

APPENDIX A

ORDER DENYING FROM THE OKLAHOMA COURT OF CRIMINAL APPEALS

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

FILED
COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

ELEC ELMER CUSICK,

JUN 10 2022

Petitioner,

JOHN D. HADDEN
CLERK

v.

THE STATE OF OKLAHOMA,

No. PC-2022-272

Respondent.

ORDER AFFIRMING DENIAL OF POST-CONVICTION RELIEF

Petitioner, pro se, appeals the denial of post-conviction relief by the District Court of LeFlore County in Case No. CF-2013-304. 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.

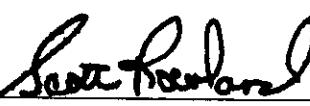
The conviction in this matter was final before the July 9, 2020, decision in *McGirt*, and the United States Supreme Court's holding in *McGirt* does not apply.

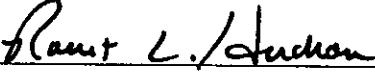
Therefore, the District Court's order denying post-conviction relief is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2022), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

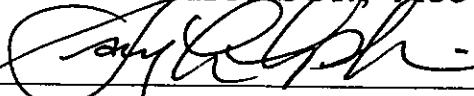
IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this

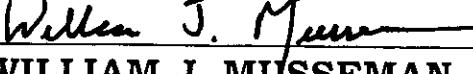
10th day of June, 2022.


SCOTT ROWLAND, Presiding Judge


ROBERT L. HUDSON, Vice Presiding Judge


GARY L. LUMPKIN, Judge


DAVID B. LEWIS, Judge


WILLIAM J. MUSSEMAN, Judge

ATTEST:

John D. Hadden

Clerk

PA

APPENDIX B

ORDER DENYING FROM THE LEFLORE COUNTY DISTRICT COURT

**IN THE DISTRICT COURT OF THE SIXTEENTH JUDICIAL DISTRICT
STATE OF OKLAHOMA SITTING IN LEFLORE COUNTY**

ORDER DENYING APPLICATION FOR POST-CONVICTION RELIEF

Now on this 24th day of January, 2022 this case comes before the Court on the filing of an Application for Post-Conviction Relief by the defendant. The defendant relies on *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020) as authority for granting his application. The Oklahoma Court of Criminal Appeals has ruled that *McGirt*, ibid., does not apply retroactively. *State ex rel. Matloff v. Wallace*, 2021 OK CR 21. The United States Supreme Court has denied reviewing this decision by certiorari. The Judgement and Sentence was entered in this case on May 14, 2014 to one count of Manslaughter in the first degree. The *McGirt* decision was issued on July 9, 2020. Since this conviction was final prior to July 9, 2020 the holding in *McGirt* does not apply. The application for post-conviction relief is denied.

Jonathan K. Sullivan
Judge of the District Court

FILED
JAN 25 2022

MELBA L. HALL, COURT CLERK
STATE OF OKLA. -LEFLORE COUNTY

cc/

District Attorney

Elec Elmer Cusick #696780, LCRF 4D – 208, 8607 SE Flower Mound Road, Lawton, Ok. 73501