

24-5728

ORIGINAL

No.

IN THE

**Supreme Court of the United States**

FILED  
OCT 02 2024  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ANTHONY RAYMONE' CLARK,

*Petitioner*

v.

STATE OF OKLAHOMA

*Respondent*

On Petition For Writ Of Certiorari  
To The Oklahoma Criminal Court of Appeals

**PETITION FOR WRIT OF CERTIORARI**

ANTHONY RAYMONE' CLARK  
*PRO SE*  
LCRF  
8607 SE FLOWERMOUND ROAD  
LAWTON, OKLAHOMA, 73501

## QUESTION(S) PRESENTED

In my case I timely submitted my original post-conviction application and the trial Judge along with the state's attorney unreasonably created an impediment contrary to the procedural rules:

### RULE 5.2 APPEAL FROM FINAL JUDGEMENT

**(A.) Final Judgment on Post-Conviction Application.** The appeal to this Court under the Post-Conviction Procedure Act constitutes an appeal from the issues raised, the record, and findings of fact and conclusions of law made in the District Court in non-capital cases. See Yingst v. State, 480 p.2d 276, 277 (Okla. Cr.1971).

To state that the Oklahoma Criminal Court of Appeals had not affirmed the conviction on direct appeal, (See Appendix 3)(Trial Judge's egregious error)), is an erroneous finding of factual predicate; defined by 22 O.S. § 1080 as ... “*to use as a basis or ground of an action, defense or argument* and it has taken years to remove their obstructions caused by improper custody battle, improper jurisdiction, violation of treaty rule, ineffective assistance of appellant counsel and actual innocence being ignored.

The OCCA affirmed the conviction on August 8<sup>th</sup> 2012 prior to my original submission of a post-conviction application; see Appendix 2 (OCCA Denial of Direct Appeal Propositions of Error).

DNA has no color. It is neither darkness nor whiteness.  
It is human and as the descendant of the first inhabitants  
of these plains we have a treaty made in Washington D.C.,  
in the year of 1866. The Murphy Act of 1901 further establishes  
Congress's direct intent signed into law in 1863 and protected  
by the Supremacy Clause provided by the Bill of Rights; specifically  
the 13<sup>th</sup> and 14<sup>th</sup> Amendments.

The fiduciary members of Oklahoma's Supreme Court have agreed that the time bar created in legislation by Governor Skitt is unconstitutional and has revived my case;(see Appendix 12)(PC-2024-385)), but not in its entirety, *see* Appendix 3(Trial Judge's egregious error). Each party involved in obstructing this pursuit of justice has done everything to ignore the fact that I am not in the proper custody, that I was not brought before the proper magistrate nor tried in the proper courthouse and that this is my *First* attempt to attack this wrongful conviction and false imprisonment collaterally in opposition to the OCCA findings and order to deny relief disguising it as an affirmation to deny a second application. Their concoction exhibits that the review deserved cannot be fairly held in their court and the Treaty at Washington D.C., of 1866 forbids certain men from this practice against me.

The state had to correct itself, *see* Appendix 4; (State's Response to Petitioner's Motion to Object), when declaring my application as a subsequent application because I have yet to have a court review my first and only application for post-conviction relief. Now I am challenged with this new task to remove the impediment created by the Supreme Court of Oklahoma Criminal Appeals having now given an unconstitutional order without administering the due process of law afforded to an accused by way of the Fifth Amendment utilizing the enforceable powers of the Fourteenth Amendment in assuring my rights are protected and guaranteed especially in these “Surplus Lands” of Oklahoma and the Murphy Allotment Act.

1. Is there a collusion to commit fraud by elected officials in the State of Oklahoma against fiduciary contracts and its sovereign People and has this abuse of discretion become a key factor to the suffering I've endured under this false imprisonment? *See Treaty at Washington D.C., of 1866, U.S. Treaty with the Cherokee Nation Article IV*). *A treaty, as the law of the land, is superior to any state legislation, see Ware v. Hylton, 3 Dall. 236; 1 Story on Constitution, sect. 1838 and Foster & Elam v. Neilson, 2 Pet. 314; ... "treaty equivalent to an act of legislature..."*

The fiduciary employee(s) have failed in its stewardship in these Oklahoman Plains and it continues to decline egregiously and correcting these errors is a right of mine held by the power of Congress and by the Fourteenth Amendment. Are these violations an abuse of discretion when judges and law enforcement agencies ignore Congressional Judiciary Acts that create false imprisonments and will these violations after corrections are made set the people free?

I have the right to a determination of the facts thru this collateral review and my intent is to submit the Alford Plea to the proper court or in the alternative have this Honorable Court review the ineffective assistance of appellate counsel propositions along with the actual innocence and jurisdiction merits *de novo* in order to cure this miscarriage of justice freeing me from this false imprisonment.

Okla. Stat. Tit. 75, § 302 (D) (1,2 &3) clearly prohibits their discretionary action. "*An agency shall not... except as authorized by the Constitution of the United States, expand or limit a right guaranteed by the Constitution of the U.S., the OK Constitution, a statute, or a rule*".

Okla. Stat. Tit. 75, § 252, (states that "...rules, amendments or revisions made after October 16<sup>th</sup> 1987, may be held void and of no effect pursuant to sections 306 & 307 of this title.") ((Stating, "shall be subject to a judicial review in the manner provided" ...)); Okla. Stat. Tit.75, § 322 (1) (2011) authorizes repealing of the unconstitutional legislation.

In my case the OCCA utilizes this impediment to deny review even though I show that the impediment concocted by the original trial judge, who was also the magistrate that signed the warrant authorizing my arrest, is the responsible party that created this delay of justice; how can such unreasonable actions by fiduciary hosts acting under the color of federal law create such hardships against an accused?

2. My case fits squarely within the scope of 22 O.S. 1080.1 (A) (3), "*The date on which any impediment to filing an application created by a state actor in violation of the Constitution of the United States or the Constitution of the State of Oklahoma, or laws of the State of Oklahoma, is removed, if the petitioner was prevented from filing such action...*" because my original trial judge erred in his findings and cast me deeper into this false imprisonment at no fault of my own I am allowed to re-initiate this collateral attack; wherefore I seek that the Alford plea releases me from this false imprisonment or in the alternative, that this Honorable Court grant any other relief authorized by Congress?

## **LIST OF PARTIES**

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:

Oklahoma Criminal Court of Appeals

Oklahoma County District Court  
Judge Stallings

Oklahoma County District Court  
Judge Bass

Governor Kevin Stitt

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## **INDEX TO APPENDICES**

\*A copy of the Judgment and Sentence by the trial court is attached hereto at Appendix 1(A).

\*A copy of the OCCA's affirmation of the conviction is attached hereto at Appendix 2 dated August 8, 2012.

\*A copy of the Order Denying Application by original trial court is error, (see page 2, lines 11-15), attached hereto at Appendix 3 dated October 2, 2013.

\*A copy of the State's Response and Recommendation to time-bar re-initiated post-conviction application I submitted on December 11, 2023 is attached hereto at Appendix 4.

\*A copy of my objection to the State's Motion filed March 21, 2024 is attached hereto at Appendix 5.

\*A copy of my Motion for Reconsideration or In the Alternative Motion for an Amended Judgment to the District Court Order granting the extension by Judge Stallings is attached hereto at Appendix 6.

\*A copy of the Order Declining Jurisdiction by the OCCA is attached hereto at Appendix 7.

\*A copy of the District Court's discretionary review and denial of application entered on April 18, 2024 is attached hereto at Appendix 8.

\*A copy of my Notice Of Post-Conviction Appeal is attached hereto at Appendix 9.

\*A copy of my Petition In Error to the OCCA is attached hereto at Appendix 10.

\*A copy of the OCCA Order Affirming Denial Of Post-Conviction Relief is attached hereto at Appendix 11.

\*A copy of the Appeal Brief For Denied Review Of Post-Conviction Application is attached hereto as Appendix 12.

\*A copy of the Investigation/Service Request Form and notes from Appellate counsel with Affidavit from on-the-scene witness is attached hereto as Appendix 13.

\*A copy of the DUCES TECUM SUBPOENA of Jason Bass is attached hereto as Appendix 14(A) dated the 14<sup>th</sup> of January 2011 but **my trial had already concluded the day prior**.

\*A copy of the Telemate log-in report by Jason Bass is attached hereto as Appendix 15(A).

\*A copy of the text messages never introduced to the jury or on direct but used as an exhibit in my post-conviction application for ineffective assistance of appellant counsel is attached hereto as Appendix 16.

\*A copy of the 1866 Treaty at Washington D.C., with the Cherokee Nation is attached hereto at Appendix 17.

\*A copy of the Louisiana Purchase and Original Inhabitants of New Orleans in 1803 is attached hereto as Appendix 18.

\*A copy of the order affirming denial of post-conviction relief on August 30<sup>th</sup> 2024 is attached hereto as Appendix 19.

## **TABLE OF AUTHORITIES CITED**

### **SUPREME COURT CASES** **PAGE NUMBER**

Estelle v. Williams, 425 U.S. 501, 503, 96 S. Ct. 1691, 1692. 48 L. Ed. 2D 126 (1976)	(3)
Martinez v. Ryan, 566 U.S. 1, 12, 132 S. Ct. 1309, 182 L. Ed. 2D 272 (2012)	(4)
Murray v. Carrier, 477 U.S. 478, 488, 106 S. Ct. 2639, 91 L. Ed. 2D 397 (1986)	(4)
Edwards v. Carpenter, 529 U.S. 446, 451-52, 120 S. Ct. 1587, 146 L. Ed. 2D 518 (2000)	(5)
Coleman v Thompson, 501 US 722, 730, 115 L Ed 2d 640, 111 S Ct 2546 (1991)	(5)
Brecht v. Abrahamson, 507 U.S. 619, 622 (1993)	(10)
Williams v. Taylor, 529 U.S. 362, 406 (2000)	(10)
Lockyer v. Andrade, 538 U.S. 63, 76 (2003)	(10)
Silas Pickett v U. S.	(13)
Marbury v. Madison, 5 U.S. 137 7 Cranch 137, 2 L. Ed. 60 (1803)	(17)
Yates, 484 U.S., at 218, 108 S. Ct. 534, 98 L. Ed. 2D 546	(20)
Mackey, 401 U.S., at 693, 91 S. Ct. 1160, 28 L. Ed 2d 404	(21)
Granberry V. Greer, 481 U.S. 129, 131 (1987)	(22)

### **FEDERAL CIRCUIT CASES**

Medical Center v. Azar DCH Reg 1, 925 F. 3d at 509 D.C. Circuit Court of Appeal 2019	(14)
Harris v. Champion, 15 F. 3d 1538, 1554 (10 <sup>th</sup> Cir. 1994)	(22)
Bland v. Sirmons, 459 F. 3d 999, 1011 (10 <sup>th</sup> Cir. 1999)	(22)

### **STATE CASES**

Higgins v. Brown, 1908 OK 28	(3)
Miller v. State, 3 Okla. Cr. 374, 106 p. 538 (1910)	(3)
Neloms v. State, 2012 OK CR 7, ¶ 35, 274 P. 3d 161, 170	(10)

Hogan v. State, 2006 OK CR 19, ¶ 38, 139 P. 3d 907, 923

(10)

Trial court's order stating findings and conclusions on issues presented in disposing of application for post-conviction relief is final judgment from which appeal may be taken, and a copy of judgment must be filed by party seeking review by Court of Criminal Appeals.

**Yingst v. State, Okla. Crim. App., 480 P.2d 276 (1971)**

(16)

## **STATUTES AND RULES**

### **Courts, Creation & Organization**

**Okla. Stat. tit. 34 § 1286 (1907)**

22 O.S. 1080.1 (A) (3)	(ii)
Okla. Stat. Tit. 75, § 252	(ii)
Okla. Stat. Tit. 75, § 302 (D) (1, 2 & 3)	(ii)
Okla. Stat. Tit. 75, § 322 (1) (2011)	(ii)
22 O.S. 1991, § 836	(3)
Okla. Stat. Tit. 75, § 250 et seq (Supp. 2014)	(22)
Okla. Stat. Tit. 75, § 302 ( C ) (3)	(22)
Okla. Stat. Tit. 75, § 310 (2011)	(22)

## **OTHER**

TREATY AT WASHINGTON D.C. OF 1866

(i)

MURPHY ALLOTMENT ACT OF 1901

SHERMAN/CLAYTON ANTI-TRUST ACT

A treaty, as the law of the land, is superior to any State legislation,

Ware v. Hylton, 3 Dall. 236; 1 Story on Constitution, sect. 1838 and

Foster & Elam v. Neilson, 2 Pet. 314; "treaty equivalent to an act of legislature..."

(i)

**Disqualification of Judges. Review of failure to disqualify by a judge in a criminal case is governed by Section 1403 of Title 20; Ch. 2, App., Rules 15 for District Court of Oklahoma and 15.1 of Title 12, Section X of these Rules. See also code of Judicial Conduct, Ch.2, App.4, Title 5.**

(18)

(vi)

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 state courts:**

The opinion of the highest court, OCCA, to review the merits appears at Appendix 19 to the petition and is unpublished.

The opinion of the Oklahoma County District Court Judge Stallings appears at Appendix 8 to the petition and is unpublished.

The opinion of the Oklahoma County District Court Judge Bass appears at Appendix 3 to the petition and is unpublished.

### **JURISDICTION**

**For cases from state courts:**

The date on which the highest court decided my case was August 30<sup>th</sup> 2024. A copy of that decision appears at Appendix 19.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a) and Article III section 2 of the United States Constitution.

Rule 10 (b & c) of the U.S. Supreme Court

Rule 20 of the U.S. Supreme Court requires justification for writ(s) and since Congress has never relinquished dominion or sovereignty over the ceded territory and all of my ancestral courts have been plundered, dismantled or annihilated by these abusive fiduciary committees it would be necessary for this honorable court to exercise its discretionary powers. U.S. Constitution Article 4 section 3.

28 U.S.C § 2403(a) may apply.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED:**

United States Constitution Article III .... “Due Process” Clause

United States Constitution SIXTH Amendment

United States Constitution EIGHTH Amendment

United States Constitution THIRTEENTH Amendment

United States Constitution FOURTEENTH Amendment

U.S. Constitution Article I Section 8 para 1 and para 17-18

**SUPREMACY CLAUSE**

**PRE-EMPTIVE ACT OF 1830**

### **Federal Statutes:**

28 USC § 2254(b) & (c)

### **State Statutes:**

22 O.S. 1080.1 (A) (3)

Okla. Stat. Tit. 75, § 252

Okla. Stat. Tit. 75, § 302 (D) (1, 2 & 3)

Okla. Stat. Tit. 75, § 322 (1) (2011)

22 O.S. 1991, § 836

This Court recognizes that under the Post-conviction Procedure Act, when the district court considers a post-conviction application, “the court shall take account of substance, regardless of defects of form”.

**22 O.S. 2011 § 1083(a)**

### **Courts, Creation & Organization**

**Okla. Stat. Tit. 34 § 1286 (1907)**

## STATEMENT OF THE CASE

**Higgins v. Brown, 1908 OK 28** gives cause to create and organize courts; however, in headnote 9 it emphasizes that "when a territorial government is created, and courts are established by means of legislation through acts of Congress, the U.S. Congress *does not* relinquish dominion or sovereignty over such territory, so far as the prosecutions of crimes of a local nature or character are concerned, but an agency is thereby created through which its powers may be exercised.

I was arrested in Oklahoma County at the signed affidavit of Judge Jerry Bass on March 24<sup>th</sup> of 2010. I was convicted by a jury in Judge Bass's courtroom. I timely filed a direct appeal and it was denied in August of 2012 in which I sought to collaterally attack the affirmation through the post-conviction procedure act but the erroneous conclusion by Judge Bass, see Appendix 3(B) page 2 lines 11-15, created an impediment.

The presumption of innocence until proven guilty is a right guaranteed by statute. **Miller v. State, 3 Okla. Cr. 374, 106 p. 538 (1910); 22 O.S. 1991, § 836.** "The presumption of innocence, although not articulated in the Constitution, is a basic component of a fair trial under our system of criminal justice." **Estelle v. Williams, 425 U.S. 501, 503, 96 S. Ct. 1691, 1692. 48 L. Ed. 2D 126 (1976).** Courts must be ever mindful of factors that may undermine the fairness of the trial process. This interpretation, *supra*, is why the provisions in the Treaty at Washington D.C., of 1866 forever prohibited whites and 'Indians' from governing over me, my ancestors and our descendants in these 'surplus lands'; because creating a will for their spirit to do right or to be fair to the original voyager or original inhabitant of North America is an impossible task to commit to.

This Court recognizes that under the Post-conviction Procedure Act, when the district court considers a post-conviction application, "the court shall take account of substance, regardless of defects of form". **22 O.S. 2011 § 1083(a) authorizes** that a claim to actual innocence and ineffective assistance of appellant counsel can only be reviewed for the first time thru this act and

Under Oklahoma's Post-conviction Procedure Act, the district court cannot summarily dispose of a (non-capital) application for post-conviction relief if the application raises "a genuine issue of material fact", which prevents a finding that either party is entitled to judgment as a matter of law. An issue is "material" in this context if it is one that could be determinative on a claim raised in the post-conviction application, i.e., a fact that could potentially help the applicant establish that he was prejudiced by appellate counsel's unreasonable failure to raise a particular claim now raised.

If a genuine issue of material fact exists in the case, i.e., if there is an actual dispute about a material issue of fact in the case, the district court is **required to conduct an evidentiary hearing** on the post-conviction application. At such an evidentiary hearing, "the court may receive proof by affidavits, depositions, oral testimony, or other evidence and may order the post-conviction applicant brought before it for the hearing, the district court must make specific findings of fact regarding any material issues of fact that are in dispute and must also state its specific conclusions regarding each claim raised in the post-conviction application.

According to the fundamental fairness of law, the errors and omitted claims are a miscarriage of justice and **cannot** be deemed as **harmless error**. When the omitted claims and evidence could have and should have been brought forward in the convicted Petitioner's direct appeal, if the omitted evidence of

material fact would have changed the outcome of the appeal, then the Petitioner has proved that he has suffered prejudice and the case can be reviewed for error and judgment.

*My appellate counsel was ineffective and her performance fell below professional norms due to the omitted claims. Generally, only when ignored issues are clearly stronger than those presented, will the presumption of effective assistance of counsel be overcome, however, if a petitioner succeeds in such a showing, he then has the burden of demonstrating prejudice. Has this stewardship progressed my community?*

## CONCLUSION

Where there is a legal right, there is also a legal remedy by suit, or action at law, whenever that right is invaded. It is the essential criterion of "appellate jurisdiction" that it revises and corrects the proceedings in a cause already instituted and does not create that cause. **Martinez v. Ryan**, 566 U.S. 1, 12, 132 S. Ct. 1309, 182 L. Ed. 2D 272 (2012), deals with ineffective assistance of post-conviction counsel when it is the first opportunity to raise ineffective assistance of counsel, see also **Murray v. Carrier**, 477 U.S. 478, 488, 106 S. Ct. 2639, 91 L. Ed. 2D 397 (1986) and **Edwards v. Carpenter**, 529 U.S. 446, 451-52, 120 S. Ct. 1587, 146 L. Ed. 2D 518 (2000).

The procedural default doctrine and its attendant "cause and prejudice" standard are "grounded in concerns of comity and federalism," **Coleman v Thompson**, 501 US 722, 730, 115 L Ed 2d 640, 111 S Ct 2546 (1991), and apply alike whether the default in question occurred at trial, on appeal, or on state collateral attack, **Murray v Carrier**, 477 US 478, 490-492, 91 L Ed 2d 397, 106 S Ct 2639 (1986). "[A] habeas petitioner who has failed to meet the State's procedural requirements for presenting his federal claims has deprived the state courts of an opportunity to address those claims in the first instance." **Coleman**, 501 US, at 732, 115 L Ed 2d 640, 111 S Ct 2546. We therefore require a prisoner to demonstrate cause for his state-court default of any federal claim, and prejudice therefrom, before the federal habeas court will consider the merits of that claim. **Id.**, at 750, 115 L Ed 2d 640, 111 S Ct 2546. The one exception to that rule is this circumstance in which the petitioner can demonstrate a sufficient probability that failing to review these federal claims will result in a fundamental miscarriage of justice. *Ibid.*

[3] "Although we have not identified with precision exactly what constitutes "cause" to excuse a procedural default, we have acknowledged that in certain circumstances counsel's ineffectiveness in failing properly to preserve the claim for review in state court will suffice. **Carrier**, 477 US, at 488-489, 91 L Ed 2d 397, 106 S Ct 2639. Not just any deficiency in counsel's performance will do, however; the assistance must have been so ineffective as to violate the Federal Constitution. *Ibid.* In other words, ineffective assistance adequate to establish cause for the procedural default of some other constitutional claim is itself an independent constitutional claim. And we held in **Carrier** that the principles of comity and federalism that underlie our longstanding exhaustion doctrine-then as [529 US 452] now codified in the federal habeas statute, see **28 USC § 2254(b), (c)** [28 USCS § 2254(b), (c)]-require that constitutional claim, like others, to be first raised in state court".

"[A] claim of ineffective assistance," we said, generally must "be presented to the state courts as an independent claim before it may be used to establish cause for a procedural default." **Carrier, supra, at 489, 91 L Ed 2d 397, 106 S Ct 2639.**

I made the attempt to show cause and prejudice but the state's assistance district attorney manipulated the facts and created fabrications throughout her recommendation and the assigned magistrate for Oklahoma County ignored the evidence offered in support of the claims of constitutional violations and but for the omissions made by my appellate counsel I would have prevailed on direct appeal of this wrongful conviction or at the least received a fair trial in the proper court.

## **REASONS FOR GRANTING THE PETITION**

I am Anthony Raymone' Clark. I am now known as case #2010-2243. Having been unlawfully accused of, murdering my guy I was convicted by a jury. Affirmation of the conviction occurred and a sentence set at LWOP is the punishment. I timely submitted a post-conviction application and an egregious clerical error prevented review and I've been tossed into this cipher of delay from this miscarriage of justice and continue to suffer throughout this false imprisonment at no fault of my own. Meanwhile, the current employees of the federal agency authorized to compensate and hire fiduciary staff, (see Modernization Act Title 6 Okl. St. § 1710-1736), have plundered our communities and assume roles of elected officials in violation of treaty law.

**THAT** the said District Court has violated petitioner's right to a collateral attack of constitutional violations governed by **Martinez v. Ryan, 566 U.S. 1, 12, 132 S. Ct. 1309, 182 L. Ed. 2D 272 (2012)**, dealing with ineffective assistance of appellate counsel when it is the first opportunity to raise the claim and **Murray v. Carrier, 477 U.S. 478, 488, 106 S. Ct. 2639, 91 L. Ed. 2D 397 (1986)**.

I am currently in the custody of the Oklahoma Department of Corrections as a sovereign member of a Sovereign People against the provisions in **The Treaty at Washington D.C., of 1866** pending the determination of this appeal.

**THAT** the original post-conviction was timely but the egregious error committed by the trial court impeded my right to submit meritorious constitutional violations, i.e., 'ineffective assistance of appellate counsel' from Direct Appeal dated March 5, 2011 by hired counsel Jaye Mendros which did not prevail because of her omission of my jurisdiction proposition of error and other meritorious claims and but for the unreasonable order to decline to review I would not have had to "re-initiate" my post-conviction application ordered at Appendix 3(B), page 2 lines 11-15 by Judge Jerry Bass; retired.

**Edwards v. Carpenter, 529 U.S. 446, 451-52, 120 S. Ct. 1587, 146 L. Ed. 2D 518 (2000)**. The procedural default doctrine and its attendant "cause and prejudice" standard are "grounded in concerns of comity and federalism," **Coleman v. Thompson, 501 US 722, 730, 115 L. Ed. 2D 640, 111 S. Ct.**

*2546 (1991), and apply alike whether the default in question occurred at trial, on appeal, or on state collateral attack, Murray v. Carrier, 477 US 478, 490-492, 91 L. Ed. 2D 397, 106 S. Ct. 2639 (1986).*

The one exception to this rule is this case in which the circumstances created by the trial courts error on collateral demonstrates a sufficient probability that the failure to review these federal claims will result in a fundamental miscarriage of justice. ... “*we have acknowledged that in certain circumstances counsel's ineffectiveness in failing properly to preserve claims for review in state court will suffice. Carrier, 477 U.S. 478, 488, 106 S. Ct. 2639.* In other words, ineffective assistance adequate to establish cause for the procedural default of some other constitutional claim is itself an independent constitutional claim. And we held in *Carrier* that the principles of comity and federalism that underlie our longstanding exhaustion doctrine- then as now codified in the federal habeas statute, see 28 USC 2254(b), (c) [28 USCS 2254(b),(c)]- require that constitutional claim, like others, to be first raised in a state court. “A claim of ineffective assistance” we said, generally must “be presented to the state courts as an independent claim before it may be used to establish cause for a procedural default.” *Carrier, supra, at 489, 91 L. Ed. 2D 397, 106 S. Ct. 2639.*

Wherefore the Appellant respectfully requests that the Judgment of the OCCA and its District Court be reversed, or in the alternative, that this Honorable Court grant such other and further relief to which I may be entitled or is this Supreme Court able to accept my Alford Plea being that Congress still has dominion over this ceded territory and grant my immediate release from this false imprisonment?

One single print of my left thumb was used as evidence to say that this point was found on the outside of a vehicle when in fact (also omitted on direct) the print was illegally lifted and used to attempt to show possession. But the weapon was tested, did not match to my DNA.

- After the officers tackled me, I was placed in restraints with clenched fists behind my back. A technique was used to scar my wrists and because the marines created intensity codes they couldn't pry my fist open. She ordered for an instrument which passed through my clenched fist and dislodged my thumb away. An inked cloth was rubbed over my left thumb. The force disappeared I was taken to medical and see; the damages were recorded.

- In 2016 my brother was at the 2<sup>nd</sup> stage of his trial and I requested on the Oklahoma county kiosk for the medical records and camera footage recording the rape. I was forced to return to LCRF and then immediately upon the dawning of the next day I was rushed back to the detention center. Upon the second return I approached the kiosk expecting to see an update I was surprisingly alarmed that offender requests were trashed when a detainee departs from its facilities. I didn't make another attempt because they were hunting to murder my brother.

Identifying a weapon used in a murder is essential along with malice, intent and whether the defendant is the actual violator.

I allowed the state to use the sample possessed by my defense team to prove that I had never fired a weapon. The sample was given to the state for testing and the results were negative.

Shamika in her initial talks states that after she heard the shot she ran out of her kitchen into her living room and opened her front door, looking out she saw me. Saw me weaponless. I signaled to her to call 911 and she ran back into her apartment, slamming the door on me.

Later I learned that she called 911 and had her sister on another receiver suggesting and offering false declarations because none of us seen the shooter(s). She tells starlet, her sister "I think Dickey shot Quake" it took several meetings with officers before Shamika provided a complete story.

Mistakenly the 911 operators hope that they were providing concrete information became harmful interjected hearsay and in the beginning of the investigation into Quake's murder, this information became the basis for my arrest. The state had arrested an on-the-scene witness but never gave his testimony to my public defender. My appellate counsel saw the notes of my public defender, see Appendix 14, see page 1, but declined to insert the affidavit of the on-the-scene witness into my direct appeal, see Appendix 14, (page 3; **Statement showing my innocence by eye witness**).

The officer that provided DNA and fingerprinting testimony is the same officer that did the testing and concluded her findings without a second verification; a grave error because she strayed from the path accepted by the court for "scientific methods" and egregiously she was also the officer raping me at the detention center days earlier. I spoke this to my trial attorney and made detailed letters requesting my appellate attorney to include these constitutional violations in her brief but she failed to show this material as evidence to support actual innocence.

I didn't kill Quake and unfairly Judge Bass was allowed in his discretion to order my arrest based on hearsay. The hearsay was diminished at trial but my attorney forgot to bring the preliminary transcripts to the courtroom as proper evidence to remind and prepare a state's witness for impeachment purposes during "an effective cross examination" Shamika identifies me immediately after the shooting with no weapon, a black hat on running toward her.

Judge Bass abused his discretion by destroying my trial attorney's efforts in at least two

occasions during Shamika's trial testimony. He ordered that my trial attorney's attempts were "improper" and disallowed her from effectively providing a challenge to the state's witness's testimony for purposes of impeachment. Judge Bass knew that the change in Shamika testimony from seeing me, "with a black hat" to her new testimony identifying me, "wearing a black jacket" would destroy the state's case. His prior knowledge could have allowed him to order a mistrial or dismissal. It caused error because when his prior knowledge benefited the state he remained silent but when his knowledge of the case benefited my defense he used techniques of law to prevent its success.

The judge temporarily interjected but his abuse was so harmful my trial became unfair because his discretion to do so turned my jury trial into a bench trial which was against my exercised right.

He warned me months earlier at my motion hearing to quash and Demur that "circumstantial evidence has the same weight as direct evidence and that a jury could be persuaded to convict" I accepted his advice but I hadn't killed anybody so I requested a dismissal based on insufficient evidence. It was denied and I was set for trial.

Judge Bass knew in that moment he couldn't be benched over my case. In his research to determine the facts and orders for the motions filed he could not help but to discover that his signature is the magistrate's signature of probable cause and arrest affidavit submitted in march of 2010.

Seeing his signature on the arrest warrant should have moved him to alert the state that it would be grave error to remain benched over my case. Only the Supreme Court Justices have constitutional powers to determine for self if they can see to a case that may have conflicts of interest; all others if any harm can be foreseen or a pathway to the miscarriage of justice revealed a recuse was necessary to protect the fairness in due process of law in the interest of justice. Only Supreme Justices are equipped with the professional mastery of moral ethics that ward off the evils of unfair bias.

Because the founders recognized the growth necessary and the path it takes, the articles of our constitution limits the discretion of our lower judges. See Judge Clarence Thomas, Jan 6<sup>th</sup> probe.

After the unfair trial and losing the direct appeal I'm required under Oklahoma law to seek post-conviction relief. The applicant is set before his/her trial judge for review of the application. Again I was before Judge Jerry Bass in which a clerical error occurred. The judge thought that the OCCA had not yet affirmed the conviction and denied the application (CF-2013-173) and advised that I re-initiate once the OCCA had affirmed the conviction. This review and decision to deny was error. The OCCA affirmed the conviction in August of 2012; the affirmation was aired on FOX 25 News Channel and prior to the submission of my timely application for post-conviction relief.

What I request is an Alford plea. In my innocence I can accept these years I've lost as time

served and be willing to remain in custody until the curing of this miscarriage of justice not to exceed 15 months from the date of this request. We miss our brother and we mourn him always but I'm innocent and I'm ready to return to doing well. I've been a participant in LCRF incarcerated Veteran's program since 2014. Once this case is settled and I began to initiate the plans at Appendix 19 authorized by the appropriations listed at Appendix 20 and the Infrastructure Act of 2021 our schools will be safer and our students healthier in mind and body to pave a brilliant way for greener energies and fossil fuels to exist in unison for positive climate change creating elevations for STEM research and development in public schools while providing a richer and wealthier path toward prosperity for every American.

In criminal cases, the due process clauses of the Fifth and Fourteenth Amendments require that criminal convictions be based on sufficient and lawful presentations. The state cannot argue that the validity of the egregious order wasn't apparent during the timely filed application on July 24, of 2013 because the affirmation was Ordered on August 8, of 2012, therefore the lower courts ruling as a mistake of law, (see Appendix 9), opens this court to review "**de novo**" whether this order to dismiss my "re-initiated" post-conviction application resulted in an abuse of discretion by the district court(s) making the ruling "unreasonable" or an "arbitrary action" made without proper consideration of the relevant facts and federal law: (See Appendix 14, text messages from victim's phone and affidavit from on-the-scene witness and close friend of victim), that the egregious error was in fact committed by the trial court during collateral attack and but for the erroneous conclusion and judgment, see **Nichols v. Sullivan**, 867 F 2d 150, 1252 (10<sup>th</sup> Cir. 1989), clearly against the logic and effect of the facts", see

**Neloms v. State**, 2012 OK CR 7, ¶ 35, 274 P. 3d 161, 170; I would have prevailed and a proper tribune would have heard my claim of ineffective assistance of appellate counsel for the omissions presented below.

"... this Court determines whether the appellant has shown an actual error, which is plain or obvious, and which affects my substantial rights. This Court will only correct plain error if the error seriously affects the fairness, integrity or public reputation of the judicial proceedings or otherwise represents a miscarriage of justice. **Id. Hogan v. State**, 2006 OK CR 19, ¶ 38, 139 P. 3d 907, 923.

Wherefore, I respectfully request that this Honorable Court will find that the lower court's decision to deny review and provide an answer was "unreasonable" or "contrary" to the Supreme Court's interpretation of the law or at the least involved unreasonable determination of the facts. *Brecht v. Abrahamson*, 507 U.S. 619, 622 (1993) and because I have established prejudice and proves that the error led to the current defaults and but for the error committed by the lower court(s) the outcome would have likely been different. *Williams v. Taylor*, 529 U.S. 362, 406 (2000) and *Lockyer v. Andrade*, 538 U.S. 63, 76 (2003).

### PROPOSITION I

#### INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

**(Failed to provide adequate and effective counsel during direct appeal...omitted evidence to the court of appeals denies proper review by higher court and is unacceptable when protecting the fairness in the due process of administering counsel while an autonomous citizen is being abused.)**

The State's Response at Appendix 4 exposes that the trial judge made an egregious error by announcing that the OCCA had not affirmed the conviction of CF-2010-2243.

This error created an impediment in my 'due process'. Their signatures reveal that my trial judge was also the magistrate that the OCPD used in order to obtain an arrest warrant. Neither had jurisdiction to do so and when these claims omitted by my appellate counsel on direct was initially introduced but the trial judge ordered that I re-initiate the application which I have done on December 11, of 2023. This order by Judge Bass to "re-initiate" was manifested prior to the newly legislated "grace" period that the State attorney has recommended to the lower court to enforce in efforts to deny me justice and liberty from this false imprisonment.

My autonomy grants me the privilege of proper jurisdiction. The appellate counsel omitted this

claim and several others from my direct appeal and but for her errors I would not still be in the improper custody of unauthorized officials nor would I still be enduring these sufferings and challenges during this false imprisonment. The 14<sup>th</sup> Amendment guarantees the Equal Protection of my autonomy under the Treaty at Washington D.C. of 1866 in these Surplus Lands. The error began when the 911 operator egregiously advised patrol units that a “Dickey” was responsible for a shooting called in by a witness for the State. This error by the operator led to a shoddy investigation and while the arrest warrant is for a failure to appear I was whisked away to the homicide office as a “person of interest” and after requesting the presence of an attorney booked into Oklahoma County Detention Center and charged with First Degree Murder and given no bond amount to post bail. My trial judge Jerry Bass signed the probable cause affidavit and after the preliminary conferences and hearings I motioned *Judge Bass to drop the charges for insufficient evidence in which he advised me that in Oklahoma County courts “circumstantial evidence has the exact same weight as direct evidence and a jury could easily find me guilty in a trial”. I'm not guilty of murdering William and these officials do not have jurisdiction over me by way of treaty with my ancestors and forefather. I am an original man and native to this region of this Earth. Furthermore, after improperly assuming jurisdiction I was raped of my left thumbprint and this evidence was admitted into my unauthorized trial. Against prior knowledge Judge Bass allowed the state witness that made the 911 call to give different testimony during my trial in direct contrast to the statements given in the original affidavit he'd signed authorizing my unlawful arrest as well as the same witness testimony being different from her testimony provided for the preliminary conference and the motion hearing to Quash. After my appellate attorney omitted these errors from my original brief the OCCA affirmed the conviction. An application for post conviction was submitted timely to Judge Bass and even though FOX NEWS Channel 25 aired the affirmation of the unlawful conviction Judge Bass ordered that I resubmit when the application was ripe for judgment.*

My friend was shot in the head on a Wednesday; so much was going on the morning Quake

(William) was killed. Earlier he'd phoned me from a barbershop not far from where the shooting occurred. Text messages in Williams' phone show him arguing and discussing past and current violent acts and threats to his life, *See Appendix 14*. This evidence is in the discovery but was never introduced to the jury and was omitted from my brief on direct appeal. I was the passenger in his car when we dropped flowers off to the owner of the white grand-am I was seated in when the shot was fired. I remained next to Quake as we stopped, drank, and smoked before returning to the apartments hooking up with starlet and continued to chill. That's when two men approached the vehicle, Quake and I, jumped out and the men disappeared. Quake reached for his weapon. It wasn't there. He called Shemika's phone and went into her apartment. The weapon wasn't there. He was furious. He thought Shayna was on some bullshit. I have to relive his passing because I sought revenge rather than to act as a citizen should and allow law to prevail.

My trial judge, having had previous assignment as a magistrate of the probable cause submission by OCPD could not be seated because of the 1866 Treaty at Washington D.C. and the conflict of interest that would arise in any instance in which the magistrate that signs a probable cause affidavit warranting an arrest also becomes the trial judge to see that the arrest sustains a conviction cannot be deemed as harmless error. A recuse was warranted at the least but more so a change of venue to the proper jurisdiction was necessary to protect the interest of justice and the fairness in the rule of law. Had I been among judges and magistrates assigned to properly administer the due process of law the outcome would have been favorable to my freedoms and this false imprisonment should have been presented to the Oklahoma Criminal Court of Appeals on direct after my trial attorney failed to do so at the preliminary conferences and hearing in violation of the '*Best Evidence Rule and The Rule of Completion*'. *See also Silas Pickett v. United States; Preemptive Act of 1830 and the Treaty at Washington D.C. of 1866 (FRENCH EDITION)*.

Where there is a legal right, there is also a legal remedy by suit, or action at law, whenever that

right is invaded. It is the essential criterion of "appellate jurisdiction" that it revises and corrects the proceedings in a cause already instituted and does not create that cause.

Where heads of departments are political and confidential agents of executives, their acts in cases which the executive is in possession of constitutional or legal discretion are only political in its examination, but where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, the individual who considers himself injured can resort to the laws of his country for a remedy.

The writ of certiorari is in the nature of an appeal as to fact as well as law. It is said to be a writ of discretion. But the discretion of a court always means a found, legal discretion, not an arbitrary will. If the applicant makes out a proper case, the court are bound to grant it. They can refuse justice to no man. This is not a case of **damnum absque injuria**. I am innocent.

The Constitution vests the whole judicial power of the United States in one supreme court, and such inferior courts that Congress shall, from time to time, ordain and establish. This power is expressly extended to all cases arising under the laws of the United States; and consequently, in some form, may be exercised over the present case; because the right claimed is given by a law of the United States. See **TREATY at WASHINGTON D.C., 1866**. I am innocent and being deprived of my rights; specifically that of the 13<sup>th</sup> amendment and this false imprisonment amounts to an 8<sup>th</sup> amendment violation after being illegally convicted by a government and its judicial branch by way of its law enforcement agency having no authority to exist; *see Oklahoma Enabling Act*. This false imprisonment has robbed me of 14 years of existing as an original descendant of these plains in this territory of Oklahoma. Kidnapped by officials acting under the color of law, these statesmen are practicing oppressive techniques and are violating my right to journey and this cruel and unusual punishment brought down upon me by weaponizing their unconstitutional government and its agencies to plunder my existence and rob me of my freedoms is a burden to great to not seek relief. **Boire, 376 U. S. at 481**, ("when an agency has engaged in 'an erroneous assessment of the particular facts' before it"), has set precedent to cure this miscarriage of justice. **See U.S. Constitution Article I Section 8 para 1 and para 17-18.**

For an agency to act *ultra vires*, it must transgress' clear and mandatory "limits that Congress has imposed on its authority. **Medical Center v. Azar DCH Reg 1, 925 F. 3d at 509 D.C. Circuit Court of Appeal 2019.**

Clearly explained language allows a strict interpretation of this **1866 Treaty** signed at Washington D.C. In its arrangements We Oklahomen, red-people, and descendants of original ancient humans are authorized to **self govern** in this territory of Oklahoma. These violations of my rights to **equal protection of the rule of fairness in law, treaty agreements, the due process in administering the law and the rights of an accused cannot go unchecked and perhaps the incorporation of the Fifth Amendment into all constitutions of this Union will be necessary since these statesmen here in this territory of Oklahoma have utilized the gaping loophole of not incorporating the 5<sup>th</sup> Amendment into its "state constitution" to plunder my land as they attempt to annihilate my communities.**

## **SECOND PROPOSITION:**

### **JURISDICTION**

**The Treaty at Wash. D.C. of 1866 as well as the Oklahoma Enabling Act internationally forbids certain citizens from official capacity over/against autonomous Native Nations. The enabling act clearly forever forbids the acts of these unauthorized statesmen, judges and officials but has gone unchecked since the bombing of Tulsa and the Wilson administration in 1921 to avoid what they saw as a consequence to the Murphy Allotment Act of 1901. I'm having to remind these people of my autonomy and that these plains of the now state of Oklahoma is my homeland and place to rebuild after the destructive Confederate War.**

**No citizen of these United States shall be imprisoned without duly being charged and convicted in the proper court of law and granted all guarantees as to the rights of an accused. However these unauthorized statesmen have failed to incorporate the rights of the Fifth Amendment into our constitution and this loophole has been used to wreak death upon my Nation as our lands and reservoirs are plundered. This violation of the Supremacy Clause and Treaty Law is unconstitutional. Fairness in law was established to maintain a balance of peace as we move beyond the struggles of all forms of war in division. Authorized officials in Oklahoma have to be followers of the Supreme Law of this Land or these unauthorized officials, statesmen and judges should be required to resign. See World Court; human Rights Council; U.S. Constitution Article I Section 8.**

The arresting officer seeking the probable cause affidavit upon recognizing who I am had the immediate responsibility to notify the proper authority that I was in the wrong jurisdiction, thereafter after every state official and magistrate that I was brought before and did not correct this obvious error became responsible for assisting in violating my constitutional right to be at liberty and deprived me of my autonomous reality. These oppressive officials have violated the '**Supremacy Clause**' and have illegally formed unauthorized fiduciary committees in my stead to profit from the labors of my ancestors and my descendant(s) while robbing the federal reserve and our national treasury of profits intended to support the Nation. **Article I Section 8 paragraph 1...** "and to constitute Tribunals inferior to the Supreme Court paragraphs 17 & 18. Against the policy's of the **Preemption Act of 1830** these officials have failed to obey sound and clear treaty rule. **Coleman v. Johnsonson, 184 F. 3d 398...** "because equity was not for those who slept on their rights". I am an original descendant of the very first inhabitants of these Oklahoma Plains and within the borders of this territory jurisdiction of criminal matters for my people and communities does not exist with the state and is constituted to be **forever** forbidden of possession by statesmen ordered by Congress in the Treaty at Washington D.C., of 1866; and enforcement of this rule of law is applicable by way of the 14<sup>th</sup> Amendment to the U.S. Constitution.

In violation of my right to self govern established and protected by Treaty law and the Supremacy Clause these statesmen are attacking my right to exist by unlawfully detaining me on trumped up charges and utilizing forceful fears and discriminatory tactics to convince me that their criminal and fraudulent behavior, having established this 'false government' and fiduciary committees in my stead, is proper.

No way will I submit to other than the truth of these laws. The treaty at Washington D.C., was established to protect my ancestors and their descendants from the atrocities of early white settlers and these protective measures are most necessary in this territory of Oklahoma for me and my descendants; especially knowing that these statesmen have ranked number one for decades in most incarcerations of men and women yet are 49<sup>th</sup> in ranking for education! The reason for the disparity is obvious and in their custody I and my descendants are doomed. This action of was dangerous and is fruit from the poisonous tree of being governed by officials unauthorized to operate in this territory of Oklahoma and if this unlawful detainment, trials and sentences by this fraudulent judicial branch continues to operate the plundering thru fiduciary committees set up in my stead will eliminate my entire being leaving no path to survive.

My annihilation should never be an option. This egregious act of hers goes to the root cause of the problematic environment that exist in the communities, detention centers, prisons, courts and institutes in this territory of Oklahoma caused directly by these statesmen unconstitutionally assuming official capacities in violation of the Supremacy Clause and the Preemption Act of 1830. Congress has the authority to bring this matter of jurisdiction to a conclusion.

State governments and their elected officials do not have greater authority than Congressional and Treaty rule of law; thus making this wrongful detainment curable in this federal court.

- **Williams v. Taylor, 592 U.S. 362, 413; 120 S. Ct. 1495, 146 L. Ed 2d 389 (2000)**
- **Yingst v. State, 480 p. 2d 276, 277 (Okla. Cr. 1971)**

The United States Federal Court has preeminent reign over all laws within its control. (*Supremacy Clause*) It's power is preemptive and controlling in every territory and has authority over every agency of this Union.

A state court adjudication is “contrary” to U.S. Supreme Court precedent if the state court “arrives at a conclusion opposite to that reached by the Supreme Court on a question of law or if the state court decides a case differently than the Supreme Court has on a set of materially indistinguishable facts”. *Williams v. Taylor*, Supra. A state court adjudication is an “unreasonable” application of Supreme Court precedent if the court “identifies the correct governing legal principle...but unreasonably applies that principle to the facts of the person(s) case.

The probable cause bringing me into the custody of an unconstitutionally formed state court with no jurisdiction over me or my descendants in this territory of Oklahoma is egregious and I only see things worsening as I stay forced into this wrongful detainment in violation of the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution and being deprived of these rights is a horrible burden.

An administration has the sworn duty and responsibility to act when a tax-payer complains ...there is “no taxation without representation”. Suffering under these statesmen in their unconstitutionally formed courts and institutes will continue and increase as long as this fraudulent government is allowed to exist in this territory of Oklahoma and I fear its burdens will ruin the ability to have freedoms, liberties and a pursuit of happiness as an original ancient inhabitant in this territory and these unconstitutional acts are in conflict with the interest of justice and the governing laws and agreements in the treaty at Washington D.C., of 1866 signed by the Great President Abe. Lincoln.

Those two joined conversations over separate receivers between Shamika and Starlett and Shamika and the 911 operator sparked this unauthorized and shoddy investigation, the faulty probable cause was never brought before the proper magistrate having jurisdiction and because the foundation of my treaty with the United States highest office is forever binding; making this an improper verdict and wrongful detention; an order demanding my release is necessary or at the least custody should be assumed by the proper jurisdictional authority for a fair proceeding or new trial.

This false imprisonment and the details of the oppression offer support for my claim and complaint because the treaty clearly explains that 'whites' will never settle in these parts to create government over its original inhabitants here in this territory of Oklahoma because scientifically they have been concluded as culturally unfit and it has been revealed that no sense of equality exist within his nature and that the atrocities that I've suffered thru directly from this plundering by these unauthorized officials is cause for action; especially due to the fact of my innocence in the interest of justice so I ask that this unfair and unlawful conviction be modified to freedom and a dismissal or time served using an “Alford Plea” be accepted by this Honorable Court.

It is emphatically the province and duty of the judicial department to say what law is. Those who apply the rule to particular cases, must of necessity expound, interpret and obey that rule. If two laws conflict with each other, the courts must decide on the operation of each.

If then the courts are to regard the Constitution; and the constitution is superior to any ordinary act of the legislative, the Constitution, and not the ordinary act, must govern the case to which they both apply.

The judicial power of the United States is extended to all cases arising under the Constitution. It is also not entirely unworthy of observation, that in declaring what shall be the supreme law of the land, the United States generally, affirms that the Constitution itself is first mentioned; and not the laws of the states but those only which shall be made in pursuance of Congress may have that rank.

Thus the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the Constitution and her Treaty's is void; and that courts, as well as other departments are bound by that instrument.

The rule must be discharged. **Marbury v. Madison, 5 U.S. 137 7 Cranch 137, 2 L. Ed. 60 (1803)**. Effective assistance of counsel and appellate counsel coupled with the fairness in the administration of the due process of law are protections afforded to an accused to prevent these type of egregious errors. When the rights of an accused is exercised under Congressional constitutes, policy's and treaty rule the code of conduct manifested for criminal procedures must be adhered to as the guiding hand to carry justice perfectly; but these unauthorized statesmen have failed to hold counsel incorporating the 5<sup>th</sup> Amendment into its constitution diminishing the rights of an accused in violation of the laws of due process in administering the law.

This case is an opportunity to set straight jurisdictional issues and the power of Congressional Acts needing to exalt itself above rogue state practices contrary to the supreme law to protect this Union. **Disqualification of Judges. Review of failure to disqualify by a judge in a criminal case is governed by Section 1403 of Title 20; Ch. 2, App., Rules 15 for District Court of Oklahoma and 15.1 of Title 12, Section X of these Rules. See also code of Judicial Conduct, Ch.2, App.4, Title 5.**

I sought post-conviction relief to satisfy federal exhaustion rules to keep from further delays in curing this miscarriage of justice. I addressed the error of the trial judge's mistake in failing to free Me to the Oklahoma Court of Criminal Appeals and their clerk "mistakenly" overlooked my informa pauper's statement, rejected my submission and then declined jurisdiction. These statesmen under their false government disallowed in the territory of Oklahoma in the framework of their state constitution have failed to incorporate the Fifth Amendment into its "state" constitution and unconstitutionally imprisons people without allowing humans to exercise their rights as an accused. This unconstitutional maneuver to knowingly deprive a human of a birthright is impossible to ignore especially because the weight of this burden has deteriorated my physical and mental self due to obstructions and cruelly unusual punishments suffered at the hands of this warden at LCRF owned and operated by GEO. Weaponizing government is unlawful and the 14<sup>th</sup> Amendment grants Congress the power to cure this ill. See **Supremacy Clause**.

These woes were foreseen long ago and the **Treaty at Washington D.C., of 1866** created necessary protections for Me and our descendants. This matter is not yet final and if left to the institutes can never be because federal court rules require certain performance and with these plunders laying wait for me at every turn I am doomed and relief may be delayed forever; may the Almighty forbid this and this court hold true to its rules in the fairness of administering the law.

In this progress of being an innocent man I began to travel thru other avenues for relief from this false imprisonment and found that even their Parole Board and Committee has established themselves as keepers of my People and abuse there fraudulent powers by forcing those of my community into these long terms of false imprisonments.

I made an attempt to address Governor Stitt thru the commutation process and being that this sentence is LWOP my application was suppose to proceed thru the first stage and be presented to the governor at its second stage requesting that he require Oklahoma county to obey treaty and Congressional law. The parole committee denied access to the governor and the executive branch of government by declining to allow my application an opportunity to proceed thru the entire forum stopping it at the very first stage of the application process with no reason explaining the rejection. I am not eligible for parole nor was my request for a lesser sentence. I brought to light the fact of this jurisdiction not being his and that my immediate release was due.

### **ILLEGAL SEARCH & SEIZURE**

The Friday prior to my voir dire set for the following Monday I was brutally attacked by county detention officials placed in restraints and by way of instrumentation forcefully raped of my left thumb print by OCPD and its forensic team.

Earlier over at the district courthouse my attorney stated she had a lot of personal issues rotating and asked that I seek a continuance when we stood before Judge Bass. In my thoughts I disagreed and so as we stood before a judge having no authority to decide my matters I announced that I was ready for trial seeing that their was no clear path to seek aid or relief at that time. I am innocent and this charge by these false officials acting oppressively was insufficient to take me before the proper magistrate and but for their wicked purposes of plundering my People and my communities I would still be within the pursuits of my happiness as We continue to self govern in the Territory of Oklahoma.

### **DETAILS OF THE RAPE**

After the ten detention officers tackled me, I was wrestled into handcuffs and I resisted with clench fists. An unusual technique applied pressure causing permanent nerve and tissue damage and scars to my wrists while walking from the hip toss and weight of the officers has never been the same. Recently the pain increases because the warden over the facility I am being imprisoned at has continually denied me my medical support shoes purchased by my family almost one year to the date of initiating this claim.

The officers could not pry open my fist. The OCPD forensic tech ordered for an instrument that would be used to break the clench. The attempt failed and only my thumb was dislodged due to the pressure in my back from the officer's knee and the impact his maneuver had on my stressed body.

A cloth was inked with black dye and swabbed over my thumb. Later this would be admitted into my trial as circumstantial evidence linking me to a weapon that was found never to have been in my possession. See *Motion for complete consumption by State Prosecutor David Prater* ( tested several times to not have my DNA).

In 2016, 6 years into the false imprisonment, my younger brother was dragged into the second stage of an unlawful capital trial and there at the detention center I made a request for the medical records and camera footage recording the rape. I was forced to return to LCRF and forced to depart this facility only to be immediately returned to the Oklahoma County Detention Center. Having returned, I approached the kiosk to re-input the request to staff asking a Captain or above to make ready the footage of the rape that occurred in January of 2011. Instead I had to accept the terrible news that the

detention center has a policy authorizing the destruction of all requests to staff if a detainee is removed from its facility. Bringing light and reason to why I was abruptly whisked from the detention center, sent back to LCRF only to be picked back up the following morning by the Oklahoma County Sheriff Department and placed in the custody of their detention center a second time. By removing me and then bringing me back they fell in compliance with their policy and could legally avoid submitting to my request. Although on the surface the technique seems to be legal it becomes unlawful when you create instances in which there exist an abuse of power/discretion and obstacles leading to obstructing justice or blocking access to public records and evidence in which the facility I am forcibly held at practices often and is at the base of the foundation in which this suit is built upon having to have had an actual prison property grievance thwarted in similar fashion; showing and proven that the authority of the Treaty at Washington D.C., of 1866 must stand forever because they cannot be fair to my kind.

I didn't make another attempt for this essential evidence in fear that these unauthorized statesmen would not allow my involvement in saving the life of my younger sibling having to face these lawless officials in an unlawfully colluded joinder capital case. **See Darrien Hasiim Clark v. State of Oklahoma.** The female forensic officer of OCPD that provided "expert" DNA and fingerprinting testimony during my trial is the same officer that raped me and egregiously conducted a reviewing of evidence without a second verification to determine if her findings of the test and her results were true. Meaning her findings could have been manufactured to fit the case and falsify evidence because the police officer testified that majority or almost all of the lifts were impossible to read because of the age of the vehicle and the fact that I was arrested after exiting that same vehicle in a trafficking case in the summer of 2006. She as well as the assistant district attorney that prosecuted my case have both been removed from the official capacities due to unlawful and improper conduct.

I spoke this truth aloud but my objection was overruled and I was silenced during the unfair trial. These unconstitutional acts committed by these statesmen and their law enforcement agencies show that there exist no consideration for my well-being.

## **CONCLUSION**

Before this Honorable Court is a complaint that unauthorized officials pretending to act in my stead are practicing evil and wicked oppressive tactics upon me; committing to false imprisonments millions of humans while plundering my reservoirs within this Earth and these waters.

Being in a jurisdiction has meaning. Being in an unauthorized judiciary forum has caused me great harms and sufferings both mentally and physically. Had these statesmen had the integrity to obey Congressional Acts and her Treaty's in regards to this territory of Oklahoma and its Enabling Act my life and liberties could have never fallen into their wicked hands.

Officials cannot form a government in a territory in which preemptive actions disallow forever. See **Treaty at Washington D.C., of 1866 Article IV and Oklahoma Enabling Act.** If a state collateral proceeding is open to a claim controlled by Federal law, the state court "has a duty to grant the relief that federal law requires". **Yates, 484 U.S., at 218, 108 S. Ct. 534, 98 L. Ed. 2D 546.**

The phone call evidence against the state's rebuttal was not argued properly. The appellate attorney failed to provide the text messages, sworn affidavit and phone log that was in the possession of the state long before it was mentioned to the court as rebuttal evidence in violation of the **Brady Rule**. The trial attorney had possession of the affidavit summoning the kinsmen of my trial judge (Jason Bass), to be present for my trial on the 14<sup>th</sup> of January but my trial had been finalized on the 12<sup>th</sup> of January and the state had told the trial court that the evidence had been found the night of my testimony during trial but Appendix 15(A) & (B) shows that Jason Bass had in fact listened to the recording of my phone call on the 5<sup>th</sup> of August 2010; months before my trial in violation of the **Brady Rule**.

Furthermore, my appellate counsel failed to include this material fact as an exhibit in her proposition of error on direct and her omission goes to the root of why the public defender during the trial lied to me saying, “you are not allowed to retake the stand and I will explain your truth during my closing argument,” in which she failed to do but the trial transcripts have been denied at public expense because my hired counsel for the direct appeal of this wrongful conviction egregiously utilized my now indigent status to obtain the discovery and copies; (see Appendix 1(B) and Appendix 1(C), (permission for records), which was also unlawful and amounts to a misconduct against the policy of the Oklahoma Bar Association. See Judge Bass's denial for transcripts at public expense at Appendix 3(A).

Wherefore, I request that this cumulative error coupled with the Exhaustion Rule(s) of this Supreme Court and the fact that I'm innocent of this crime and the reality that the original trial judge created the error reveals that it is hazardous to my health and well-being in the interest of justice to have me remain in their custody and but for the ineffectiveness of appellate counsel failing to argue the jurisdiction claim and her omissions I would not be suffering thru these harms and so prayfully I ask this Honorable Court to review my case **de novo**, grant me relief by accepting the Alford Plea or in the alternative provide any relief that I am entitled to.

## **RELIEF Requested:**

I am being obligated to make my oppressor recognize that I am being oppressed! Treaty law has protections forever carved to keep me from these and other types of dangers by the misguided. This suit would not be necessary had I been taken before the proper magistrate at the outset of this horrific accusation; but now that this complaint is before this court I will that this suit initiates the process of placing a representative(s) of mine in position to be a private independent auditor(s) in the territory of Oklahoma in the interest of justice to properly assist in administering the Federal Finance, Securities and Criminal Codes, see **Supremacy Clause and the Preemption Act of 1830**. Meanwhile the **Mineral Leasing Act of 1920**, the **Southern Homestead Act of 1866** and the **Treaty at Washington D.C., of 1866** authorizes for me to maintain a lifestyle of self governing in the Territory of Oklahoma forever.

I admit that a person can be taken into proper custody by way of the 13<sup>th</sup> Amendment and the process protected by the 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendment. However, when judicial tactics are weaponized and roles assumed fraudulently the codes and punishments implemented are void and because their actions are unconstitutional and since their orders create destruction's they must be brought to justice.

In my case I'm being tossed to and fro and no local venue has been willing to obey the Supremacy Clause. I use to have my own courtrooms but my ancestors were displaced and Jim Crow laws forced them from elected positions. I've been taken unlawfully and forced into a false imprisonment.

I seek to submit this “Alford Plea” and request that I be freed from this false imprisonment. In my innocence I can accept these years I've lost as time served and am willing to remain in GEO custody until the curing of this miscarriage of justice not to exceed 15 months from the date of the Order of the Court and that plain language jurisdiction instructions be administered upon these statesmen illegally participating in fiduciary departments in my stead. Their agencies are unnecessary in the Territory of Oklahoma. This is an act already established by Congress that I am invoking. In existence are organizations and federal agencies available to replace these unauthorized officials....see, *no resources marshaled by a state could preserve a conviction or sentence that the Constitution deprives the state of power to impose. Mackey, 401 U.S., at 693, 91 S. Ct. 1160, 28 L. Ed 2d 404*; also 14<sup>th</sup> Amendment giving Congress the power to require this illegal plundering to cease in the Territory of Oklahoma. Lifting this burdensome yoke is necessary and is a feat that only Congress and the proper

administration can endure. This duty rests on the shoulders of this Honorable Court. The unlawful acts have become criminal or fraudulent at best and will require the skill and craftsmanship of Congress and her treaty's to resolve this issue promptly. These unconstitutional commitments have lead to an unlawfully weaponized legislative, judicial, executive and fiduciary branches of their fraudulent government pitted against Me only to destroy my culture and eliminate the members of my communities.

Attacks by their law enforcement agencies are often and deadly. Their district criminal courtrooms are even more terrifyingly fierce. The protections offered to the public by the U.S. Constitution, her Treaty's and Treasury Department must be enforced always to extend this merciful pathway toward curing these evils against absolute equality and obedience to the rule of fairness in law. Article II Section 4 gives clear jurisdiction to remove these civil officers from these positions and to replace them with authorized members. The unlawful administration failed to act because they have no sincere motive to keep the law when administered to a person of my type. Upon realizing who I am Judge Bass should have immediately made haste to take me before the proper administration. Instead upon noticing my existence he has step by step ushered my life down a spiraling case of darkness and this wrongful detainment and plundering by these unauthorized fiduciary committees acting in my stead must go or at the least may all be brought to justice for accountability.

The First Amendment to the U.S. Constitution... “and to petition the Government for a redress of grievance” and Okla. Stat.tit. 75, § 322 (1) (2011)... “provides that an appellate court may set aside, modify, reverse or remand an agency order if the court determines that the substantial rights of the appellant or petitioner for review have been prejudiced because the agency findings, inferences, conclusions or decisions, are (a) in violation of constitutional provisions; or (b) in excess of the statutory authority or jurisdiction of the agency; or (c) made upon unlawful procedure; or (d) affected by other error of law; or (e) clearly erroneous in view of the reliable, material, probative and substantial competent evidence, as defined in § 10 of the OAPA, Okla. Stat.tit. 75, § 250 et seq (Supp. 2014), including matters properly noticed by the agency upon examination and consideration of the entire record as submitted”... (defined in Okla. Stat.tit. 75, § 310 (2011)). Okla. Stat.tit. 75, § 252 states that rules, amendments or revisions made after October 16, of 1987, may be held void and of no effect pursuant to Sections 306 and 307 of this title. Okla. Stat.tit. 75, § 302 (C) (3) states, “An agency shall consistently apply rules to each person subject to the jurisdiction of the agency regarding issuance of orders and § 302 (D) (1,2, & 3) of this title clearly prohibits this discretionary action to deny relief using the “grace” period time-bar... **“An agency shall not...except as authorized by the Constitution of these U.S., expand or limit a right guaranteed by the Constitution of the United States.”**

“A threshold question that must be addressed in every habeas case is that of exhaustion”. **Harris v. Champion, 15 F. 3d 1538, 1554 (10<sup>th</sup> Cir. 1994).** A state prisoner generally must exhaust available state-court remedies before a federal court can consider a habeas corpus petition,” **Bland v. Sirmons, 459 F. 3d 999, 1011 (10<sup>th</sup> Cir. 1999)**( quoting *Granberry V. Greer, 481 U.S. 129, 131 (1987)*). I am uncertain as to why the District Judge Mrs. Stallings has disguised this timely submitted collateral attack of constitutional violations as a “motion for a request of credit for time served when this was an original submission for Post-Conviction relief hoping to overcome the impediment placed in the path of due process when the original trial court entered the egregiously erroneous order, (Attachment A), without realizing that the OCCA had indeed affirmed the conviction and but for his clerical error I would have had no need to re-initiate this current application for post-conviction relief entered on December 11, of 2023. The improper determination being that August 8<sup>th</sup> of 2012 the affirmation was entered I have a right to review guaranteed by the Fourteenth Amendment and her decision has caused a new obstruction to the administrating of 'due process'...*Tristani v. Richman* clearly states that only Congress can determine lower state courts subject-matter jurisdiction and to establish new legislation to deny review is clearly an abuse of discretion, wherefore I ask this court to accept my Alford Plea or in the alternative grant any relief that I am entitled to; prayfully this **petition for writ of certiorari should be granted.**

Respectfully Submitted,



10.3.24

DATE

I hereby apply to have counsel appointed to represent me. I believe I am entitled to relief. I do not possess any money or property except the following: (If none, state "None").

I do not have property nor do I possess money for paid counsel.

10.3.24

Date

(Signature of Petitioner / Appellant)

**STATE OF OKLAHOMA** )  
 )  
**COUNTY OF COMANCHE** )

I, Anthony Clark, being first sworn under oath, states that he signed the above application and that the statements therein are true to the best of his knowledge and belief. 

Asly Chh

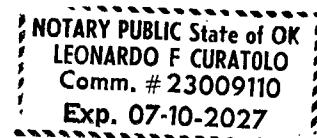
(Signature of Petitioner / Appellant)

**Subscribed** and sworn to before me this 2 day of October, 2002<sup>4</sup>.

Leonardo F. Caratash

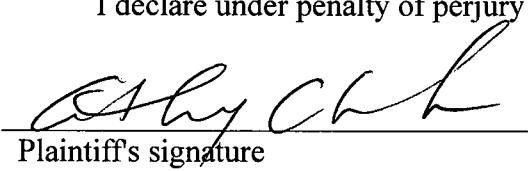
## NOTARY PUBLIC

My Commission Number is: 2300910  
My Commission Expires: 7-10-2027



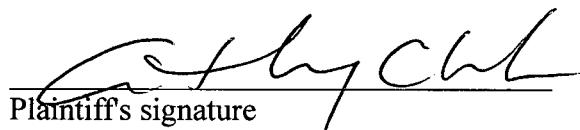
## VI. Declarations

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

  
Plaintiff's signature

10.3.24  
Date

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the 3<sup>rd</sup> day of October, 2024.

  
Plaintiff's signature

10.3.24  
Date