

24-5667

No. \_\_\_\_\_

FILED

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OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Willard Smith

— PETITIONER

(Your Name)

vs.

Oklahoma

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Oklahoma Court of Criminal Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Willard Smith #577824

(Your Name)

JCCC unit 1, 216 N. Murray St.

(Address)

Helena, OK 73741

(City, State, Zip Code)

(572) 568-6000

(Phone Number)

### QUESTION(S) PRESENTED

1. Does a sentencing court run afoul of the Eighth and/or Fourteenth Amendment when it fails to state why it has decided to give the maximum penalty for each charge in a case and run all counts consecutively?

2. Whether a state district court and state appellate court violates the 14<sup>th</sup> Amendment when it violates its own state constitutional provisions in denying habeas corpus relief?

## LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## RELATED CASES

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the Alfalfa Co. District court appears at Appendix A to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was Sept 4, 2024.  
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Eighth Amendment, US Constitution
2. Fourteenth Amendment, US Constitution
3. Article II, section 10, OK Constitution
4. 12 O.S. § 1331 et seq
5. 22 O.S. § 1080 et seq

## STATEMENT OF THE CASE

Petitioner was convicted of eight counts of lewd molestation in Kingfisher County District Court case #CF-2007-48 and sentenced to consecutive twenty-year sentences on each count. Petitioner complained, through state habeas corpus action, that the sentencing was constitutionally excessive because the sentencing court failed to explain the basis for the sentence imposed, depriving the appellate court of its ability to review the validity of the sentence.

Moreover, the Oklahoma Court of Criminal Appeals, in a subsequent state habeas corpus action, held that Petitioner must file an action pursuant to the Oklahoma Post-Conviction Procedure Act (22 O.S. § 1080 et. seq.) in violation of Oklahoma Constitution, Article II § 10.

## REASONS FOR GRANTING THE PETITION

This Court has stated a punishment is unconstitutionally excessive "... if it (1) makes no measurable contribution to acceptable goals of punishment and hence is nothing more than the purposeless and needless imposition of pain and suffering or (2) is grossly out of proportion to the severity of the crime." Gregg v. Georgia, 428 US 153, 183 (1976). Furthermore, the Court explained in Furman v. Georgia, 408 US 238, 279 that "[i]f there is a significantly less severe punishment to achieve the purposes for which the punishment is inflicted, the punishment is unnecessary and therefore excessive."

Oklahoma does not require any statement by the sentencer that explains how the sentencer arrived at the sentence (or jury sentence recommendation). In the case at bar, the Sentencing Court made no statement how 20 years imprisonment (the maximum punishment) was chosen for each count charged for a first-time felony offender. The sentences are particularly troubling in light of objective evidence from the Oklahoma State Bureau of Investigations sentencing data that shows the sentence most often given for Petitioner's crimes was 5 years imprisonment and the average sentence was 11.8 years imprisonment.

Even more troubling is the fact that each of the counts were run consecutively for a single victim on a single occasion. The aggregate



Sentencing amounts to 160 years at 85% mandatory service before parole eligibility, all tantamount to life without parole.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

\_\_\_\_\_

Date: \_\_\_\_\_