

Docket Number:

24-5066

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

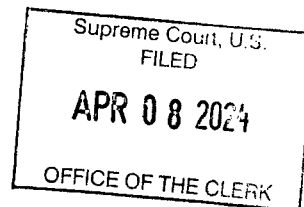
LYNUAL MCELROY

Petitioner

VS

The State of Oklahoma

Respondent



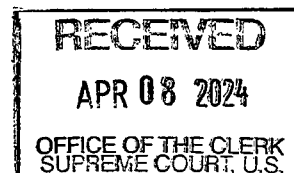
ON PETITION FOR A WRIT OF CERTIORARI

To the Oklahoma Court of Criminal Appeals

"OUT OF TIME"

PETITION FOR A WRIT OF CERTIORARI

Lynual McElroy, (265021)
Oklahoma State Reformatory
P.O. Box 514
Granite, OK 73547
Phone: (*unavailable*)



March 22, 2024
"ORIGINAL" DATE SUBMITTED

QUESTION(s) PROPOSED

Mr. McElroy respectfully asks:

1. Does 18 U.S.C.A. § 3161, [*speedy trial*], apply to all state(s) within the Union, through the United States Constitution, Article III, cl. 2, § 3 and/or Amendment(s) V, and/or VI, and/or IX, and/or XIV?
2. Did the Oklahoma Court of Criminal Appeals obstruct my public defender and/or create an impediment which barred my public defender from filing Constitutional claim(s) within my direct appeal?
3. Was appellate counsel constitutionally ineffective through my direct appeal, pursuant to the standards of *United States vs. Cronin*, 466 U.S. 648 (1984)?

LIST OF PARTIES

- The Petitioner in this case is Lynual McElroy, “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 Oklahoma Court of Criminal Appeals, [out of time].
- These issue(s) were presented to the Oklahoma Court of Criminal Appeals through direct appeal.

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INDEX OF EXHIBITS THROUGH APPENDIX

1. Appendix A: The order of the Oklahoma Court of Criminal Appeals is unavailable to me; however, I attached a sworn affidavit explaining my due diligence in attempting to obtain a copy of the order.

[Reference Page VI]

Case Appeal is Arrising from:

Oklahoma Court of Criminal Appeals: *F-1998-760*1

Constitutional Provisions

United States Constitution, Amendment(s) IXii, 3
United States Constitution, Amendment(s) Vii, 3
United States Constitution, Amendment(s) VIii, 3, 6, 8
United States Constitution, Amendment(s) XIVii
United States Constitution, Article III, cl. 2, § 3ii, 3

Statutes:

12 O.S. 1981, § 2104, [Oklahoma Evidence Code] 4, 7
18 U.S.C.A. § 3161ii, 3, 6, 7
28 U.S.C.A. § 1257 (a) 1, 2
28 U.S.C.A. § 2403 (b) 2

Cases

Glossip vs. Oklahoma, 22-7466 7
Simpson vs. State, (1994) OK CR 40 ¶ 1, 2, 3, 4, 5 4, 6
Trump vs. Anderson, 601 U.S. – (2024) 8
United States vs. Cronic, 466 U.S. 648 (1984)ii, 6, 9
William Marbury v. James Madison, 5 U.S. 137 (1803) 6

Other Resurce(s):

Webster Dictionary: Substantive Due Process 8

OPINIONS

The Order of the Oklahoma Court of Criminal Appeals, [*case number F-1998-760*], which affirms and denies my direct appeal on December 02, 1999, which is not attached hereto as Appendix "A"; however, I did attach an affidavit explaining he O.C.C.A. will not supply a copy of this order to me.

JURISDICTION

I was found guilty by a jury trial and I timely filed a direct appeal to the Oklahoma Court of Criminal Appeals. I was never provided a copy of this order nor was I notified by appellate counsel that O.C.C.A. had adjudicated my appeal. By the time that I learned O.C.C.A. had adjudicated my appeal, I thought that I was time barred pursuant to the A.E.D.P.A., [*that was the advice I received from the prison law library – at that time*]. After speaking to a jailhouse lawyer, I was advised that direct collateral review under 28 U.S.C. § 1257a is not restricted by the A.E.D.P.A. and that I could proceed with my certiorari. I am respectfully requesting this Honorable Court to adjudicate my certiorari out of time. I have also learned that Actual-Factual Innocent is a gate-way to all procedurally barred claims.

28 U.S.C.A. § 1257 (a):

Oklahoma Title 22, Ch. 18, § V, O.C.C.A. Rule 5.5 (Final Order; Exhaustion of State Remedies): "Once this Court has rendered its decision on a post-conviction appeal, that decision shall constitute a final order and the petitioner's state remedies will be deemed exhausted on all issues raised in the petition in error, brief and any prior appeals. A petition for a rehearing is not allowed and these issues may not be in any subsequent proceeding in a court of this State. ..."

28 U.S.C.A. § 2403 (b):

In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer or employee thereof is not a party wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following provision of the United States Constitution are involved:

- United States Constitution, Article III, cl. 2, § 3
- United States Constitution, Amendment(s) V, VI, IX, and XIV
- 18 U.S.C.A. § 3161, [*speedy trial act*]

STATEMENT OF THE CASE

“I have always maintained my actual, [factual], innocence of the charge[s] and conviction. I am not asserting a legal insufficiency to the charges. I never committed the crime(s) that I was accused of.”

The Oklahoma Legislature enacted the Oklahoma Post-Conviction Procedures Act in order to comport to this Honorable Court’s ruling that State’s appellate procedures were unconstitutional. The Oklahoma Post-Conviction Procedures Act provides a vast realm of remedies to appeal an unjust conviction; however, O.C.C.A. does not comport to such statute and enacted case law(s) in contumacy of the post-conviction procedures act.

The Oklahoma Attorney General’s Office and the Oklahoma Court of Criminal Appeals conspired to destroy the direct appeal and post-conviction remedies available to indigent inmates and this state created impediment flooded the Oklahoma Penitently making Oklahoma the top one percent in incarcerating men and women.

The Oklahoma Court of Criminal Appeals issued and published *Simpson vs. State*, (1994) OK CR 40, [¶ 1, 2, 3, 4, 5] public defenders have been prohibited from filing constitutional violation(s) and/or claim(s) within a direct appeal. Subsequently, waiving all constitutional claims of their client(s) as claim(s) that could have been raised through direct appeal but were not are waived for further review.

As found within *Simpson* the Oklahoma Court of Criminal Appeals only reviews for procedural error in accordance with the Oklahoma Evidentiary Code, [12 O.S. 1981, § 2104], and that review is determined if counsel made timely objections during trial and those errors are adjudicated on plain or harmless error(s). O.C.C.A. has created an impediment to all substantive due process¹ claims arising from arrest to conviction, like speedy trial violation(s).

Ever since the publishing of *Simpson*, the Oklahoma Public Defenders has stopped raising constitutional claims within direct appeal brief(s). [If] a public defender does raise a substantive due process claim within a direct appeal brief, the court merely provides lip-service and state they reached the merits without any legal analysis provided within their orders.

¹ Webster Dictionary: Substantive due process is a principle in United States Constitutional law that allows court to establish and protect certain fundamental rights from government interference, even if they are unenumerated elsewhere in the U.S. Constitution. Courts have asserted that such protections come from the due process clauses of the 5th and 14th Amendment(s) to the U.S. Constitution, which prohibits the federal and state governments, respectively, from depriving any person of "life, liberty, or property, without due process of law". Substantive due process demarks the line between those acts that courts hold to be subject to government regulations or legislation and those that courts place beyond the reach of governmental interference. Whether the 5th or 14th Amendments were intended to serve that function continues to be a matter of scholarly as well as judicial discussion and dissent. In recent opinions, Justice Clarence Thomas has called on the Supreme Court to reconsider all of its rulings that were based on substantive due process.

Based upon this impediment created by the Oklahoma Attorney General's Office and O.C.C.A., all appellate lawyer(s) filing direct appeal brief(s) are obstructed, stymied and/or prevented from raising constitutional and/or substantive due process violations arising from arrest to conviction as many substantive due process violations may not occur, (per se), in a trial, [*for example speedy trial violation(s)*].

The State of Oklahoma is completely unique from all other states in the Union and that is because the Citizens who resided in Oklahoma have a special Constitutional protection that no other state provides.

Oklahoma Constitution, Article II, § 19:

"The right of trial by jury shall be and remain inviolate, except in civil cases wherein the amount in controversy does not exceed One Thousand Five Hundred Dollars, [\$1,500.00], or in criminal cases wherein punishment for the offense charged is by fine only, not exceeding One Thousand Five Hundred Dollars, [\$1,500.00]."

Oklahoma Constitution, Article XXIII, § 8

"Any provision of a contract, express or implied, made by any person, by which any of the benefits of this Constitution is sought to be waived, shall be null and void."

The people of Oklahoma enshrined a mandated jury trial for all criminal in the State. The accused do not have the power to waive their jury trial(s) by plea agreement(s) or contracts, nor can they waive their jury trial through counsel.

The United States Congress enacted the Speedy Trial Act, [18 U.S.C. § 3161], to define the United States Constitution Amendment VI. In doing so, the Supremacy Clause of the United States Constitution and Amendment IX and XIV mandate the application of the Speedy Trial Act to all state(s) within the Union.

This Honorable Court held within *William Marbury v. James Madison*, 5 U.S. 137 (1803):

I do solemnly swear that I will administer justice without respect to persons, and do equal rights to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as, according to the best of my abilities and understanding to the best of my abilities and understanding agreeably to the constitution and laws of the United States'

It is also not entirely unworthy of observation, that in declaring what shall be the supreme law of the land, the constitution itself is first mentioned; and NOT the laws of the United States, generally, but those only which shall be made in pursuance of the constitution, HAVE RANK."

Therefore, any Act or Statute enacted by Congress pursuant to the United States Constitution or to define a right within, that statute is applicable to all states. Because O.C.C.A. issued the ruling of *Simpson* my right to speedy trial claim(s) were stripped from my direct appeal.

Simply put, O.C.C.A. refuses to adjudicate the bulk of all constitutional claims rendering my appellate counsel constitutionally ineffective pursuant to *United States vs. Cronin*, 466 U.S. 648 (1984).

Had my lawyer been permitted to file speedy trial claims within my Direct Appeal, there would have been a different result in the case.

To expound upon the issue(s) within my Certiorari this Honorable Court should grant my Great Writ.

REASONS FOR GRANTING THE GREAT WRIT

A retroactive ruling regarding question(s) two and three would impact all criminal defendant(s) within the State of Oklahoma who are currently incarcerated and those who are pending charges for decades to come. In today's criminal proceeding(s), it is imperative to protect the substantive due process rights of the citizens as well as the procedural due process rights. We can not proceed without both, yet in Oklahoma we are incarcerated at alarming rate(s) while O.C.C.A. refuse(s) to hear our Constitutional Claims and claim(s) of innocence. O.C.C.A. will only adjudicate appeals based upon the Oklahoma Evidence Code, [12 O.S. 1981, § 2104], which is inapplicable to substantive due process violations. O.C.C.A. is supposed to be the defender of the Oklahoma and United States Constitution; however, they have stripped all criminal defendant(s) of their Constitutional Rights and incentivized prosecutor(s) and public defender(s) to violate the substantive due process rights of the accused. This is even seen within a case pending before this Honorable Court within *Glossip vs. Oklahoma*, 22-7466.

This Honorable Court has never addressed whether or not 18 U.S.C.A. § 3161 (C)(1) is applicable to the State's and a retroactive ruling of this question will impact all 50

states and territories. Until this Honorable Court adjudicate(s) this question, ***WE THE PEOPLE***, will be left without a definition to our speedy trial rights. More so in Oklahoma where the Legislature has never enacted a speedy trial act, [because the 14th Amendment prohibits the State from doing so], we are left with an ambiguous speedy trial right in which no person could define.

In Oklahoma we are left without a speedy trial and desperately need this Honorable Court to adjudicate this question. If the United States District Courts can comport to this statute, [defining the 6th Amendment], all state(s) can comport to it as well.

CONCLUSION

I am respectfully filing my Great Writ well out of the 90-day window. I am respectfully requesting this Honorable Court to review my petition and determine whether my question(s) presented would define our United States Constitutional Right to a Speedy Trial in a State proceeding. It is understandable that the United States Constitution permits States to enact their own laws; however, the 14th Amendment strips the States from enacting any Statute to enforce the United States Constitution as this Honorable Court stated within *Trump vs. Anderson*, 601 U.S. – (2024). No State in the Union may define the United States Constitution nor enact any Statute to enforce it. It is the duty of Congress to define the United States Constitution and it has within 18 U.S.C.A. § 3161 (C)(1).

PRAYER FOR RELIEF

I pray this Honorable Court files my Certiorari out of time and grants my great writ. The States of this Union have for to long provided lip-service to our United States Constitutional Right to a Speedy Trial by enacting the same ambiguous language within their own Constitution(s).

I respectfully requesting this Honorable Court to reverse the O.C.C.A. order in finding that appellate counsel was stymied in filing constitutional violations within my direct appeal brief, pursuant to *United States vs. Cronin*, 466 U.S. 648 (1984) with instruction for the appointment of new appellate counsel and that appellate counsel shall address my speedy trial rights and my actual factual innocence.

It is so prayed.

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 *22nd day of March, 2024*.

Respectfully Submitted,

ISI Lynual McElroy
Lynual McElroy,
[OK - DOC # 265021]

AFFIDAVIT AND VERIFICATION OF MAILING

I, Lynual McElroy, mailed a copy of the correspondence provided by the United States Supreme Court, Clerk of the Court, to the Respondent, [attn.: *the Oklahoma Attorney General's Office*], as requested.

Petitioner/Appellant is interposing the "PRISON MAIL BOX RULE" in citing: "Hill vs. Lockhart" 487 U.S. 266 (1988). [*U.S. Supreme Court*] Petitioner/Appellant certifies that a true and correct copy of the enclosed pleading(s) was hand delivered to the "PRISON STAFF".

This was certified by the facilities LAW LIBRARY and registered in the PRISON LEGAL MAIL LOG BOOK, then placed in the U.S. MAIL, [*first class postage, prepaid*].

To: United States Supreme Court
Attn: Clerk of Court
1 1st Street North East
Washington, DC 20543-0001

To: Office of the Attorney General
Attn: Gentner Drummond
313 N.E. 21
Oklahoma City, OK 73105

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 *22nd day of March, 2024*.

Respectfully Submitted,

/s/ LYNUAL McElroy
Lynual McElroy, [OK - DOC # 265021]

AFFIDAVIT OF INDIGENCY

I, **Lynual McElroy**, declares, (*or certifies, or verifies, or states*), under penalty of perjury that he is the Petitioner in the filed certiorari, before this Great and Honorable Court.

I am personally indigent and my family has exhausted all funds in attempts to prove my actual factual innocence. My family is no longer financially capable in assisting me in my legal filings.

I do not possess \$300 to pay the filing fee with this Honorable Court and even if I did, I could not afford to comply with the remainder of the Court Rule(s). **Hypothetically speaking:** *"A filed Certiorari approximately 10 page(s) and this Honorable Court mandates 40 copies in booklet format and an additional copy in the standard 8.5x11. This would cost an additional \$102.50 then 4 additional copies would be mandated to the respondent at an additional cost of \$10.00. For a total of \$412.50 without shipping."* This would raise the cost of filing before this Honorable Court between \$700 to \$900 and that I cannot afford.

The Oklahoma State Reformatory Law Library does not possess the mandated equipment to create booklet format as required by the rule(s) of this court, nor does the facility have the required and/or mandated equipment to print the proper size of paper required by the rule(s) of this court, to create such booklets. The Oklahoma Department of Corrections will not even supply the mandated paper weight of 60 lbs. which is also mandated by the rule(s) of this Court. Due to this State Created Impediment, I must file as an indigent person, because the Oklahoma Department of Corrections will not undergo the expenditures of mandatory equipment for inmates to comply with this Court's rules and regulations.

SWORN AFFIDAVIT

DECLARING WHY I DO NOT HAVE A COPY OF THE
ORDER FROM THE OKLAHOMA COURT OF CRIMINAL APPEALS:

I do solemnly apologize to this Great and Honorable Court for not having a copy of the order that I am appealing from the Oklahoma Court of Criminal Appeals. I was never provided a copy of this order from my court appointed appellate attorney; however, I do have a copy of the brief my appellate counsel filed with O.C.C.A. By the time I learned that O.C.C.A. has actually adjudicated my direct appeal, I was out of time to file my Habeas Petition. To this date, I still do not know what O.C.C.A.'s order states. Recently, I met a jailhouse lawyer, who has successfully helped other inmates in case(s). He explained to me that I can file this pleading out of time and assisted me in preparing my appeal.

With assistance, I wrote the public defenders office and the Oklahoma Court of Criminal Appeal several letters over a span of thirteen months. I even requested the O.S.R. Law Library print the order from OSCN.net; however, none of my pleading(s) were published upon that website. Attached a copy of the case docket for this Honorable Court's review.

I have attempted everything within my power to obtain a copy of that order and still have not been able to do so.

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 *22nd day of March, 2024.*

Respectfully Submitted,

/s/ Lynual McElroy
Lynual McElroy, [OK - DOC# 265021]



The information contained in this report is provided in compliance with the Oklahoma Open Records Act, 51 O.S. 24A.1. Use of this information is governed by this act, as well as other applicable state and federal laws.

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

Lynual Mcelroy,
Appellant,
v.
State Of Oklahoma,
Appellee.

No. F-1998-760
(Felony)

Filed: 06/29/1998
Closed: 12/02/1999

Appealed from: TULSA County District Court

PARTIES

Mcelroy, Lynual, Appellant
State of Oklahoma, Appellee

ATTORNEYS

Attorney

Attorney General Of Oklahoma

Represented Parties

State of Oklahoma

Hinds, Collin McDermitt (Bar #17391)
115 W 3rd St Suite 410
Tulsa, OK 74103

Mcelroy Lynual

Purcell, Thomas Edward (Bar #10115)
P. O. BOX 926
NORMAN, OK 73070

Mcelroy Lynual

Tulsa County District Attorney
500 S Denver Ave W#900
Tulsa, OK 74103

State of Oklahoma

EVENTS

None

LOWER COURT COUNTS AND OTHER INFORMATION

Count	Case Number	Statute	Sentence	Judge	Reporter
-	<u>CF-1997-3089</u>	-	Life	Gillert, Tom C.	
-		-		Gillert, Tom C.	
-		-			
		Crimes listed may include duplications			

DOCKET

Date	Code	Description
06-01-1998	[DOOA]	DATE OF ORDER APPEALED - JUDGMT DT
06-29-1998	[TEXT]	CK REC'D FROM COLLIN M. HINDS (CA) \$0
06-29-1998	[TEXT]	CERTIFICATE OF APPEAL ISSUED
06-29-1998	[NTIA]	NOTICE OF INTENT TO APPEAL W/ATTACHED
06-29-1998	[DSRC]	DESIGNATION OF RECORD APPELLANT'S NOTICE OF RE-ASSIGNMENT (TO THOMAS PURCELL) SUPPLEMENTAL DESIGNATION OF RECORD
08-17-1998	[PETF]	PETITION IN ERROR
09-03-1998	[NTCP]	NOTICE OF COMPLETION
09-03-1998	[RODC]	RECORD ORDERED FROM DISTRICT COURT
09-15-1998	[ORGR]	ORIGINAL RECORD 109 PGS, C/AG
09-15-1998	[TRAN]	TRANSCRIPT BD VOL 8-29-97 PH 56 PGS, C/AG BD VOL I 4-6-98 JT 159 PGS, C/AG BD VOL II 4-7-98 JT PGS 161-417; C/AG BD VOL III 4-8-98 JT PGS 419-457; C/AG BD VOL 6-1-98 SENTENCING 5 PGS, C/AG
09-15-1998	[TEXT]	BROWN ENVELOPE EXHIBITS-STATE'S 1,2,4; C/AG
11-02-1998	[TEXT]	APLNT'S REQ EXT BRIEF
11-09-1998	[TEXT]	JE: ORDER - CHAPEL, PJ; ORDER GRANTING EXTENSION OF TIME TO FILE BRIEF AND SETTING CRITERIA FOR COMPLETION. THE ATTORNEY IS HEREBY GRANTED 30 DAYS FROM NOVEMBER 2, 1998, TO FILE THE BRIEF IN THIS MATTER. COPIES TO ATTYS

11-30-1998 [TEXT]

APNTS REQ EXT BRIEF

12-08-1998 [TEXT]

JE: ORDER - CHAPEL, PJ; ORDER GRANTING FINAL EXTENSION OF TIME TO FILE BRIEF. A FINAL EXTENSION OF 30 DAYS FROM DECEMBER 2, 1998, TO FILE THE BRIEF IS GRANTED. COPIES TO ATTYS

12-14-1998 [TEXT]

UPLOADED TO THE OKLAHOMA COURT INFORMATION SYSTEM.

01-04-1999 [ATBC]

BRIEF OF APPELLANT

03-04-1999 [TEXT]

APPELLEE'S MOT EXT BRIEF

03-10-1999 [EXTN]

JE: ORDER - STRUBHAR, PJ; ORDER GRANTING EXTENSION OF TIME TO FILE BRIEF AND SETTING CRITERIA FOR COMPLETION. THE ATTORNEY IS HEREBY GRANTED 30 DAYS FROM MARCH 5, 1999, TO FILE THE BRIEF IN THIS MATTER. COPIES TO ATTYS

04-02-1999 [TEXT]

APPELLEE'S MOT EXT BRIEF

04-07-1999 [EXTN]

JE:ORDER - STRUBHAR, PJ; ORDER GRANTING FINAL EXTENSION OF TIME. A FINAL EXTENSION OF 30 DAYS FROM APRIL 4, 1999, TO FILE THE BRIEF IS GRANTED. COPIES TO ATTYS

05-04-1999 [AEAB]

APPELLEE'S ANSWER BRIEF

05-18-1999 [TEXT]

PET IN ERROR, ORGR, 5 VOL TRANS, PARTIES BRIEFS, NTIA, SUPP DSRC, EXHIBITS, SENT TO CCA

05-18-1999 [CSTC]

CAUSE SUBMITTED TO COURT

05-24-1999 [ATRB]

APPELLANT'S REPLY BRIEF

12-02-1999 [OPIN]

JE: SUMMARY OPINION~~~~AFFIRMED~~~~LILE, J; CONCURS: STRUBHAR, PJ; JOHNSON, J; CONCURS IN RESULTS: LUMPKIN, VPJ; CHAPEL, J; COPIES TO ATTY GEN, DAAT TULSA, COLLIN M. HINDS, OIDS, HON. TOM C. GILLERT, PRESS, OPD, TPD, NOT FOR PUBLICATION

12-02-1999 [1007]

AFFIRMED (SUMMARY OPINION)

12-29-1999 [MAND]

MANDATE ISSUED

02-04-2000 [RRCD]

1 VOL ORGR, 5 VOL TRANS, 1 ENVELOPE EXHIBITS, RETURNED TO DISTRICT CT

10-13-2000 [RCMD]

RECEIPT FOR MANDATE

10-13-2000 [TEXT]

TEMPORARY RETURN OF COURT CLERK

04-20-2004 [RTCC]

RETURN OF COURT CLERK

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

Lynual Mcelroy,
Appellant,
v.
State Of Oklahoma,
Appellee.

Case Number: 1998-00760

TCC Number(s): CF19973089

MANDATE

The Court of Criminal Appeals to the Honorable Judge of the District Court in and for the County of Tulsa, State of Oklahoma, greeting:

Whereas, the Court of Criminal Appeals of the State of Oklahoma has rendered its decision in the above styled and numbered case conforming to its Summary Opinion filed therein on the 2nd day of December, 1999, appealed from the District Court of said county in case number(s) CF19973089.

Affirmed

Now, therefore, you are hereby commanded to cause such action to show or be spread of record in your court and to issue such process (see 22 O.S. 1981, Sec. 978, 979 and 980) and to take such other and further action as may be in accord with right and justice and said Summary Opinion. As provided in 22 O.S. 1981, Sec. 1066 and 1072, you shall make due and prompt return to this court showing ultimate disposition of the within case.

Your return shall be made on the return of the court clerk, showing thereon the information required by sections 1066 and 1072, supra.

Witness, the Honorable Reta M. Strubhar, Presiding Judge of the Court of Criminal Appeals of the State of Oklahoma, State Capitol Building, Oklahoma City, this 20th day of December, 1999.

James W. Patterson
Clerk

By: Susan V. Hampton
Deputy

(seal)