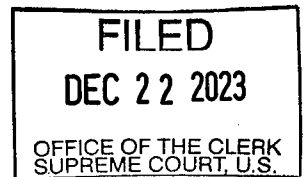


23-6369
No. _____

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

Joseph R. Cyr — PETITIONER
(Your Name)

VS.

Scott Crow — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

District Court of Oklahoma County

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____, or

☒ a copy of the order of appointment is appended.

Joseph R. Cyr
(Signature)

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Joseph R. Cyr, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Self-employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Gifts	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Alimony	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Child Support	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	\$ <u>N/A</u>
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	\$ <u>N/A</u>
			\$
			\$

4. How much cash do you and your spouse have? \$ _____
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
<u>Inmate Trust Account</u>	\$ <u>3,567.71</u>	\$ <u>N/A</u>
	\$	\$
	\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home
Value N/A

☐ Other real estate
Value N/A

☐ Motor Vehicle #1
Year, make & model N/A
Value _____

☐ Motor Vehicle #2
Year, make & model N/A
Value _____

☐ Other assets
Description N/A
Value _____

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
<u> </u>	\$ <u> </u>	\$ <u> </u>
<u> </u>	\$ <u> </u>	\$ <u> </u>

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>N/A</u>	\$ <u>N/A</u>
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>N/A</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>N/A</u>	\$ <u>N/A</u>
Food	\$ <u>N/A</u>	\$ <u>N/A</u>
Clothing	\$ <u>N/A</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>N/A</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>N/A</u>	\$ <u>N/A</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>N/A</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>N/A</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>N/A</u>	\$ <u>N/A</u>
Life	\$ <u>N/A</u>	\$ <u>N/A</u>
Health	\$ <u>N/A</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>N/A</u>	\$ <u>N/A</u>
Other: _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Installment payments		
Motor Vehicle	\$ <u>N/A</u>	\$ <u>N/A</u>
Credit card(s)	\$ <u>N/A</u>	\$ <u>N/A</u>
Department store(s)	\$ <u>N/A</u>	\$ <u>N/A</u>
Other: _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Alimony, maintenance, and support paid to others	\$ <u>N/A</u>	\$ <u>N/A</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>N/A</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>N/A</u>	\$ <u>N/A</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? _____

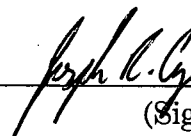
If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I am currently incarcerated at Oklahoma State Reformatory

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

Executed on: December, 21, 2023



(Signature)

DEC 9 2016

IN THE DISTRICT COURT OF OKLAHOMA COUNTY

DEC - 8 2016

STATE OF OKLAHOMA

FILED

RICK WARREN
COURT CLERK

THE STATE OF OKLAHOMA,

Plaintiff,

vs.

JOSEPH RICHARD CYR,

Defendant.

APPELLATE CASE

NO. F 2016-1122

District Court Case No. CF-2013-2102

TYPE OF APPEAL

☒ Direct Appeal Felony

☐ Direct Appeal Misdemeanor

☐ Certiorari

☐ Revocation/Acceleration

☐ Termination from Drug Court

☐ State Appeal - 1089.1 - 1089.7

☐ State Appeal - 1053/1053.1

☐ Juvenile - Adjudication

☐ Juvenile - Certification

☐ Juvenile - Reverse Certification

☐ Youthful Offender - Sentencing as Adult

☐ Youthful Offender - Bridge to DOC

☐ CAPITAL

☒ NON-CAPITAL

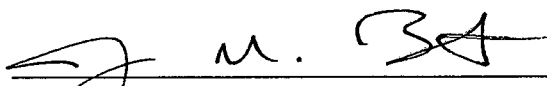
**NOTICE OF INTENT TO APPEAL;
ORDER DETERMINING INDIGENCE, APPELLATE COUNSEL,
PREPARATION OF APPEAL RECORD, AND GRANTING TRIAL COUNSEL'S
MOTION TO WITHDRAW; COURT REPORTER'S ACKNOWLEDGEMENT; AND
NOTIFICATION OF APPROPRIATE APPELLATE COUNSEL, IF APPOINTED**

I. NOTICE OF INTENT TO APPEAL

The Defendant was sentenced on the 2nd day of December, 2016 for:

<u>Crime(s)</u>	<u>Statute(s)</u>	<u>Sentence</u>
Cts. 1 & 2: Murder in the First Degree	Okla. Stat. tit. 21, § 701.7	LWOP

The Defendant intends to appeal ☒ all convictions arising from the trial had in the above captioned case, whether hereinabove specifically listed or not; or ☐ only the following Counts: _____ to the Oklahoma Court of Criminal Appeals pursuant to Okla. Stat. tit. 22, § 1051 (2011). This Notice of Intent to Appeal and the Designation of Record, attached as Exhibit "A", pursuant to Rule 2.5(B) of the Rules of the Court of Criminal Appeals, Ch.18, App., of Title 22, was filed with the clerk of the trial court within ten (10) days of the date of the pronouncement of the Judgment and Sentence in this case and constitutes a valid initiation of a direct appeal in accordance with the Court of Criminal Appeals Rule 2.1(B). The Defendant further requests that the original record and transcripts be prepared in accordance with the completed Designation of Record, attached as Exhibit "A".

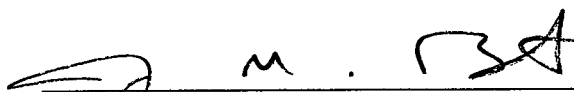


JACOB M. BENEDICT - Trial Counsel

Assistant Public Defender

- ☐ Retained
☒ Appointed
☐ Individual
☐ Oklahoma Indigent Defense System
☒ Oklahoma County Public Defender
☐ Tulsa County Public Defender

A true and correct certified copy of the Notice of Intent to Appeal and the Designation of Record with acknowledged receipt by the court reporter were mailed this ____ day of December, 2016, to the Clerk of the Oklahoma Court of Criminal Appeals.



JACOB M. BENEDICT - Trial Counsel

Assistant Public Defender

OBA No. 21479

320 Robert S. Kerr

611 County Office Building

Oklahoma City, OK 73102

(405) 713-1550

II. APPLICATION FOR DETERMINATION OF INDIGENCE

In accordance with Rule 1.14 of the Rules of the Court of Criminal Appeals, 22 O.S., Ch.18, App., the Defendant submits that he is indigent and cannot pay the costs of an appeal. Counsel states:

- (X) Indigence has been previously determined by this Court or its designee, and a pauper's affidavit in accordance with Rule 1.14(A) will be provided if this Court elects to review the Defendant's status.
- () Indigence has not been previously determined by this Court or its designee, and a pauper's affidavit in accordance with Rule 1.14(A) is attached as Exhibit "C".

It is requested that appropriate counsel be appointed and transcripts be prepared at the expense of the State.



JACOB M. BENEDICT

III. DETERMINATION OF INDIGENCE

Pursuant to Rule 1.14 of the Rules of the Court of Criminal Appeals, Ch.18, App., of Title 22, this Court finds the Defendant (X)IS ()IS NOT currently indigent.

THE COURT ORDERS:

A. Preparation of the Appeal Record:

1. A record of this case (X)IS ()IS NOT to be prepared at public expense.
2. The court reporter(s) listed below (X)SHALL () SHALL NOT be reimbursed at public expense out of the Court Fund of Oklahoma County for preparation of this record

Name: Deborah Torbert
Mailing Address: 321 W. Park Avenue
Okla. City, OK 73102

Transcript Type: Jury Trial ♦ Sentencing
Transcript Date: October 17-21 & 24-27, 2016 December 2, 2016

♦ *If Voir Dire is not requested, there may not be a transcript specifically dated for each day of trial, however any Pre-Trial motions that are held at any time during voir dire should be transcribed.*

Transcript Type: Pre-Trial Motion Hearings*
Transcript Date(s): December 4, 2015, December 7, 2015 and October 14, 2016 (if any other pre-trial motions were held during voir dire, it is requested they be included in this transcription)

**Pre-trial motion dates may differ from jury trial dates. Court Reporter – please fill in any and all pre-trial dates not included in the jury trial dates.*

3. The return to the trial court clerk all transcripts prepared at state expense during the course of the trial proceedings. These transcripts shall be returned within ten (10) days from the date of sentencing. *See* Rule 3.2(E).

B. IF INDIGENT:

1. Jacob Benedict and Amanda Holden, trial counsel for the Defendant, timely completed this Notice of Intent to Appeal and have timely filed a Designation of Record.
2. The court reporter has been served with a copy of the Designation of Record.
3. Appropriate transcripts are ordered at public expense.
4. **Robert A. Ravitz**, ()CHIEF, CAPITAL DIRECT APPEALS DIVISION OF THE OKLAHOMA INDIGENT DEFENSE SYSTEM (if the case was tried as capital, regardless of sentence imposed) ()CHIEF OF THE GENERAL APPEALS DIVISION OF THE OKLAHOMA INDIGENT DEFENSE SYSTEM (if the case

was tried as non-capital) () PUBLIC DEFENDER OF TULSA COUNTY
(X) PUBLIC DEFENDER OF OKLAHOMA COUNTY () A PRIVATE
ATTORNEY, ADDRESS: 611 County Office Bldg, Oklahoma City, OK 73102,
TELEPHONE: (405) 713-1550, is appointed to represent the Defendant on appeal.

(The public defender of Tulsa County and Oklahoma County may only be appointed if that office represented the defendant at trial unless a conflict of interest exists as determined.)

5. Any Supplemental Designation of Record by the Oklahoma Indigent Defense System pursuant to Section 1362 of Title 22 must be filed and served upon the appropriate court reporter(s) within thirty (30) days from the date of appointment, and the reporter's acknowledgement of service shall be filed in accordance with Rule 1.15(B); 2.1(B)(3).
6. Jacob Benedict and Amanda Holden, trial counsel for the Defendant, are permitted to withdraw as counsel of record.

C. IF NOT INDIGENT:

1. N/A, trial counsel for the Defendant, timely completed this Notice of Intent to Appeal and has timely filed a Designation of Record.
2. The court reporter(s) has been served with a copy of the Designation of Record.
3. N/A has entered his/her appearance and will represent the Defendant on appeal as retained counsel.
4. N/A, trial counsel for the Defendant, has filed a Motion to Withdraw as Counsel. The Motion is granted and trial counsel is permitted to withdraw as counsel of record.

IT IS SO ORDERED.

This Order signed this 2 day of December, 2016.

CERTIFIED COPY
AS FILED OF RECORD
IN DISTRICT COURT

DEC - 8 2016

RICK WARREN COURT CLERK
Oklahoma County

Rick Warren

Cindy H. Truong
CINDY H. TRUONG, District Judge

NOTE: A NOTICE OF INTENT TO APPEAL AND DESIGNATION OF RECORD MUST BE FILED WITHIN TEN (10) DAYS FROM THE DATE THE SENTENCE IS PRONOUNCED IN OPEN COURT WITH THE CLERK OF THE TRIAL COURT. THIS NOTICE AND DESIGNATION IS JURISDICTIONAL AND FAILURE TO TIMELY FILE CONSTITUTES WAIVER OF THE RIGHT TO APPEAL. A CERTIFIED COPY OF THIS NOTICE AND DESIGNATION SHALL ALSO BE FILED BY TRIAL COUNSEL WITH THE CLERK OF THE COURT OF CRIMINAL APPEALS WITHIN TEN (10) DAYS FROM THE DATE THE

NOTICE IS FILED IN THE TRIAL COURT. NO TRIAL ATTORNEY MAY BE GRANTED PERMISSION TO WITHDRAW, IF THE DEFENDANT DESIRES TO APPEAL, UNLESS THESE DOCUMENTS ARE FILED. IF THE DEFENDANT DOES NOT WISH TO APPEAL THIS CONVICTION, TRIAL COUNSEL MUST FILE AN AFFIDAVIT SIGNED BY TRIAL COUNSEL AND ACKNOWLEDGED BY THE TRIAL JUDGE WITH THE CLERK OF THE DISTRICT COURT, BEFORE TRIAL COUNSEL IS ALLOWED TO WITHDRAW, ASSERTING THAT THE DEFENDANT HAS BEEN FULLY ADVISED OF HIS/HER APPEAL RIGHTS AND DOES NOT WISH TO PURSUE AN APPEAL OF THE CONVICTION. See Rule 1.14(D).

IV. COURT REPORTER'S ACKNOWLEDGMENT

- A. The Designation of Record, attached as "Exhibit A", was received on 12-1, 2016.
- B. IF NOT INDIGENT, satisfactory arrangements () have () have not been made for payment of the transcript cost. These financial arrangements were completed on _____, 2016. If payment has not been made/arranged, explain why:
- C. Number of trial and/or hearing days: 12.
- D. Estimated number of transcript pages: 2100.
- E. Estimated completion date: Feb. 2017.
- F. I acknowledge receipt of this document and understand I must prepare the record within the time limits prescribed by the Oklahoma Court of Criminal Appeals.

DATE: 12-1-16

Deborah J. Torbert
DEBORAH TORBERT - Official Court Reporter

V. NOTIFICATION OF COUNSEL, IF APPOINTED

NOTE: No Designation of Record shall be accepted for filing by the trial court clerk unless it contains one of the following:

- A. A signed acknowledgment from the court reporter(s) who reported proceedings in a case indicating receipt of the request for transcript(s), the date received, and completed financial arrangements, or an order of the trial court directing the case be prepared at public expense; or, [For Supplemental Designation of Record, a signed certified mail return receipt card acknowledged by the court reporter(s), together with the attorney's certificate of mailing attached is sufficient for compliance.] or,
- B. A signed statement by the attorney preparing the designation of record stating that transcripts have not been ordered and a brief explanation why. (Example, I, _____, attorney for the Appellant, hereby state that I have not ordered a transcript because: (1.) A transcript is not necessary for this appeal; (2.) No stenographic reporting was made.)

A true and correct certified copy of this Notice and Order and the Designation of Record were mailed this ____ day of _____, 2016 to () the Capital Direct Appeals Division, Oklahoma Indigent Defense System, 1660 Cross Center Drive, Norman, Oklahoma 73019; () the General Appeals Division, Oklahoma Indigent Defense System, P.O. Box 926, Norman, Oklahoma 73070-0926; (X) **Public Defender of Oklahoma County, 611 County Office Building, 320 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102;** () Public Defender of Tulsa County, 189 Courthouse, 500 South Denver Avenue, Tulsa, Oklahoma 74103; () _____, privately retained counsel.

Deputy Court Clerk, Oklahoma County

DESIGNATION OF PARTIES

ATTORNEYS FOR DEFENDANT

Jacob M. Benedict, OBA #21479
Amanda N. Holden, OBA #30587
Assistant Public Defenders
320 Robert S. Kerr Avenue, Suite 611
Oklahoma City, OK 73102
(405) 713-1550
FAX: (405) 713-7169

ATTORNEYS FOR THE STATE

Jimmy Harmon
Emily Music and Ryan Stevenson
Assistant District Attorneys
320 Robert S. Kerr Avenue, Suite 505
Oklahoma City, OK 73102
(405) 713-1600
FAX: (405) 235-1567