to the Defendant's Application for Post-Conviction Relief filed herein. The State of Oklahoma appeared by Assistant District Attorney, Ms. Tara Portillo. The Defendant did not appear in person or by counsel.

The Court has reviewed all pleadings on file and relevant case law. Based upon such review the Court hereby enters the following findings of facts and conclusions of law:

1. The Defendant was convicted and a judgment and sentence was entered herein.
2. The Defendant either failed to timely appeal the conviction or has exhausted all appeal proceedings in this case.
3. The Defendant's Application for Post-Conviction Relief is premised on the holding in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020).
4. The Court of Criminal Appeals, in *State ex Rel. Mark Matloff, District Attorney, Petitioner V. the Honorable Jana Wallace, Associate District Judge, Respondent*, 2021 OK CR 21, ruled that *McGirt* shall not apply retroactively in post-conviction relief cases.
"¶40 Because we hold that *McGirt* and our post-*McGirt* reservation rulings shall not apply retroactively to void a final state conviction, the order vacating Mr. Parish's murder conviction was unauthorized by state law."
5. On August 31, 2021, the Court of Criminal Appeals vacated its previous holding in *Bosse v. Oklahoma*, 2021 OK CR 3, which held that *McGirt* could be applied to an Application for Post-Conviction Relief. See *Bosse v. Oklahoma*, 2021 OK CR 23.
6. This matter is a final state conviction and the Defendant's Application for Post-Conviction Relief is denied.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Defendant's Application for Post-Conviction Relief is hereby DENIED.

Signed October-8, 2021.


C. Steven Kessinger
District Judge

CERTIFICATE OF MAILING

I, Barbara Suess, Bailiff to District Judge C. Steven Kessinger, do hereby certify that on October 8, 2021, a true and correct copy of this pleading was electronically mailed or mailed via first class mail, with sufficient postage thereon to the following:

Ms. Tara Portillo Assistant District Attorney P.O. Box 146 Ada, OK 74821 tara.portillo@dac.state.ok.us	Timothy J. Hill DOC #681872 Lawton Correctional Facility 8607 SE Flower Mound Road Lawton, OK 73501
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BARBARA SUESS, Bailiff for
Judge C. Steven Kessinger

OKLAHOMA CITY, OK 73105

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 18th, 2022


(Signature)