22-6832 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

James Mahaffy

Petitioner

vs.

The State of Oklahoma

Respondent

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]

January 9th, 2023
"*ORIGINAL*" DATE SUBMITTED

[1] The Petitioner elected to filed 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. *"The Petitioner respectfully ask"*: When the *[F]ramers* of the ***Oklahoma State Constitution,*** created and enacted ***Article I, § 3***, [*Unappropriated public lands - - Indian Lands - - Jurisdiction of United States*], did the State of Oklahoma and/or its Official(s) "***forever***" disclaim and/or waive jurisdiction within Indian Country? [2]
2. *"The Petitioner respectfully ask"*: [Although the Petitioner is Native], is [R]ace a critical element in criminal proceeding(s) within the State of Oklahoma? Or will this destroy a ***century of justice reform*** and the ***abolishment of racism within our Jurisprudence***? [3]
3. *"The Petitioner respectfully ask"*: What Congressional Law/Statute grants Oklahoma "***concurrent jurisdiction***" within Indian Country, *found within the borders of the State of Oklahoma?* [4]

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[2] *As Congress took care to require Oklahoma to agree and declare that it would forever disclaim all right and title in or to ... all lands lying within [the State's] limits owned or held by any Indian, tribe, or nation. **34 Stat. 270.*** → ***Quoting the Honorable Neil Gorsuch***

[3] This question is extremely vital to the Petitioner's case as he was personally ***racially discriminated*** against be the State Judge(s) in this case. The ***Black Lives Mater Organization*** has completely deterred the Court(s) from racially discriminating against Americans of color, (black), and the Courts have now turned their racism towards Native American(s). This "critical" element adopted by Oklahoma will subject every citizen to racism for an eternity and/or until this Honorable Court removes the race from the elements and mandates that the Federal Government has sole jurisdiction of Major Crimes Act and the Tribes have sole jurisdiction pursuant to the General Crimes Act. Oklahoma simply has zero jurisdiction within Indian country, regardless of race.

[4] This question arises from this Honorable Court's ruling of "***Oklahoma vs. Castro-Huerta***" No. 21-429 (*April 27, 2022*).

ii

PARTIES TO THE PROCEEDING AND LIST OF DIRECTLY RELATED PROCEEDINGS

The Petitioner in this case is James Mahaffy, 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.

iii

TABLE OF CONTENTS

iv

TABLE OF AUTHORITIES

CONCISE STATEMENT(s) OF THE CASE

The Cotton County District Court case number is **CF-2002-50**

The Petitioner was charged with:

- Count One: KNOWINGLY CONCEALING STOLEN PROPERTY and sentenced to 1 year in the Department of Corrections with 4 years suspended.

I. On or about *3rd day of October, 2002* the State of Oklahoma filed its information against the Petitioner.

II. On or about *3rd day of October, 2002* the Petitioner was arraigned and plead not guilty.

III. On or about *16th day of October, 2002* the Petitioner was coerced by his public defender to plead guilty to the case.

IV. On or about *12th day of July, 2004* the State filed a motion to revoke suspended sentence.

V. On or about *19th day of July, 2004* the Petitioner was arraigned on State's motion to revoke.

VI. On or about *19th day of November, 2004* the Court's ORDER revoking sentence and transporting of Petitioner to D.O.C.

VII. On or about *5th day of February, 2009* the Petitioner was arrested by Grady County and detained. Cotton County issued a warrant for "*failure to pay*".

VIII. On or about *3rd day of December, 2022* the Petitioner filed a pro-se Motion to Vacate, set aside, or correct sentence.

IX. On or about *21st day of June, 2022* the Petitioner filed a pro-se Post-Conviction.

X. On or about *3rd day of October, 2022* the Court denied the Post-Conviction.

XI. On or about *24th day of October, 2022* the Petitioner appealed to O.C.C.A.

XII. On or about *29th day of November, 2022* O.C.C.A. affirmed the conviction, erroneously.

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

Pursuant to *28 U.S.C.A. § 1257 (a)*

James Mahaffy, [*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*[5]]. *This is pertaining to the* ***time limits*** *of speedy trial rights in state criminal trial(s)*[6].

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***[7] *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.

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[5] ***ALL 50 STATE(s) AND ALL TERRITORIES OF THE UNITED STATES OF AMERICA***

[6] 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.***

[7] ***"Bush v. Gore" 531 U.S. 98 2000***

The, [several], State(s) of the Union utilized "***Dobbs, State Health Officer of the Mississippi Department of Health, et al., Petitioners vs. Jackson Women's Health Organization, et al." (No. 10-1392)*** to overturn case precedent[8] of this Honorable Court and that is the exact strategy the Petitioner wishes to utilize in the overturning of ***Oklahoma vs. Castro-Huerta***" No. 21-429 (*April 27, 2022*) and enriching this Court's ruling of McGirt by creating a retroactive constitutional order that empowers the Tribal Nations with full and exclusive jurisdiction within its own territory, only to be concurrent with the United States of America.

The, [several], States argued that Congress never enacted any Statutory and/or Constitutional provisions enshrining abortions as a protected right of women. In the same aspect the Petitioner alleged that Congress has never disestablished the Kiowa Reservation nor did Congress ever enact any Statutory and/or Constitutional provision granting Oklahoma "***concurrent jurisdiction***".

As seen within the Oklahoma Court of Criminal Appeals, the state has known that it lacks jurisdiction yet refuses to adhere to State and Federal Law(s). "***State vs. Littlechief*** Okl.Cr. 573 P.2d 263 (1978) and "***C.M.G. vs. State***" 594 P.2d 798 (Okl. Crim. 1979) <u>*possess the same language*</u>:

"Title 18 U.S.C. s 1152 (1970), provides that "Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian Country." Title 25 U.S.C. s 1321, P (a), (1970), passed in 1968, grants to the States consent to assume, with the consent of the Indians involved, jurisdiction to prosecute crimes committed in Indian Country, and 25 U.S.C. s 1323 (1970), gives the consent of the United States to states to amend their constitutions or existing statutes to remove any legal impediments to the state assuming that jurisdiction. To date, the State of Oklahoma had made no attempt to repeal ***Article I, § 3 of the Constitution of the State of Oklahoma****, which prohibits state jurisdiction over Indian country, so the federal government still has exclusive jurisdiction over Indian country located within Oklahoma boundaries."*

[8] "Roe vs. Wade" 410 U.S. 113 (1973)

This Honorable Court has held:

*"*24 The few occasions on which Congress has even arguably authorized the application of state criminal law on tribal reservations still do not come anywhere near granting Oklahoma the power it seeks. In the late 1800's, this Court in **McBratney** and **Draper** held that feral statutes admitting certain States to the Union effectively meant decisions were, they took care to safeguard the rule that a State's admission to the Union **does not convey with it the power to punish "crimes committed by or against Indians."** McBratney, 104 U.S., at 624; Draper, 164 U.S., at 247. Indeed, soon after Oklahoma with authority to try crimes "not committed by or against Indians," on tribal lands. Ramsey, 271 U.S., at 469; see also n. 5, supra; **Donnelly v. United States**, 228 U.S. 243, 271 (1913); **Williams v. Lee**, 358 U.S., at 220; Cohen 506-509. The decision whether and when this arrangement should "cease" rest[ed] with Congress alone." **Ramsey**, 271 U.S. at 469. [9]*

This is even more so, evident as ***Supreme Court Justice Neil Gorsuch*** is quoted as stating:

*"In 1906, **Congress sought to deliver on its treaty promises** when it adopted the Oklahoma Enabling Act. That law paved the way for the new State's admission to the Union. But in doing so, Congress took care to require Oklahoma to agree and declare that it would forever disclaim all right and title in or to ... all lands lying within [the State's] limits owned or held by any Indian, tribe, or nation. **34 Stat. 270**. Instead of granting the State some new power to prosecute crimes by or against tribal members, Congress insisted that tribal lands shall be and remain subject to the Jurisdiction, disposal, and control of the United States. Ibid. Oklahoma complied with Congress's instructions by adopting both of these commitments **verbatim in its Constitution. Article I § 3."***

*"Under the laws Congress has ordained Oklahoma may acquire jurisdiction over crimes by or against tribal members **only with tribal consent**. But to date, the Kiowa have misguidedly shown no interest in state jurisdiction. Thanks to their misjudgment, they have rendered themselves **"second-class citizens."**"*[10]

"OKLAHOMA AND ITS OFFICIAL(S) FOREVER WAIVED JURISDICTION WITHIN ITS BOUNDARIES, PURSUANT TO THE OKLAHOMA CONSTITUTION" [11]

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[9] "***United States vs. Ramsey***", 271 U.S. 467, 46 5 S.Ct. 559, 70 L. Ed. 1039 (1926)

[10] "***Oklahoma vs. Castro-Huerta***" No. 21-429 (April 27, 2022) – *Dissenting Opinion*

[11] This Honorable Court should be cognizant that the race of the accused is not an element to jurisdiction within Oklahoma. This State is unique in this matter as Oklahoma is the only State which race is not a factor. The only factor in this entire argument is the State Constitution and Oklahoma's explicit waiver. This waiver must be enforced by the court(s).

The Petitioner is deliberately not citing any federal case law regarding this argument as there is not a single federal case law that has addressed the Oklahoma Constitution Article I, § 3. The only authority addressing this claim is within the Oklahoma Court of Criminal Appeals: [12]

a. "***C.M.G. v. State***", 594 P.2d 798 (Okl. Crim. 1979) *See Attached*
b. ***"State v. LittleChief"***, 573 P.2d 263 (1978 OK Cr. 2) *See Attached*

"To date, the State of Oklahoma had made no attempt to repeal Article I, § 3, of the Constitution of the State of Oklahoma, which prohibits state jurisdiction over Indian Country, so the federal government still has exclusive jurisdiction over Indian Country within Oklahoma boundaries. See "State v. LittleChief" OKL. Cr. 573 P.2d263 (1978)."

On or about December 22, 2022 the Oklahoma Court of Criminal Appeals published, [***Joshua Lee Perdum vs. State of Oklahoma, 2022 OK CR 31, ---P.3d. ---***], a ruling regarding Article I, § 3 and in doing so violated the Petitioner's Fourteenth Amendment of the United States Constitution. This ruling is clearly contrary to law; that constitutes a serious miss-interpretation of, or refusal to comply with its own Constitution and/or Law(s) of the State.

It is ironic that the United States Supreme Court issued the Opinion of [***Kevin Johnson vs. Missouri***, 598 U.S. ---, 143 S.Ct. 417], ***November 30, 2022*** regarding a State's racially biased practices and racially insensitive remarks and that when a State refuses to comply with its own law(s) the 14th Amendment was and is violated:

> *"Missouri has created a system in which prosecutors may assess the validity of a state prisoner's final conviction, see Mo. Stat. §547.031 (Cum. Supp. 2021), and having done so, it was required to comply with due process when applying that law in Johnson's case. See* ***District Attorney's Office for Third Judicial Dist. v. Osborne, 557 U.S. 52, 129 S. Ct. 2308, 174 L.Ed.2d. 38 (2009); Hicks v. Oklahoma, 447 U.S. 343, 346, 100 S.Ct. 2227, 65 L.Ed.2d 175 (1980); Wolf v. McDonnell, 418 U.S. 539, 556-557, 94 S.Ct.2963, 41 L.Ed.2d 935 (1974).*** *In rare cases, a litigant can credibly claim that a State's erroneous interpretation of, or refusal to comply with, its own law can amount to a federal due process Violation. See* ***Skinner v. Switzer, 562 U.S. 521, 530, 131 S.Ct. 1289, 179 L.Ed.2d 233 (2011); Bouie v. City of Columbia, 347, 356, 84 S.Ct.1697, 12 L.Ed.2d 894 (1964)"***

[12] "***C.M.G. v. State***" attached as Exhibit ONE - - - "***C.M.G. v. State***" attached as Exhibit TWO

The Oklahoma Court of Criminal Appeals committed ***fraud upon the court and/or actual fraud*** when it rendered the ruling of "*PURDOM*". This is clear through the reading of the case as the Court made an assertion and/or allusion that the United States Supreme Court voided Oklahoma's Constitution through the ruling of Castro-Huerta. In reality Mr. Purdom filed his appeal pursuant to "McGirt" and SCOTUS reversed the order vacating the case as McGirt only applied to an Indian not to Non-Indian(s) who committed crimes against Indian(s). O.C.C.A. now claim(s) that the Order remanding pursuant to Castro-Huerta voided Oklahoma's Constitution when SCOTUS has no legal authority to diminish Oklahoma's Constitution. Further, the *"majority"* ruling of Castro-Huerta never referenced or addressed Oklahoma's Constitution and the only reference to that Constitution was of the dissenting opinion of Justice Gorsuch:

> *"In 1906, **Congress sought to deliver on its treaty promises** when it adopted the Oklahoma Enabling Act. That law paved the way for the new State's admission to the Union. But in doing so, Congress took care to require Oklahoma to agree and declare that it would forever disclaim all right and title in or to ... all lands lying within [the State's] limits owned or held by any Indian, tribe, or nation. **34 Stat. 270.** Instead of granting the State some new power to prosecute crimes by or against tribal members, Congress insisted that tribal lands shall be and remain subject to the Jurisdiction, disposal, and control of the United States. Ibid. Oklahoma complied with Congress's instructions by adopting both of these commitments **verbatim in its Constitution. Article I § 3.**"* [13]

In no way did SCOTUS ever disestablish and/or assert that Article I, § 3 was diminished by the ruling of Castro-Huerta. The ruling of O.C.C.A. is a ***conclusory and self-serving statement*** which references no Congressional Law which ever granted jurisdiction to Oklahoma. In fact O.C.C.A. misconstrued public law 83-280 by claiming that this Statute was Congressional "intent" to withdraw from Oklahoma. This statement is only quasi-correct. O.C.C.A. omits that the Oklahoma Legislature had fifteen (15) years to sign public law 280 and refused to do so. Then July 8, 1970 Congress ***AMENDED*** public law 280 mandating:

1. *The State of Oklahoma acquires the permission of each tribe **FIRST***
2. *The State Signs Public Law 280*
3. *The State amends its constitution*

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[13] "Oklahoma vs. Castro-Huerta" No. 21-429 (April 27, 2022) – *Dissenting Opinion* · · · argument(s) mailed to SCOTUS by the Petitioner's jailhouse lawyer, Mr. Wonsch challenging his ruling pursuant to the argument(s) of "***Dobbs***" as Castro lacks any Congressional Statutory authority. Thus, "***Melson v. Oklahoma***" pending before SCOTUS ...

To date the State Legislature has never complied with Congressional Law and in result(s) the State of Oklahoma by and through their lack of action(s) has knowingly, intelligently and willingly waived its jurisdiction and is Constitutionally barred from acting within Indian Country and/or the Unappropriated Land(s). ***CONGRESSIONAL INTENT IS CLEAR AS CONGRESS EMPHASIZED THAT AFFECTED STATES COULD NOT ASSUME JURISDICTION TO PROSECUTE OFFENSES BY OR AGAINST TRIBAL MEMBERS ON TRIBAL LANDS UNTIL THEY "APPROPRIATELY AMENDED THEIR STATE CONSTITUTIONS OR LAWS".***

The Petitioner's was charged and convicted within Tulsa County and this land has been clearly defined as Kiowa and/or Creek Nation(s). The Oklahoma Attorney General's Office ***stipulated*** that Kiowa and Creek Nation(s) are both federally recognized tribes and that neither Tribe has ever been diminished. This acknowledgement came within their 145 page response to "***Anthony Henson v. Oklahoma***" [22-CV-0348-CVE-JFJ]. This case has not been adjudicated by the Tenth Circuit District Court and is still pending. The federal case laws regarding these territories will not answer the argument(s) before the court today.

The only jurisdiction this Honorable Court is given in this matter is the Oklahoma State Constitution, Article I, § 3. The State of Oklahoma expressly waived its jurisdiction within all lands held by an Indian, Tribe or Nation, however, the state further waived its jurisdiction within all unassigned federal lands as well. This only give Oklahoma jurisdiction within 7.5 counties and one of those being Greer County, Oklahoma.

This was recognized by SCOTUS Justice Neil Gorsuch in his dissent:

> "*In 1906, **Congress sought to deliver on its treaty promises** when it adopted the Oklahoma Enabling Act. That law paved the way for the new State's admission to the Union. But in doing so, Congress took care to require Oklahoma to agree and declare that it would forever disclaim all right and title in or to ... all lands lying within [the State's] limits owned or held by any Indian, tribe, or nation. **34 Stat. 270**. Instead of granting the State some new power to prosecute crimes by or against tribal members, Congress insisted that tribal lands shall be and remain subject to the Jurisdiction, disposal, and control of the United States.*

Ibid. Oklahoma complied with Congress's instructions by adopting both of these commitments ***verbatim in its Constitution. Article I § 3."*** [14]

Oklahoma State Constitution Article I § 3
[*Unappropriated public lands - - Indian Lands - - Jurisdiction of United States*]:

"The people inhabiting the State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, tribe, or nation; and that until the title to any such public land shall have been extinguished by the United States, the same shall be and remain subject to the jurisdiction, disposal, and control of the United States. Land Belonging to citizens of the United State residing without the limits of the State Shall never be taxed at a higher rate than the land belonging to or which may hereafter be purchased by the United States or reserved for its use."

The Oklahoma Attorney General's Office clearly acknowledged this within "***Henson***": [15]

- ***Page 42, ¶ 2, Line 2:*** *"... even assuming arguendo it is now clear that the State lacked prosecutorial authority."*
- ***Page 43, §3 ¶ 2:*** *"A Habeas Court could grant relief if the court of conviction lacked jurisdiction over the defendant or his offense."*

The Oklahoma Attorney General's Office has "***Stipulated***" to the fact that any "Habeas Court" could grant relief when it appears upon the face value that Oklahoma lacks the jurisdiction over the defendant and/or his offense and in this matter the State of Oklahoma lacked jurisdiction over both.

On December 3, 2020 the Oklahoma Attorney General's Office published "Opinion No. 2020-13", [2020 WL 728260], ~ ***See Attached.***

"In Oklahoma, State agencies may only exercise the powers 'expressly given by statute', as well as those 'necessary for the due and effective exercise of powers expressly granted, or such as may be fairly implied from the statue granting the express powers'. Marley v. Canon 1980 OK 147, ¶10, P.2d 401, 405. An agency 'cannot expand those powers by its own authority'."

The fact that Oklahoma has never had jurisdiction within Indian Country is clearly established law by the Oklahoma Court of Criminal Appeals, thus it is clear upon the face value that Oklahoma never had

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[14] "Oklahoma vs. Castro-Huerta" No. 21-429 (April 27, 2022) – *Dissenting Opinion* - - - argument(s) mailed to SCOTUS by the Petitioner's jailhouse lawyer, Mr. Wonsch challenging his ruling pursuant to the argument(s) of "***Dobbs***" as Castro lacks any Congressional Statutory authority. Thus, "***Melson v. Oklahoma***" pending before SCOTUS ...

[15] "***Anthony Henson v. Oklahoma***" [22-CV-0348-CVE-JFJ] - - Oklahoma Attorney General's Response

jurisdiction which renders this Honorable Court its jurisdiction to provide relief in this matter. The Petitioner request below that the judgment and sentence should be vacated with prejudice.

OPINIONS BELOW

The Petitioner is deliberately not citing any federal case law regarding this argument as there is not a single federal case law that has addressed the Oklahoma Constitution Article I, § 3. The only authority addressing this claim is within the Oklahoma Court of Criminal Appeals: [16]

a. "***C.M.G. v. State***", 594 P.2d 798 (Okl. Crim. 1979) *See Attached*

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It is ironic that the United States Supreme Court issued the Opinion of [***Kevin Johnson vs. Missouri***, 598 U.S. ---, 143 S.Ct. 417], ***November 30, 2022*** regarding a State's racially biased practices and racially insensitive remarks and that when a State refuses to comply with its own law(s) the 14th Amendment was and is violated:

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[16] "***C.M.G. v. State***" attached as Exhibit ONE - - - "***C.M.G. v. State***" attached as Exhibit TWO

Oklahoma, 447 U.S. 343, 346, 100 S.Ct. 2227, 65 L.Ed.2d 175 (1980); Wolf v. McDonnell, 418 U.S. 539, 556-557, 94 S.Ct.2963, 41 L.Ed.2d 935 (1974). In rare cases, a litigant can credibly claim that a State's erroneous interpretation of, or refusal to comply with, its own law can amount to a federal due process Violation. See Skinner v. Switzer, 562 U.S. 521, 530, 131 S.Ct. 1289, 179 L.Ed.2d 233 (2011); Bouie v. City of Columbia, 347, 356, 84 S.Ct.1697, 12 L.Ed.2d 894 (1964)"

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 CERTIORARI 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 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).
- Oklahoma State Constitution, Article: I § 1, 3; Article: II §6, 7, 8, 10, 17, 19, 20

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)[17] proposed herein[18]. 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 Amendment[19].

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 this Honorable Court that

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[17] 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.*"

[18] **"Slack v. McDaniel" 529 U.S. 473 (2000)**

[19] "*No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States...*"

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 continuously[20] do so until this Honorable Court defines our constitutional rights so that the common layman will clearly 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

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

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 Government[21].

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.

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.

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[21] 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.

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 **UNPRECEDENTED** and **RES NOVA** as far as the Petitioner could find when he [S]hepardized the issue(s).

This Honorable Court should be cognizant that Oklahoma Constitution Article I, § 3 speaks not of race and only of location of the offense. This mean(s) that the State of Oklahoma only has jurisdiction of 6.5 counties out of the 77 counties within the boundaries.

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 not*[22]"

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[22] "***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.

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 9th day of Jan., 2023.

Respectfully Submitted,

/S/ James Hahaffy

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that the petition for writ of certiorari contains 5978 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d). I declare under penalty of perjury that the foregoing is true and correct. **28 U.S.C. § 1746** and **18 U.S.C. § 1621.**

Executed at the Oklahoma State Reformatory, on the 9th day of Jan, 2023.

Respectfully Submitted,

/S/ James Hahaffy