

23-5315

Docket Number: _____

IN THE
SUPREME COURT OF THE UNITED STATES

Jesse Redfearn

Petitioner

vs

The State of Oklahoma

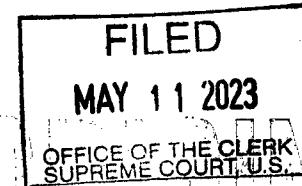
Respondent

"OUT OF TIME"
CRIMINAL APPEAL

ON PETITION FOR A WRIT OF CERTIORARI
To the Oklahoma Court of Criminal Appeals
for the State of Oklahoma

ON PETITION FOR A WRIT OF CERTIORARI

Jesse Redfearn, (832254)
Oklahoma State Reformatory
P.O. Box 514
Granite, OK 73547
Phone: (*unavailable*)



19th July 2023

"ORIGINAL" DATE SUBMITTED

QUESTION(s) PRESENTED

1. Mr. Redfearn respectfully asks:

Did the trial court and/or the prosecution violate the Sixth (6th) Amendment, [*confrontation clause*], and clearly established law of the United States Supreme Court, by concealing the location of the only material witness¹ and preventing her from testifying in trial?

2. Mr. Redfearn respectfully asks:

Did the State violate the United States Constitution by exposing the jury to *incomplete preliminary hearing transcripts* in the trial?

3. Mr. Redfearn respectfully asks:

Did the Assistant District Attorney violate Mr. Redfearn's Civil Rights, [42 U.S.C.A., Ch. 21. § 1983], by obstructing his defense and preventing the only witness(es) who could identify him, from testifying in a criminal trial?

¹ This is the witness who made the allegation(s) against Mr. Redfearn. More so when the witness called the District Attorney's Office and demanded to testify in the trial, but the prosecutor ensure she was not present. (See Trial Transcripts of voice mail prosecution played in open court)

LIST OF PARTIES

- The Petitioner in this case is Jesse Redfearn, “representing himself” [*and no other(s)*].
- 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 an appeal from the Court of Criminal Appeals for the Tenth (10th) Circuit.
- These issue(s) were presented to the Oklahoma Court of Criminal Appeals through direct appeal.

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2. Appendix B ORDER of the Oklahoma Court of Criminal Appeals
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OPINIONS BELOW [STATE COURTS]

Mr. Redfearn was tried and convicted by a jury on **November 1, 2019**, [CF-2018-4337]. Mr. Redfearn instantly filed an appeal of the trial court through his *direct appeal*. The Oklahoma Court of Criminal Appeals affirmed the conviction on **April 22, 2021**, [F-2019-821], [*not for publishing order*]. *Mr. Redfearn's family mortgaged their home(s) and raised fund(s) for appellate counsel. [Appellate Counsel never informed Mr. Redfearn that he could file for Certiorari once his Direct Appeal was affirmed.*] Mr. Redfearn filed his Writ Habeas Corpus by and through counsel. The United States District Court, for the Western District of Oklahoma issued its Report and Recommendation on **February 16, 2022**. The District Court's ORDER adopting the R&R was issued on **March 23, 2022**. Mr. Redfearn filed for a Certificate of Appealability with the Court of Criminal Appeals for the Tenth Circuit and his COA was denied **January 26, 2023**. Mr. Redfearn's counsel filed for an "*en banc*" hearing and that was denied on **February 21, 2023**. Mr. Redfearn, [pro-se], now appeals to this Great and Honorable Court for mercy and grace in the granting of his Certiorari.

JURISDICTION

The Oklahoma Court of Criminal Appeals entered its Order denying review on Direct Appeal on the **April 22, 2021**. Then the United States Court of Appeals for the Tenth Circuit has review the matter grant this Great and Honorable Court statutory jurisdiction to hear this matter.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Appendix F United States Constitution, Amendment VI
2. Appendix G United States Constitution, Amendment IX

STATEMENT OF THE CASE

I, *Jesse Redfearn*, was arrested for, [allegedly], raping a prostitute who was well known to local law enforcement. The allegation as stated by the State:

“Someone approached the witness from behind and put a black bag over her head and forced her into a vehicle then took her to an unknown house. She said that she was bathed at one point. However, she stated that she does not think that she was raped. When she stated that she passed out¹, and when she woke up, someone was placing her next to a construction site.”

The witness was called to testify in the preliminary hearing on **October 26, 2018** and she never made an appearance, [*this material witness missed four (4) previous hearing(s) and the case was “passed” multiple times then dismissed and refiled*]. The preliminary hearing was rescheduled to **November 16, 2018** and this time the state presented their material witness.

During the preceding, the prosecution **NEVER** asked any question(s) of the material witness. Once the defense counsel stood to start questioning, counsel asked her a few question(s) before he asked her if she was acting as a prostitute. The material witness stood up and attempted to flee the court room, and the deputy stopped her from leaving and took her to the jury room. Where she was able to speak to a victim impact professional.

While the material witness was sitting in the jury room, the court continued with the preliminary hearing. The court was off the record when defense counsel asked if the court was going to order the material witness to retake the stand. The trial judge stated this was a trial right, and Mr. Redfearn does not have such rights in a preliminary hearing.

Counsel filed a motion to remand to preliminary hearing to cross examine the material witness. The judge **“formally”** denied the motion by reiterating: *“The right to cross examination is a trial right and further examination of the witness may presume in trial”*.

¹ Due to heavy intoxicants consumed prior to this event – defense counsel obtained surveillance video of the material witness chugging alcohol in front of a hotel lobby. Witness for the defense, [liquor store employee], stated that the material witness is a known prostitute and banned from several local liquor stores for theft, panhandling and solicitation within the property.

During the trial the victim impact professional read the ***INCOMPLETE TRANSCRIPTS*** as the prosecution deliberately prevented² the material witness from testifying.

In review of the United States District Court, for the Western District of Oklahoma's order, the court failed to apply the Tenth Circuit's own precedential case standard(s) to Mr. Redfearn's appellate review. The Tenth Circuit Court should have applied the standard of "***McKune***" to this case.

If a witness is unstable and/or is a flight risk and/or refusing to testify in a criminal matter in which the Government seeks to strip the life, liberty and justice from a citizen, it is the absolute duty of the prosecution to secure a bench warrant for the witness and secure her in a county jail until which time she could testify either as a complaining witness and/or as a hostile witness. Either way, Mr. Redfearn had an absolute and constitutional right to confront his accuser in court personally or through counsel.

If the Government refuses to secure a witness for trial, all charge(s) related to that material and/or complaining witness must be dismissed in the name of justice. This Honorable Court's standings on ***the ends of justice*** should have mandated the O.C.C.A and Tenth Circuit Court(s) adjudicate the matter pursuant to ***Sanders v. United States, 373 U.S. 1, 10 L.Ed.2d 148, 83 S.C.t. 1086 (1963)***.

Defense Counsel objected, multiple time(s), over the course of four (4) days to the state's refusal to secure the material and/or complaining witness for the trial. Defense counsel also, [simultaneously], objected to the utilization of ***INCOMPLETE TRANSCRIPTS***. The Court "overruled". Counsel further moved for a mistrial countless time(s) through the proceeding(s) was "overruled".

After the jury heard the ***INCOMPLETE TRANSCRIPTS*** they were removed from the courtroom. The District Attorney played a voice mail of the material and/or complaining witness who clearly stated that she wanted to testify in this trial. This was concealed from Defense Counsel until the State utilized it as

² ***Cook v. McKune, 323 F3d 825, 836-37 (10th Cir. 2003)*** "The admission of preliminary hearing testimony of absent witness during trial violated defendant's confrontation rights in murder trial. The state failed to diligently secure the witness for trial and this witness was the only individual who identified the defendant as the killer."

U.S. v. Vavages, 151 F.3d 1185 (9th Cir. 1998) "Governmental interference with a defense witness' choice of whether to testify constitutes a violation of due process and requires a reversal and remand for new trial."

ambush and/or an evidentiary harpoon in an attempt to stymie Mr. Redfearn's appellate review. The Defense was prohibited and/or barred from conducting a forensics analysis of the voicemail to ascertain when the voicemail was actual left on the device. The Defense would argue that this voicemail was weeks, [if not months], prior to trial and the District Attorney went out of their way to conceal material evidence accompanied with the concealment of the *ONLY* witness from appearing in court. Had this witness appeared in court, Mr. Redfearn would have been exonerated of all charges.

Mr. Redfearn filed for a Direct Appeal and was appointed a public defender through the Oklahoma Indigent Defense System. Mr. Redfearn wrote countless letters to his public defender requesting counsel to address the Brady Violation(s)³. Counsel never responded to Mr. Redfearn's correspondence in violation of clearly established law(s) of this Honorable Court.

The Oklahoma Court of Criminal Appeals denied his appellate review and affirmed the conviction, [See Attached within Appendix]. Mr. Redfearn's family "literally" mortgage their home(s) to obtain counsel to draft a well-pleaded habeas corpus petition, and that lawyer did nothing except filed the Public Defenders Brief with the United States District Court for the Western District of Oklahoma, (almost word for word). Once the ORDER of denial was issued, counsel abandoned client in violation of the rule(s) of the court and refused to pursue a Certificate of Appealability from the United States Court of Appeals for the Tenth Circuit. Mr. Redfearn was left with no choice but to seek a "*jailhouse lawyer*" to assist him in the filing of his notice of intent to appeal. Mr. Redfearn's family was able to retain a final lawyer, who verbally stated that she would file the proper pleadings with United States Court of Appeals for the Tenth Circuit in an attempt to cure the deficiencies of his Habeas Corpus Lawyer. As soon as the United States Court of Appeals for the Tenth Circuit rendered its ruling of denial of the requested "*en banc*" hearing,

³ (1) Forensic analysis of the District Attorney's voicemail that was entered into evidence as an evidentiary harpoon; (2) The State's concealment of 13 surveillance camera footage which prove(s) actual factual innocence; (3) the state's concealment of state witness and the refusal or *failed to diligently secure the witness for trial and this witness was the only individual who identified the defendant*, pursuant to the Tenth (10th) Circuit's precedential standard(s) AND surveillance video of the said crime scene, (thirteen (13) camera angles were concealed).

counsel adequately advised Mr. Redfearn of his right to appeal to this Great and Honorable Court. Only Mr. Redfearn could not afford to pay counsel to draft a certiorari. Mr. Redfearn returned to the aforementioned *jailhouse lawyer* and requested him to assist me pro-bono, requesting help with this Certiorari.

Mr. Redfearn still maintains his actual factual innocence of the alleged event(s) and in no way did he ever commit the horrific crime.

The State of Oklahoma has clearly demonstrated its legal right, duty and obligation to detain a material witness and incarcerate that individual within a neighboring county detention facility until said material witness testifies within the pending trial. This was initiated by the State of Oklahoma within "*State v. Miller*" (CF-2006-957) filed within Love County, Oklahoma. The State put a material witness in a county jail, denied bail and mandated her to testify by and through a bench warrant because the witness was refusing to testify. As this does correlate to Mr. Redfearn's criminal trial, because his defense counsel requested the court to conduct the same actions found within MILLER. Mr. Redfearn was stripped of his fundamental and constitutional right to confront his accuser⁴, while the State of Oklahoma exploited the only witness and went out of their way to prevent the witness from testifying.

⁴ The Right to confront an accuser has been the *bedrock of the American Jurisprudence* and adopted from the enactment of the Magna Carta. This court has repeatedly upheld this right of the people within volume(s) of order(s). Oklahoma simply has been incentivized by the enactment of the A.E.D.P. to strip citizens of their fundamental right(s) which has led to countless *innocent* men and women to be incarcerated for the rest of their lives.

This is found in a similar situation: Most scholars attribute the origins of the *CORPUS DELICTI RULE* to "*PERRY's CASE*" 13 *How. St. Tr.* 1312 (ENG. 1661).

In that case, John Perry along with his mother and brother were executed after Perry's confession, during official interrogation, implicated all three of them in the murder of his MASTER William Harrison. The Crown presented Perry's confession as evidence of the murder but was unable to produce any other evidence, and Harrison's body was NEVER found. A few years after the execution of the Perry family, Harrison reappeared and explained that he had been kidnapped and sold into slavery. The execution of the completely innocent Perry family led some English courts to REQUIRE confessions to be supported by independent evidence corroborating that the crime actually occurred in order for a conviction⁴.

In the United States, the *CORPUS DELICTI RULE* was adopted primarily to: (I) avoid wrongful convictions, (II) discourage law enforcement from forcibly extracting false confessions, and (III) ensuring confessions are reliable.

This is known as the traditional interpretation of the *CORPUS DELICTI RULE*, i.e. a confession or a plea of guilty must be corroborated by independent evidence to ensure that a crime was actually committed by the accused.

REASONS FOR GRANTING THE GREAT WRIT

The State of Oklahoma has a long history of violating the civil rights of the citizens and residence of Oklahoma. For example the recent “*Indian Country Jurisdiction*”. The State of Oklahoma knows and understands that they have zero jurisdiction over crimes committed by Indian(s), yet the State of Oklahoma is still prosecuting Indian(s) who commit violations of major crime(s). Months after the decision “McGirt” former Attorney General “John O’Conner” is quoted in telling the agents of the State to *continue doing what we have been doing for over 100 years*. The State of Oklahoma does not care what the Federal Law mandate(s) nor the United States Constitution. Oklahoma Governors have openly and publicly denounced Congressional Law and continued to rebel against the union in which they are inseparable from, [Oklahoma Constitution, Article I, §1].⁵ Oklahoma’s recent convictions of Indians who committed violations of the major crimes act, is more evident of Oklahoma’s contumacy for this Great and Honorable Court’s rulings and authority.

Mr. Redfearn was under the impression that the accused has a fundamental constitutional right to confront his accuser in trial. His trial judge even told him that this was a trial right, then deprived him of his rights. Mr. Redfearn is not demanding any court to vacate his conviction. He has only requested a new trial, in which was fair to both sides of the court. Mr. Redfearn should have never been convicted by presentation of *INCOMPLETE* transcripts and the prosecution should never stand between a victim taking the stand and a defendant’s right to confront the accuser. The confrontation clause⁶ is a catalyst of the American Jurisprudence and the bedrock of criminal trials. Should this court turn a blind eye, to

⁵ This is clearly established through recent legislative actions – reference attached Appendix E: *2023 Oklahoma Senate Joint Resolution No. 2, Oklahoma First Regular Session of the Fifty-Ninth Legislature*, [TITLE: Constitutional amendment; declaring Oklahoma a sovereign state; declaring certain laws null and void].

⁶ Sixth Amendment of the United States Constitution – Oklahoma Constitution, Article II, § 20 and this Great and Honorable Court’s ruling of *Hemphill v. New York* 142 S.Ct. 681, 211 L.Ed.2d 534 and/or *Whorton v. Bockting* 127 S.Ct. 1173, 549 U.S. 406, 167 L.Ed.2d 1.

Oklahoma's contumacy of the Sixth (6th) Amendment of the United States Constitution, it would further incentivize Oklahoma and its agents.

CONCLUSION

Mr. Redfearn is at the mercy of this Great and Honorable Court as Oklahoma will never provide an incarcerated litigant relief in the name of justice. This was even more evidence when the Oklahoma Court of Criminal Appeals recently rendered an appalling decision in *Glossip v. State 2023 OK CR 5*. The Oklahoma Attorney General's Office filed in conjunction with Mr. Glossip and requested his case be reversed and remanded for a new trial as there has been a significant amount of evidence proving this man's innocence. Inmate "Sneed" implicated Mr. Glossip in the conspiracy to commit murder only because Sneed assumed that Mr. Glossip was a snitch for the police. Sneed has openly admitted this multiple time to other inmates and an inmate submitted a sworn affidavit alleging this information. The Oklahoma Court of Criminal Appeals erroneously deprived Mr. Glossip of his constitutional rights to access the courts, pursuant to Oklahoma Constitution, Article II, § 6 and in contumacy of this Great and Honorable Court's precedents, regarding a miscarriage of justice.

If the incarcerated are fighting to prove their innocence, the *ONLY* relief "we" have is the United States District Court(s), Appeals Courts and this Great and Honorable Court. The Oklahoma Court will never grant such relief. Could this be why so many inmates are filing Certiorari(s) before this Honorable Court, (recently)?

Mr. Redfearn simply prays for a new trial as his trial was not fair or impartial. He was convicted by an incomplete transcript and deprived his right to confront his accuser.

PRAYER FOR RELIEF

Mr. Redfearn "prays" this Great and Honorable Court grants this Certiorari and in doing so provides the following relief:

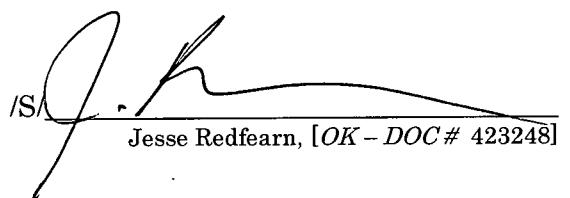
- (1) Reverse the Judgment and Sentence with a mandate for a new trial, (barring the State from utilizing incomplete transcripts), and/or
- (2) Reverse the Denial Order of his Habeas Corpus and mandate the Habeas Court to apply the Tenth (10th) Circuit's precedent of *Cook v. McKune*, 323 F3d 825, 836-37 (10th Cir. 2003)
[The admission of preliminary hearing testimony of absent witness during trial violated defendant's confrontation rights in murder trial. The state failed to diligently secure the witness for trial and this witness was the only individual who identified the defendant as the killer.]

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 15th day of July, 2023.

Respectfully Submitted,


/S/ Jesse Redfearn, [OK - DOC # 423248]