

23-5018
No.

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

FILED

JUN 26 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

RICHARD PATRICK SPAULDING, PETITIONER, PRO SE

vs.

STATE OF OKLAHOMA, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
THE TULSA COUNTY DISTRICT COURTTM OKLAHOMA
(OR THE OKLAHOMA COURT OF CRIMINAL APPEALS)

PETITION FOR A WRIT OF CERTIORARI

RICHARD P. SPAULDING, PETITIONER, PRO SE
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RECEIVED

JUN 30 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED

During post-conviction proceedings in Tulsa County, Oklahoma, Petitioner was deprived of right to appeal or challenge numerous orders of the court and state responses, which the state and court had decided not to send.

State has been to write its own relief in orders without required proceedings and which omit mention of pending pre-requisite matters and Petitioner's uncontroverted evidence material to relief. Signed immediately without serious review, the orders contain such outrageous findings as Judge's recent order admitting that Petitioner was not sent responses and orders in his case because she feels "he is not entitled to receive them".

1. Did the Tulsa Court deprive itself of jurisdiction in the all subsequent matters when it issued the November 18, 2020 unfiled and uncertified order denying post-conviction relief, ignoring Petitioner's weeks-pending voluntary dismissal of that specific pleading?
2. Did the Tulsa Court deprive itself of jurisdiction when it actively chose not to send its orders to the Petitioner, deprived him of the right to respond before it granted state requests, would not consider Petitioner's uncontroverted and material evidence directly proving right to relief, failing to hold a single hearing or required proceeding since 2020?

3. Was Petitioner denied an appeal through no-fault of his own when the Prison COVID quarantine delayed mail much as 2 weeks, closed the law library and the ability to send legal mail?
4. Did the Criminal Appeals violate Petitioner's right to due process and equal protection of law when it declined jurisdiction for untimely notice of appeal where the Tulsa Clerk had sent the order to the wrong address?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page. Pursuant to Supreme Court Rule 29, Petitioner declares that he is not a corporation, has no parent companies or subsidiaries, and owns no stocks or bonds.

RELATED CASES

1. United States Supreme Court, Spaulding vs Oklahoma, Application # 22A8533, entered March 31, 2023.
2. Oklahoma Court of Criminal Appeals, State v Spaulding, #'s : PC2022-609 entered January 25, 2023; MA2022-503, entered June 13, 2022; PC-2021-911, entered April 15, 2022; MA-2021-621, entered June 30, 2021.
3. District Court of Tulsa County, State vs Spaulding, #CF-2017-682; entry dates of May 13, 2022; July 13, 2021; November 18, 2020; August 10, 2020.
4. United States District Court for the Northern Dist. Of Okla., Spaulding v Nunn, # 21-CV-0160-JFH-CDL, entered mid 2022 (lost date).

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR A WRIT OF CERTIORARI

The Petitioner respectfully prays that a Writ Of Certiorari issue to review the judgments below. Though he is not an attorney and has no legal training, but given the egregious fraud and misconduct perpetrated in his case by and through state's counsel and its courts, he begs this Court to overlook any defects in form and to liberally construe the contents of this Petition.

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Page A3 of Appendix A to the Petition and is unpublished (Tulsa County's Order of May 13, 2022).

The Opinion of the Oklahoma Court of Criminal Appeals ("OCCA") appears at page A1 of Appendix A to the Petition and is unpublished (OCCA Order Of January 25, 2023).

JURISDICTION

The date on which the highest state court decided the case was January 25, 2023.

Rehearing of the OCCA's Post-Conviction decisions is not allowed. See 22 O.S. § 1086 and Rule 5.5 of the Okla. Crim. App. Rules, 22 O.S., Chap 18, App, appearing at page 09 of Appendix D to the Petition.

An extension of time to file the Petition was granted on March 31, 2023 in Application # 22A8533, extending filing date to and including Saturday, June 24, 2023. Application of Supreme Court Rule 30.1 results in an actual filing date of and including Monday, June 26, 2023.

Statutes/Provisions Conferring Jurisdiction

Petitioner believes that the following confer and invoke the jurisdiction of this Court:

Article III § 2 and Article VI (Supremacy Clause) and Amendments V, VI, and XIV of the Constitution of the United States;

The Court's common law and equity jurisdictions for defense of personal rights and relief from deprivations of same;

28 U.S.C. § 1257(a); 28 U.S.C. § 2201;

Constitutional and Statutory Provisions Involved

Note: Petitioner has handwritten the text of all but 1-2 of these in Appendix D, a prison lockdown with no water in about 1.5 weeks at facility have resulted in limited access to law library to print these, please find those not in Appendix D online/westlaw, etc. Petitioner is indigent as shown in Motion In Forma Pauperis. Where possible I cited the authority inline.

Known missing verbatim text:

Okla. District Court Rules 12 OS Ch2 App. Rules 4, 13;

12 O.S. § 696.2, 696.3

22 O.S. 1080-1089 (2020 ed.)

UNITED STATES CONSTITUTION

Articles: III § 2; VI cl.2;

Amendments: I, V, VI, XIV

OKLAHOMA CONSTITUTION

Articles: 1 § 1; Article 2 §§ 1, 2, 3, 6, 7, 9; Art 5 §46; Art 15 §1

OKLAHOMA LAW

Rules of the Oklahoma Court of Criminal Appeals (22 Okla. Stat., Ch 18,

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STATEMENT OF THE CASE

This case results from the Petitioner's post-conviction proceedings in Tulsa County court. Petitioner has consistently maintained his innocence since arrest.

In July 2020, Petitioner filed pro se appearance, request for brief use of specific existing transcripts, a Post-Conviction Application to show transcript need, and pauper's paperwork supporting his transcript request and plea for counsel. As October 30, 2020 he had received no orders or responses for his filings, and filed a voluntary motion to dismiss without prejudice his post-conviction motion until the transcript matter was resolved.

October 31, 2020 prison's COVID quarantine began, suspending access to the law library and means to send legal mail. During the lockdown he receives an unfiled order denying post-conviction relief and citing a state response not sent to him. His voluntary dismissal is not mentioned. Staff refuse him the resources needed to write his appeal whose deadline expires during lockdown. In the record index sent by Tulsa clerk, he learns that since August 2020 two appealable orders weren't sent costing him the right to appeal them.

On March 26, 2021 the Petitioner files an Application for Post-Conviction Appeal Out Of Time Or Alternative Relief with supporting exhibits, in which the Federal Questions are first raised. No state response is filed.

On May 14, 2021 Petitioner files a Verified Motion For Summary Disposition and additional evidence, also asking that his submitted facts and evidence be deemed confessed as true by the state, again raising the Federal Questions. No review occurs.

On June 21, 2021 Petitioner asks Okla. Crim. App. to issue a mandamus order compelling Tulsa to rule on his Summary Disposition. Tulsa Judge signs an order fraudulently claiming the appeal out of time is not valid and summary disposition is moot, without holding required Summary Disposition proceedings, passing on the federal questions

On appeal Petitioner raises the Federal Questions, passed on by the criminal appeals court in the order remanding back to Tulsa for proper proceedings.

Tulsa again denies relief without proper proceedings on May 13, 2022, Judge's order openly stating that Petitioner is not entitled to receive the orders of the court.

After the order is issued, the clerk mails it to the wrong prison, resulting in late filing of notice of intent to appeal. Despite proof via postmark copies and affidavit detailing the mailing errors, the criminal appeals court declines jurisdiction citing untimely notice of appeal.

HOW THE FEDERAL ISSUE WAS RAISED AND PASSED ON

Petitioner raised the federal questions in his Application For Post-Conviction

Appeal Out-Of-Time or Alternative Relief, filed March 26, 2021, page B36, Appendix

B.

Petitioner again raised the federal questions in his Motion For Summary Disposition, filed May 14, 2021, page B67, Appendix B.

The Tulsa Court's "Combined Order" denying relief passed on the federal questions, entered JULY 13, 2021, page A13, Appendix A

The Petitioner's appeal of the Tulsa order raised the federal questions again, filed SEPTEMBER 1, 2021, page B111, Appendix B.

The Oklahoma Court of Criminal Appeals Order remanding the matter to Tulsa County passed on the federal question, entered APRIL 15, 2022. Page A9, Appendix A.

The Tulsa Court order on remand again denied relief and passed on the federal questions, entered May 13, 2022, page A3, Appendix A.

The Petitioner's appeal again raised the federal question, filed JULY 8, 2022, page B147, Appendix B.

The Oklahoma Court Of Criminal Appeals order denying relief passed on the federal questions, entered January 25, 2023, page A1, appendix A.

REASONS FOR GRANTING WRIT

THE MATTERS FOR WHICH REVIEW IS SOUGHT ARE FUNDAMENTAL VIOLATIONS OF DUE PROCESS AND/OR EQUAL PROTECTION OF LAW, REPEATED DESPITE EARLY AND CONSISTENTLY RAISED FEDERAL QUESTION, SOME OF WHICH PETITIONER FINDS LIKELY TO SHOCK THE JUDICIAL CONSCIENCE. THE MANNER OF THE SEQUENTIAL DEPRIVATIONS HAVE RESULTED IN DEPRIVATION OF RIGHT OF APPEAL OF SEVERAL ORDERS AND A NET EFFECT THAT AS AN UNTRAINED PRO SE LITIGANT, PETITIONER SEES ONLY THE RELIEF THROUGH THIS COURT'S REVIEW AS POSSIBLE CURE.

① THE STATE AND COURT IN TULSA COUNTY HAVE DECIDED THAT PETITIONER (MOVANT) IS NOT ENTITLED TO RECEIVE CERTAIN RESPONSES OF STATE AND ORDERS OF COURT DENYING RELIEF, IGNORING PETITIONER'S REPEATED RAISING OF FEDERAL QUESTION UNTIL ITS MAY 13, 2022 ORDER IN WHICH JUDGE MOODY OPENLY FINDS, WITHOUT CITING AUTHORITY, THAT PETITIONER IS NOT ENTITLED TO RECEIVE THEM.

AS A PRISONER IN STATE CUSTODY I HAVE NO MEANS TO KNOW OF, REPLY TO, OR APPEAL ADVERSE FILINGS RESULTING FROM MY PENDING ACTIONS, RENDERING ME UNABLE TO BE AWARE OF IMPENDING DEARLINES OR NEED TO DEFEND. SEE PAGE __, APP A.

THIS COLLABORATIVE AND UNDISPUTED ACTION BY JUDGE DAWN MOODY AND TULSA ASSISTANT DIST. ATTORNEYS IS NOT MERELY A JURISDICTION-DEPRIVING DUE PROCESS ERROR, IT IS AN AFFRONT TO THE VALUES AND TRADITIONS OF LAW IN AMERICA PREDATING OUR CONSTITUTION, AS ABSENT NOTICE OR SERVICE, THERE CAN BE NO DUE PROCESS FOR

PETITIONER'S CLAIMS TO RELIEF; HE ASKS THIS COURT TAKE JUDICIAL NOTICE AND OPTION TO FIND LACK OF SPECIFICITY OR LEGALITY IN THE ONLY STATUTE PETITIONER HAS BEEN ABLE TO LOCATE WHICH MIGHT JUSTIFY SUCH HEINOUS ABUSE OF POWER BY AN OFFICER OF THE COURT: 21 OLLA. STAT. § 65, WHICH PROVIDES IN RELEVANT PART:

"A SENTENCE OF IMPRISONMENT UNDER THE DEPARTMENT OF CORRECTIONS SUSPENDS ALL THE CIVIL RIGHTS OF THE PERSON SO SENTENCED, EXCEPT THE RIGHT TO MAKE EMPLOYMENT CONTRACTS ~~AND~~"

KNOWINGLY ISSUING ORDERS IT WILL NOT DEEM PETITIONER ENTITLED TO RECEIVE DESPITE DISPOSITION OF A PLEADING HE FILED IS DEMONSTRATIVE OF VIOLATION OF EQUAL PROTECTION WHERE STATE AND PUBLIC ARE GIVEN ACCESS TO/SERVICE OF ORDER ABSENT EMERGENCY, NOTICE & HEARING, OR WAIVER OF PETITIONER AS A MATTER OF COMMON LAW RIGHT - NONE OF THOSE FACTORS EXIST IN THIS CASE.

22 O.S. § 9 PROVIDES THAT COMMON LAW PLEADINGS, PRACTICE, AND PROCEDURE PREVAIL ABSENT AN OVERRIDING CRIMINAL STATUTE, AND OTHER THAN 21 O.S. § 65 (SUPRA) (ID.) NONE POSS.

12 O.S. §§ 696.2, 696.3 BOTH SET FORTH THE PROCEDURAL REQUIREMENTS FOR VALID ORDERS, RENDERING IN SUFFICIENT DETAIL AND LIMIT/GUARANTEE SO AS TO CREATE A LIBERTY INTEREST IN THE ABSOLUTE RIGHT TO RECENT THE ORDERS OF THE COURTS IN HIS CASE. SEE PAGE — OF APP.D. (12 O.S. §§ 696.2 (b) & 696.3 (b)). 696.2 (b) IN RELEVANT PART: "A FILE-STAMPED COPY OF EVERY DECREE, JUDGMENT, OR APPEALABLE ORDER SHALL BE SERVED UPON ALL PARTIES." 696.3 (b) PROVIDES: "A FILE-STAMPED COPY OF JUDGEMENT, DECREE, OR

APPEALABLE ORDER SHALL BE SERVED UPON ALL PARTIES ~~AND~~ (EMPHASES ADDED).

SERVICE IS JURISDICTIONAL, AND JUDICIAL COLLABORATION TO ACTIVELY PREVENT THIS RIGHT'S FULFILLMENT DIVIDES JUDGE OF JURISDICTION, PARTICULARLY WHEN CARRIED OUT EX PARTE ON THE OTHER SIDE OF STATE TO PREVENT INMATE HAVING NO MEANS TO BE AWARE OF THE DEPRIVATION BUT FOR THOSE FEW ITEMS HE IS "GIFTED" WITH COURT'S MISGUIDED BELIEF THAT SERVICE IS SOMEHOW AN OPTIONAL COMPONENT OF COURT'S DUTY TO DECIDE.

THE FACT OF VERBATIM COURT ORDER RECITING A STATE RESPONSE WITHOUT PRESENTMENT PROCEEDINGS AND REPEATEDLY USING SAME TACTIC TO PREVENT RIGHT OF REPR DEMONSTRATES A POSSIBLE CONSPIRACY TO DEPRIVE OF DUE PROCESS UNDER COLOUR OF LAW. SEE PAGES AL TO 124 OF APPENDIX A AND APPENDIX C, SHOWING DATES OF ACTS BETWEEN AUGUST 2020 AND MAY 13, 2022.

II COURT'S COLLABORATION WITH STATE TO PREVENT REPLY OR OBJECTION TO STATE'S RESPONSES VIOLATES DUE PROCESS AND EQUAL PROTECTION OF LAW BY ENSURING ONLY THOSE ITEMS STATE RESPONDS TO RECEIVE DISPOSITION, IGNORING ALL OTHER PENDING PRE-REQUISITE MATTERS.

REFERRING TO ROCKES SHEET, APPENDIX C, TAKE NOTICE THAT AFTER REASSIGNMENT OF CASE TO JUDGE DAWN MOODY, ONLY THE RESPONSES OF STATE ARE CONSIDERED IN COURT'S SIGNING OF STATE WRITTEN ORDER, OMITTING THE PENDING OCT. 30, 2020 MOTION TO DISMISS OF PETITIONER IN 155 NOV 18, 2020, NOV 23, AND DEC. 2020 ORDERS; AND OMITTING ANY MENTION OF PETITIONER'S

MONTHS PENDING VERIFIED READINGS FOR APPEAL OUT OF TIME
AND SUMMARY DISPOSITIONS PROVIDED EXHIBITS AND WITNESS
AFFIDAVITS, MATERIAL TO RULING ON RELIEF AND NOT ONCE
CONTROVERTED BY STATE.

EACH AND EVERY STATE FILING RECEIVES IMMEDIATE SIGNING
OF VERBATIM EX PARTE ORDER MATCHING STATE'S RESPONSE,
WHILE PETITIONER'S READINGS ROT ON THE DOCKET FOR
MONTHS IN SUMMARY DISPOSITION STATUS, RIPE FOR
REVIEW. PETITIONER MUST FILE MANDAMUS IN SUPERIOR
COURT TO GET A RULING - STATE MERELY WALKS DOWNSTAIRS
TO EX PARTE WITH JUDGES. STRANGE V TROUTT, OKLA CIV. APP. DIV. 4, 389 P.3d 401

IN EVERY CASE, STATE'S RESPONSE IS SIGNED INTO ORDER
WITHOUT ALLOWING PETITIONER'S RIGHT TO RESPOND OR
REPLY, SET FORTH IN RULE 4(C). THAT RIGHT IS
PRE-REQUISITE TO THE COURT ACQUIRING JURISDICTION
TO RULE ON STATE'S RESPONSE. SEE PAGE 2, APP. D
AND STRANGE (PREV PAGE) AND DIS. CT RULE 2, AND
SHARAWEB V. SSM HEALTH CARE OF OKLAHOMA, INC., 480 P.3d 894;
OKLA.; STRANGE V TROUTT, OKLA CIV APP. DIV. 4, 389 P.3d 401

RIGHT TO RESPOND AND REPLY IS AXIOMATIC TO DUE PROCESS OF
LAW WHERE PROCEDURAL RULES OR LAW DETAIL AS PRE-~~RE~~
REQUISITE. IN WOODS THE APPEALS COURT HELD, CORRECTLY I
THINK, THAT ONLY AFTER TIME TO RESPOND HAS RUN MAY THE
COURT EXERCISE ITS AUTHORITY WITHOUT VIOLATING DUE
PROCESS, AND THAT AN ORDER OF THIS SORT OF VIOLATION
VIOLATES PROCEDURAL DUE PROCESS AND CONSTITUTES
NON-HARMLESS REVERSIBLE ERROR.

(III) - THE STATE COURT DEPRIVED ITSELF OF JURISDICTION WHEN IT FAILED TO RULE ON PETITIONER'S OCT. 30, 2020 VOLUNTARY MOTION TO DISMISS, PRE-REQUISITE FOR JURISDICTION, UNLESS AND UNTIL IT RULED UPON THIS UNCHALLENGED COMMON LAW RIGHT THE COURT LACKED AUTHORITY TO ISSUE ANY SUBSEQUENT DETERMINATION OF THE UNDERLYING POST-CONVICTION APPLICATION. SEE THIS COURT'S RULING FOR IN RE SKINNER & EDDY CORPORATION, 44 S. CT 446; RECOGNIZING A MOVANT'S RIGHT OF VOLUNTARY DISMISSAL OF HIS ACTION PRIOR TO TRIAL OR JUDGMENT, AND: VAUGHN V. RYAN, OKLA., 223 P. 344; PROVIDING IN RELEVANT PART:

"WHERE A PLAINTIFF BEGINS A SUIT BY FILING A PETITION, AND THEREAFTER FILES HIS MOTION TO DISMISS, AND UPON THE CALL OF THE CASE ON ASSIGNMENT THE PLAINTIFF DOES NOT APPEAR... AND HIS ABSENCE IS IN NO WISE EXPLAINED, THE COURT HAS NO DISCRETION IN THE MATTER BUT TO SUSTAIN THE MOTION... AND DISMISS ~~THE~~ "

AND WOOD V. HINES, 117 OKLA. 86, 245 P. 86 (1925):

"VOLUNTARY DISMISSAL BY PLAINTIFF OPERATES TO TERMINATE JURISDICTION OF COURT OVER SUBJECT-MATTER"

TURLEY V. TURLEY, OKLA. 638 P.2D 469 (1981)

"A LITIGANT HAS A COMMON LAW AND STATUTORY RIGHT TO CONTROL HIS CAUSE BY DISMISSAL. XXX"

④ FINALLY, PETITIONER WAS AND REMAINS DEPRIVED OF PROCEEDINGS PROVIDED AND REQUIRED BY LAW.

APPEAL OUT OF TIME AND POST CONVICTION

REQUIRE EVIDENTIARY HEARING FOR MATERIAL FACT ISSUES AND THE OKLA. CRIM. APP. RULE 2.1 APPEAL OUT OF TIME RULE AS SPECIFICALLY DETAILED BY THAT COURT'S PRECEDENT IN

BLADES V STATE, OKLA. CRIM. APP., 107 P. 3d 607 WHICH

REQUIRES THE TRIAL COURT TO CONDUCT AN EVIDENTIARY HEARING. PETITIONER'S APPLICATION (SEE PAGE B36, APP. B) NEVER RECEIVED THAT HEARING.

SUMMARY DISPOSITIONS FILED BY PETITIONER (SEE PAGE B67, APP. B) WERE ENTITLED TO THE STATE CREATED LIBERTY INTEREST SET FORTH IN GREAT DETAIL THEREIN. (SEE PAGE —, APP. D) WHEN HE, AFTER STATE FILED NO OBJECTION TO HIS APPEAL OUT OF TIME OR SUBMITTED EVIDENCE WITHIN STATUTORY TIME (30 DAYS) TO DO SO PER 22 O.S. § 1083, PETITIONER FILED HIS EVIDENCE SUPPORTED MOTION FOR SUMMARY DISPOSITION PER 22 O.S. § 1083(C).

NONE OF THE REQUIRED PROCEEDINGS WERE HELD OR ANY SUBSTANTIVE ALTERNATIVE CONSIDERED. IN ACCORD WITH DIST. CT. RULE 4 (PAGE —, APP. —) PETITIONER

HAD ASKED THAT ALL FACTS PRESENTED IN THE UNCHALLENGED PLEADING & UNCONTROVERTED EXHIBITS AND WITNESS AFFIDAVITS BE DEEMED CONFESSED - THIS REQUEST HAS LIKEWISE NEVER BEEN RULED UPON, NOR HAVE PETITIONER'S PAUPER'S AFFIDAVITS INVOKING HIS RIGHT TO APPOINTMENT OF COUNSEL UNDER THE POST CONVICTION STATUTES - MADE REPEATEDLY IN NEARLY EVERY PLEADING HE'S FILED SINCE 2020.

INSTEAD OF ISSUING, PER OCCA RULES (SEE PAGE D6, APP. D) FINDINGS ON EVERY PROPOSITION, APPLICATION OF LAW, AND EVIDENCE SUBMITTED BY PETITIONER, JUDGE SIMPLY ABANDONS THIS TO STATE TO DELIVER, DIVESTING HER OF JURISDICTION AS SHE GIVES JUDICIAL DUTY TO A NON-JUDICIAL OFFICER WHO IS THE OPPOSING PARTY.

UNSURPRISINGLY, STATE OMITTS ANYTHING DISADVANTAGEOUS TO ITS INTERESTS OR WHICH MENTIONS ITS HABITUAL FAILURE TO RESPOND AND SUBSEQUENT UNREQUESTED RELIEF FROM JUDGE WHO IN EX PARTE COMMUNICATIONS IS ALLOWING OUT OF TIME AND PROCEDURALLY BARRED STATE FILINGS DISPOSING OF PETITIONER'S RIGHTS WITHOUT REQUIRED PROCEEDINGS OR JUDICIAL REVIEW, SIGNED BY JUDGE INTO ORDERS WITHOUT REVIEWING FOR OBVIOUS ERRORS OR MISREPRESENTATION OF LAW (SEE APPEAL AT Pg. ^{B11}~~11~~, APP. B)

BY STATE LAW. WHERE THE TULSA COURT REPEATEDLY ISSUED ORDERS DISPOSING OF HIS SUMMARY DISPOSITION MOTIONS WITHOUT FOLLOWING THE RULE 13 PROCEDURE, IT VIOLATED HIS RIGHT TO DUE PROCESS.

TO DATE, NOT ONE PLEADING FILED BY PETITIONER HAS BEEN ALLOWED THE REQUIRED PROCEEDINGS SET FORTH BY LAW.

RULE 2.1 OF OKLA. CRIM. APP (SEE PAGE 04 OF APPENDIX D) SETS FORTH APPEAL OUT OF TIME PROCEDURES, FURTHER CLARIFIED IN THE PRECEDENT OF BLADES V STATE, 107 P. 36607, OKLA. CRIM. APP AS FOLLOWS?

"THE ROLE OF THE DISTRICT COURT IN ADDRESSING A REQUEST FOR AN APPEAL OUT OF TIME THROUGH THE APPLICATION FOR POST-CONVICTION RELIEF PURSUANT TO SMITH, IS TO CONDUCT AN EVIDENTIARY HEARING AND PROVIDE FINDINGS OF FACT AND CONCLUSIONS OF LAW UPON WHICH THIS COURT WILL THEN DETERMINE IF AN APPEAL OUT OF TIME SHOULD BE GRANTED."

AT NO POINT IN THE PETITIONER'S UNCHALLENGED PURSUIT OF POST-CONVICTION APPEAL OUT OF TIME WAS HE ALLOWED A HEARING OR WAS HIS UNCONTROVERTED EVIDENCE PROVING HIS ENTITLEMENT TO RELIEF... CONSIDERED OR EVEN NOTED BY THE COURT, DESPITE NOTICE OF SAME - THIS TOO IS A NON-HARMLESS DUE PROCESS VIOLATION, ALLOWING DEPRIVATION OF RELIEF WITHOUT REPLY TO OPPOSITION OR HEARING ON AN ACTION IN WHICH NO CHALLENGE SHOULD USUALLY RESULT IN

PETITIONER AS MOVING PARTY WITH UNCONTROVERSED EVIDENCE, BUT A PROPER RULE 13 OPPOSITION MUST TRIGGER AN EVIDENTIARY HEARING.

OKLA CRIM APP. REQUIRES JUDGE TO RULE ON THESE MATTERS (SEE PAGE 16; APPENDIX D), ISSUING FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR EVERY STATED PROPOSITION FOR REVIEW AND ALL EVIDENCE SUBMITTED, NOTING WITH SPECIFICITY THOSE PARTS OF THE RECORD REVIEWED IN REACHING DECISION - NOT ONE OF THE TULSA ORDERS IN THESE MATTERS COMPLIES WITH THESE RULES, INSTEAD THE COURT ABDICATES ITS DUTY TO RULE TO THE STATE, ALLOWS STATE TO DETERMINE WHAT BAR, PROCEDURE, ADMISSION OF PROPOSITIONS AND UNCONTROVERSED EVIDENCE IT WILL ALLOW FOR ITS INTERESTS, DISTORTING TO MISREPRESENT PETITIONER'S PLEADINGS AS CASE REPRESENTATION, AND FRAUDULENTLY CITING UNSUPPORTING OPPOSING AUTHORITIES TO MISREPRESENT THE LAW ORDER CITES WHEN NO LAW ENABLING IT EXISTS. JUDGE DAWN MOODY SIGNS THESE ORDERS WITHOUT REVIEW, RESULTING IN THE COMPLETE FAILURE OF THE COURT TO PROPERLY DETERMINE ANY RELIEF. DOCKET SHOWS COURT REPEATEDLY GRANTING STATE UNREQUESTED EXTENSIONS OF TIME AND ONE-OF-TIME FILINGS IN VIOLATION OF RULE 1-10 OF TULSA LOCAL COURT RULES (SEE PG 130; APPENDIX D), NONE OF THE HEAVY PREFERENCES ALLOWED BY LAW. EITHER THE ORDERS ARE DRAFTED BY STATE AND PRESENTED,

OR THEY ARE WRITTEN IN EX PARTE CONFERENCE OR COURT WRITES STATE RESPONSE AND ITS ORDER - NOTHING ELSE COULD EXPLAIN THEIR NEARLY IDENTICAL FINDINGS AND ERRORS.

SEE PAGE C1C9 OF APPENDIX C, ~~PAGE A~~ OF APPENDIX A, FOR EXAMPLE.

THE PETITIONER HAS BEEN DEPRIVED OF HIS CONSTITUTIONALLY PROTECTED RIGHTS TO RECEIVE THE RESPONSES AND ORDERS FILED/RESULTING FROM HIS PLEADINGS; TO RECEIVE PROPER ORDERS CONFORMING WITH APPEAL REQUIREMENTS; TO HIS RIGHT TO REQUIRED HEARINGS OR PROCEEDURES, TO HIS RIGHT TO REPLY; TO HIS RIGHT OF THE EQUAL ACCESS AND PROTECTION OF LAW. THESE DEPRIVATIONS HAVE COST HIM ALL MEANS TO DEFEND AND APPEAL IN THESE MATTERS, DESPITE UNCONTROVERTED EVIDENCE AND PLEADINGS ENTITLING HIM TO RELIEF AS A MATTER OF LAW AND PERMANENTLY ALTERING HIS RIGHTS IN CASE AND ACCESS TO FUTURE RELIEF - THE TULSA COURT ERRORS WERE NOT HARMLESS, WERE WITHOUT JURISDICTION GOING ALL THE WAY BACK TO THE SKIPPING OVER OF HIS OCTOBER 30 MOTION TO DISMISS AND ALL SUBSEQUENT ORDERS AND REVIEW FOR RELIEF IS NEEDED TO PREVENT IRREPARABLE HARM AND ENSURE AN END TO THESE ACTS OF JUDGE AND STATE.

THE FACTS OF THE PRISON'S COVID LOCKDOWN AND UNCONTROVERTED EVIDENCE IN SUPPORT OF BEING NOT-AT-FAULT FOR LOSS OF APPEAL OF THE VOID NOVEMBER 18, 2020 ORDER IS WELL DOCUMENTED IN HIS APPLICATION FOR POST CONVICTION APPEAL OUT OF TIME AND MOTION FOR SUMMARY DISPOSITION AT PAGE B36 OF APPENDIX B.

IN THE OKLAHOMA COURT OF CRIMINAL APPEALS, MY RIGHTS OF DUE PROCESS AND EQUAL PROTECTION OF LAW WERE VIOLATED WHEN, IN ITS JANUARY 25, 2023 ORDER IT AGAIN IGNORED THE FEDERAL ISSUES AND MISCONDUCT IN THE CASE IN VIOLATION OF OKLAHOMA CONSTITUTION ART 2, § 6, AND U.S. CONSTITUTION ARTICLE VI, AND AMENDMENT XIV.

SEE HIS NOTICE TO TULSA & OCCA CLERKS AT PAGE B145 OF APPENDIX B AND HIS APPEAL AT PAGE B147 OF APPENDIX B.

THE TULSA CLERK MAILED THAT COURT'S MAY 2022 ORDER DENYING RELIEF TO A KNOWN WRONG ADDRESS, DESPITE NOTING MY NOTICE TO IT OF NEW ADDRESS IN EARLY FEBRUARY 2022 (SEE PAGE C5 OF APPENDIX I AT DATED ENTRY FOR FEBRUARY 25, 2022). THE PETITIONER RECEIVED THE ORDER ON MAY 27, 2022 AND IMMEDIATELY SENT NOTICE OF APPEAL, TIMELY.

ON JUNE 22, 2022 THE ^{NOTICE} ~~ORDER~~ WAS ~~ERRONEOUSLY~~ SENT BACK TO HIM AS UNDELIVERABLE DESPITE IT HAVING USED SAME ADDRESS FOR TUESDAY CLERK HE HAS USED IN MAILING PREVIOUS FILINGS.

HE RESENT THE NOTICE WITH PHOTOCOPIES OF POSTMARKS AND ENVELOPES AS PROOF OF TIMELINESS ALONG WITH A SWORN STATEMENT DESCRIBING THE MAILING OF NOTICE IN ACCORD WITH PRISON MAILBOX RULE. (SEE PAGE 845 APP. B)

OKLA CRIM. APP, DENIED APPEAL, DECLINING JURISDICTION FOR UNTIMELY NOTICE OF APPEAL, CONTRARY TO OTHER STATE HIGH COURTS.

THE FEDERAL COURTS HAVE LONG ACKNOWLEDGED THE MAILBOX RULE IN RECOGNITION OF THE CIRCUMSTANCES OF LEGAL WORK AND MAILING VERSUS THE RIGHTS AT RISK WHEN LOCKDOWN OR POSTAL SERVICE ISSUES OCCUR, SEE HOUSTON V LACK, 108 S.G.T. 2379

THE OKLA CRIM. APPEALS COURT HAS REFUSED TO EMBRACE THIS TYPE OF RULE, UNDER A SPURIOUS BELIEF NO CIRCUMSTANCE WARRANTING THE RULE EXISTS IN OKLA. PRESUMING PRISONERS FOR LACK OF MAILBOX RULE. THIS VIEW IS READILY PROVEN WRONG IN THESE MATTERS.

PETITIONER, A STATE PRISONER SEEKING APPELLATE REVIEW AND RELIEF FROM UNLAWFUL ORDERS HAS NOW LOST APPEAL RIGHTS OF SIGNIFICANCE TWICE DUE TO LACK OF MAILBOX RULE:

1) THE NOVEMBER 18, 2020 ORDER DENYING P.C. RELIEF, AND 2) THE JANUARY 25, 2023 OKLA CRIM APP DENIAL OF JURISDICTION

ABOVE, SEE PAGE A1 OF APPENDIX A, DUE TO ERRORS OF MAIL WHICH WOULD NOT HAVE TWICE DAMNED HIS ABILITY TO PURSUE POST-CONVICTION RELIEF IF SUCH RULE WERE USED AS HE COULD'VE MET DEADLINE TO FILE VIA MAILBOX RULE.

INSTEAD, HE IS SUBJECT TO LOSS OF RIGHTS DUE TO HIS BEING IN A SOUTHWEST OKLA. RURAL PRISON LOCATION WHILE THOSE CLOSER TO THE COURT ENJOY NO SUCH MAIL DELAYS. THAT IS AN EQUAL PROTECTION ISSUE. MY LOCATION IN THE STATE SHOULD NEITHER IMPAIR NOR IMPROVE THE CHANCE OF LOSING RIGHT OF APPEAL TO MAIL ISSUES WHILE DILIGENT.

FURTHER, THE OTHER OKLAHOMA APPEALS COURTS AND ITS SUPREME COURT, HAVE ADOPTED THE MAILBOX RULE FOR OKLA. PRISONERS FILING OR RESPONDING IN APPEALS OR ORIGINAL ACTIONS - A RIGHT DEPRIVED OF PETITIONER BY THE SOLE REMAINING OKLA. HIGH COURT TO REFUSE MAILBOX RULE, THIS TOO RESULTS IN PETITIONER BEING DEPRIVED OF A RIGHT OPENLY ALLOWED TO SIMILARLY SITUATED PERSONS. THE OKLA. CRIM. APP. DECISION TO DECLINE JURISDICTION OF A PROVEN TIMELY BY POST, MARK AND AFFIDAVIT / STATEMENT OFFENDS THE XIV AMENDMENT.

SEE OKLA. SUPREME COURT RULES (C) 1.4 (C) & 1.4 (C) & 1.177 AT 12 O.S., CHAP 15, APP 1; AND HALLADAY V. BOARD OF COUNTY COM'RS OF OKMULGEE, OKLA. CIV.

APP. DIV. 4, 90 P.3d 578 VS. MOORE V GIBSON, OKLA. CRIM. APP. 22 P.3d 483,

AND FACT THAT NO STATUTE IN CRIMINAL PROCEDURE OF OKLA. PROSCRIBES USE OF MAILBOX RULE AND SOLE BENEFIT IN OKLA. CRIM. APP. REFUSAL TO APPLY THE RULE IS THEIR CONTINUED ABILITY TO PERMANENTLY BAR OR CRIPPLE RELIEF OF PRISONERS IN APPEALS PROCEEDINGS.

FURTHER, IN THIS CASE, THEIR LONG DELAY IN RULING ON TECHNICALITY ALONE HAS LIKELY COST A DILIGENT PRISONER HIS RIGHT TO RELIEF OR EXHAUSTION OF CLAIMS DESPITE TRIAL DURABLE EVIDENCE OF HIS TIMELY MAILING OF THE NOTICE OF APPEAL.

OKLA. CRIM. APP.'S USE OF RULES HAS NOW CREATED A CLASS OF PERSONS WHOSE PRISON OF CUSTODY'S LOCATION/PROXIMITY VIS-A-VIS LARGE CITIES IS CAPABLE OF BEING SOLE CAUSE OF JURISDICTIONAL DEFAULT ON CLAIMS DILIGENTLY PURSUED.

MEANWHILE, OTHER STATE HIGH COURTS HAVE ALSO EMBRACED THE MAILBOX RULE: STATE V. GORAEKE, 210 ARIZ. 285, 1986 P.33 1035, 29 ALR 6TH 745 (CR. APP. DIV. 1 2005);

PETITIONER'S RIGHT TO PROTECTION UNDER LAW FROM THESE VIOLATIONS IS ABSOLUTE AT COMMON AND MODERN LAW:

U.S. CONSTITUTION: (SEE PG D1-02, APP. D.)

ARTICLE 2 GUARANTEES THAT AS AN OKLAHOMA CITIZEN I AM ENTITLED TO SAME PRIVILEGES AND IMMUNITIES OTHERS RECEIVE IN THEIR STATES, LIKE SERVICE OF ORDERS & RIGHT TO RESPOND & DUE PROCESS OF LAW.

ART VI, § 2, RENDERING US CONST LAW'S PROTECTIONS TO BE LAW OF THE LAND, OVERRIDING ANY OFFENDING STATE LAW, AND THAT ALL JUDGES SHALL HONOR SAME.

AMENDMENT I - MY RIGHT TO HAVE SOUGHT/PETITION FOR REDRESS FROM THESE DEPRIVATIONS

AMENDMENT V & VI - ENTITLING ME, A US CITIZEN TO DUE PROCESS OF LAW PRIOR TO DEPRIVATION OF LIBERTY LIKE THOSE GIVEN ABOVE.

AMENDMENT XIV FURTHER PROTECTING MY RIGHT TO DUE PROCESS AND TO HAVE EQUAL PROTECTION AND AVAIL TO THE LAW.

OKLAHOMA CONSTITUTION (SEC 12 & 13, APP. D) LIKEWISE PROTECTS

IN ARTICLES: 1§1; ART 2§§ 1, 2, 3, 6, 7, 9; ART 5§46,

ARTICLE 15§1 ENJOINED STATE'S COUNSEL AND JUDGE WHEN THEY TOOK THIS OATH UPON ASSUMING OFFICE, FROM DOING THESE THINGS LISTED ABOVE IN VIOLATION OF THE STATE CONSTITUTIONAL PROTECTIONS JUST GIVEN ABOVE.

COURT ACTED WITHOUT AUTHORITY AND JURISDICTION IN ABANDONING THE REQUIRED PROCEEDINGS AND DUTIES IN LAW, DESPITE REPEATED NOTICE OF SUCH FROM PETITIONER, IN HIS PLEADINGS, EFFECTIVELY ALLOWING STATE TO ADJUDICATE ITS OWN PLEADINGS SUCH THAT ONLY ITS MATTERS/FILINGS RECEIVED RULINGS, AS PLAIN IN THE PROVIDED DOCKET SHEET APPENDIX.

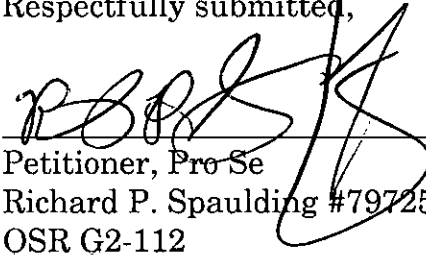
PLEASE ALLOW REVIEW WITH AID OF COUNSEL, TO PRESENT FOR RELIEF.

CONCLUSION

The petition for a writ of certiorari should be granted, along with any such further or alternative relief that this Court finds warranted.

Respectfully submitted,

Date: June, 23, 2023



Petitioner, Pro Se
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VERIFICATION AND PRISON MAILBOX RULE

I, Richard Patrick Spaulding, declare or certify under penalty of perjury that the foregoing Petition For A Writ of Certiorari is true and correct.

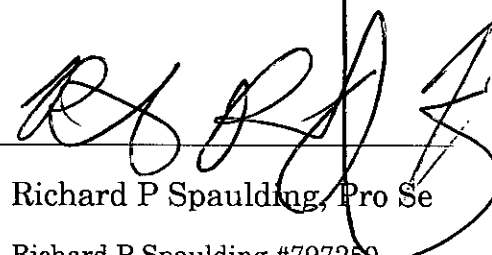
With intention of verifying filing by mail under the "prison mailbox rule", I further declare or certify under penalty of perjury that I placed this pleading and its attachments into an envelope correctly addressed to the United States Supreme Court at the attention of the Clerk of the Court, then personally placed the envelope in the care of the Ms. Haley Hamaker, staff member in charge of the Oklahoma State Reformatory's prison's legal mail system for delivery via the United States mail with correct prepaid first-class postage attached on this 26 day of June, 2023.

I DECLARE OR CERTIFY ON PENALTY OF PERJURY THAT MY TOTAL PAGE COUNT OF PETITION, EXCLUDING APPENDICES, IS 26 PAGES.

I declare or certify under penalty of perjury under the laws of the United States (pursuant to 28 U.S.C. § 1746) that the foregoing is true and correct.

Executed this 26 day of June, 2023 at 1700 East First Street, Granite, Oklahoma, 73547, county of Greer (18 U.S.C § 1621).

June 26, 2023


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