

Appendix A

UNITED STATES DISTRICT COURT

for the

Western District of Oklahoma

Plaintiff

v.

Defendant

Civil Action No. 09-cv-01234

WAIVER OF THE SERVICE OF SUMMONS

To:

(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from _____, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date:

Signature of the attorney or unrepresented party

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

WILLARD SMITH,

SEP - 4 2024

Petitioner,

JOHN D. HADDEN
CLERK

v.

No. HC-2024-618

THE STATE OF OKLAHOMA,

Respondent.

ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner has filed a pro se petition for writ of habeas corpus in this Court challenging the district court order denying his petition for a writ of habeas corpus in Alfalfa County District Court Case No. WH-2024-4. Petitioner complained to the District Court of Alfalfa County regarding his conviction in Kingfisher County District Court Case No. CF-2007-48.

Before a writ of habeas corpus will issue, Petitioner must establish that his confinement is unlawful, and that he is entitled to immediate release. Rule 10.6(C), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2024); *Ekstrand v. State*, 1990 OK CR 21, ¶ 12, 791 P.2d 92, 95. Petitioner has not established that his confinement is unlawful or that he should be released from his

sentence. Moreover, challenges to a judgment and sentence must be brought, not in a petition for writ of habeas corpus, but as an application for post-conviction relief, filed in the county in which the person's judgment and sentence on conviction was imposed. 22 O.S.Supp.2022, § 1080; *Twyman v. State*, 1999 OK CR 53, ¶ 3, 837 P.2d 480, 481. Petitioner has not established that any claim he might have to relief should not be filed as an application for post-conviction relief in the District Court of Kingfisher County, Case No. CF-2007-48, the county in which his judgment and sentence was imposed. *Id.* Therefore, the petition for writ of habeas corpus is **DENIED**.

IT IS SO ORDERED.

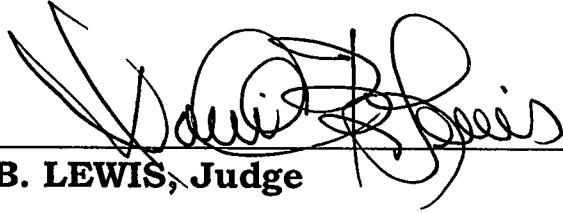
WITNESS OUR HANDS AND THE SEAL OF THIS COURT this

44 day of September, 2024.

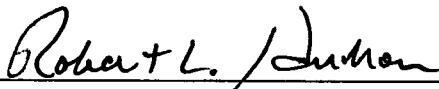

SCOTT ROWLAND, Presiding Judge


WILLIAM J. MUSSEMAN, Vice Presiding Judge


GARY L. LUMPKIN, Judge

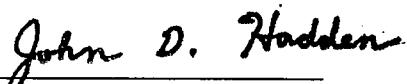


DAVID B. LEWIS, Judge



ROBERT L. HUDSON, Judge

ATTEST:



Clerk

**Additional material
from this filing is
available in the
Clerk's Office.**