

**Capital Case**

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

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**IN THE SUPREME COURT OF THE UNITED STATES**  
**OCTOBER TERM, 2024**

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Derek Don Posey  
*Petitioner,*  
v.  
The State of Oklahoma,  
*Respondent.*

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On Petition for Writ of Certiorari to the  
Oklahoma Court of Criminal Appeals

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**MOTION FOR LEAVE TO PROCEED**  
***IN FORMA PAUPERIS***

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Petitioner, Derek Don Posey, by and through his undersigned attorney, pursuant to Supreme Court Rule 39.1, respectfully moves this Honorable Court for leave to proceed *in forma pauperis* and for leave to file the attached Petition for Writ of Certiorari to the Oklahoma Court of Criminal Appeals without prepayment of fees. The courts below have appointed counsel for Petitioner, Don Derek Posey, an indigent party.

Petitioner has been in the continuous custody of the State of Oklahoma since his arrest on criminal charges. Following his arrest, Mr. Posey requested, and was granted, representation at State's expense due to his indigence pursuant to Okla.Stat.tit. 22, § 1355A; Rule 1.14, *Rules*

of the Oklahoma Court of Criminal Appeals, 22 O.S., Ch. 18, App. (2019).

Following his conviction and sentencing, Mr. Posey again requested, and was granted, representation at State expense for his Direct Appeal. The orders appointing counsel, at trial and direct appeal, are appended to this Motion as Exhibits A and B, respectively.

It is respectfully requested that this Court grant this Motion for Leave *in Forma Pauperis* and permit Petitioner, Derek Don Posey, to submit his petition for writ of certiorari for filing without prepayment of filing fees or costs.

Respectfully submitted,



Michael D. Morehead  
Counsel of Record  
Oklahoma Bar Assoc. No. 18114  
Appellate Defense Counsel  
Oklahoma Indigent Defense System  
Appellate Division, West  
111 N. Peters Ave., Ste. 100  
Norman, OK 73069  
(405) 801-2727  
(405) 801-27568 (fax)  
[Michael.Morehead@oids.ok.gov](mailto:Michael.Morehead@oids.ok.gov)

ATTORNEY FOR PETITIONER,  
DEREK DON POSEY

October 15, 2024



EXHIBIT

A

tabber

8-12



IN THE DISTRICT COURT OF CANADIAN COUNTY, FIRST COURT CLERK  
STATE OF OKLAHOMA

FILER

MARIE RANSBERRY, FIRST COURT CLERK  
CANADIAN COUNTY, OKLAHOMA

AUG 08 2013

BY Debbie Pege  
DEPUTY

St. of OK.

Plaintiff

vs.

Derek Don Pege

Defendant

CASE NO. CF-2013-465

APPLICATION AND ORDER FOR APPOINTED COUNSEL  
AND  
AFFIDAVIT OF FINANCIAL INABILITY TO EMPLOY COUNSEL

I swear and affirm that I am the party in the above entitled action. I want an attorney to represent me in this case. I am financially unable to obtain the services of an attorney without causing substantial hardship to myself or to my family. The following information is true and is given and intended to be relied upon by the court and other persons or agencies in determining my eligibility for legal services to be furnished to me at public expense.

PLEASE FILL IN ALL SPACES BELOW AND SIGN YOUR NAME UNDER OATH IN FRONT OF THE JUDGE, A NOTARY OR THE COURT CLERK. IF A QUESTION DOES NOT APPLY TO YOU, PLEASE WRITE IN THIS BLANK "DOES NOT APPLY"

## I. GENERAL INFORMATION

DATE: June 23 2013

NAME: Derek Pege  
 ADDRESS: 4101 S 39 W AVE  
 TELEPHONE: 918 330 3303  
 MESSAGE NO.  
 AGE: 30  
 SINGLE  MARRIED  SEPARATED   
 SPOUSE'S NAME:  
 ADDRESS:  
 TELEPHONE:  
 HOW MANY PEOPLE ARE IN YOUR HOUSEHOLD? 2  
 NAMES AND AGES:

ARE YOU CLAIMED AS A DEFENDANT BY A PARENT OR GUARDIAN? YES  NO 

## II. FAMILY INCOME

YOUR MONTHLY TAKE HOME PAY: 2500 WEEKLY TAKE HOME PAY: 1250

YOUR EMPLOYER OR OTHER SOURCE OF INCOME (INCLUDING GOVERNMENT AGENCY):

H&P Deiling

YOUR EMPLOYER'S PHONE NUMBER:

SPOUSE'S SALARY

SPOUSE'S EMPLOYER OR OTHER SOURCE OF INCOME (INCLUDING GOVERNMENT AGENCY):

SPOUSE'S EMPLOYER'S PHONE NUMBER:

IS ANY OTHER MEMBER OF YOUR HOUSEHOLD EMPLOYED? YES  NO 

WHO?

WHERE?

SALARY?

DEFENDANT'S EMPLOYER:

OTHER SOURCE OF INCOME OR BENEFITS (INCLUDE INTEREST, DIVIDENDS, ROYALTIES, ETC.) N/A



TOTAL FAMILY INCOME FOR PRECEDING MONTH WAS \$ 0		
III. FAMILY ASSETS (what you own less what you owe on it)		
MONEY: <u>0</u> IN JAIL: <u>448</u> AT HOME: <u>0</u> CHECKING <u>\$600</u> SAVINGS: <u>0</u> SAFE DEPOSIT BOX: <u>0</u> OTHER: <u>0</u> HOME OR OTHER REAL ESTATE VALUE: <u>NA</u> JEWELRY VALUE: <u>NA</u> AUTOMOBILE(S): MAKE AND VALUE: <u>NA</u> FURNITURE VALUE: <u>NA</u> MOTORCYCLE(S): MAKE AND VALUE: <u>Rego</u> TOOLS & EQUIPMENT: VALUE <u>NA</u> NOTES, MORTGAGES AND TRUST DEEDS: <u>NA</u> ANY DEBTS OWED TO THE DEFENDANT: <u>NA</u> OTHER ASSETS AND PROPERTY: VALUE <u>NA</u>		
ARE YOU PARTY TO A SUIT (PROBATE, WORKER'S COMPENSATION, PERSONAL INJURY) WHERE JUDGMENT MAY BE EXPECTED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> NAME OF ATTORNEY:		
IV. EXPENSES AND DEBT:		
RENT/HOUSE PAYMENT:	CLOTHING:	FOOD:
DOCTOR/MEDICINE:	UTILITIES:	CAR PAYMENT:
INSURANCE:	OTHER:	TOTAL MONTHLY LIVING EXPENSES
MORTGAGE / LANDLORD'S NAME:		
MAJOR DEBTS: (list to whom and amount owed)		
LIST THE PERSONS WHO ARE DEPENDENT ON YOU FOR SUPPORT: STATE YOUR RELATIONSHIP TO EACH PERSON AND HOW MUCH YOU CONTRIBUTE MONTHLY TO THEIR SUPPORT:		
V. LAST EMPLOYMENT: <u>H. P. Drilling</u> WHEN DID YOU LAST WORK? <u>1/22/84</u> WHO WAS YOUR EMPLOYER: <u>G. Glane Drilling</u> SALARY: <u>122 hour</u> HOW LONG DID YOU WORK THERE? <u>1 year ago</u> WHY DID YOU QUIT? <u>Fire</u>		
VI. THE FOLLOWING PEOPLE CAN VERIFY TO A LARGE EXTENT MY ABOVE MENTIONED FINANCIAL SITUATION, GIVE NAME, ADDRESS AND PHONE NUMBER.		
1. <u>B. H. Drilling 1101 3 39 Ave</u> 2. <u>neighbor Dicks 412-695-5123</u> 3. <u>Sonnie Drilling 1101 3 39 Ave</u>		
VII. CHARGE AND BOND:		
CHARGE(S): FELONY: <u>4</u>	MISDEMEANOR:	JUVENILE:
ARRESTING AGENCY: <u>Commonwealth Court</u>	CITY: <u>El Reno</u>	COUNTY: <u>Garfield</u>
STATE: <u>OK</u>	HAS BOND BEEN POSTED: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
WHO PAID THE BONDSMAN?		DID YOU USE A BONDSCAMAN? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
AMOUNT OF BOND:	PREMIUM PAID TO BONDING CO:	
IF YOU DID NOT USE A BONDSCAMAN, DID YOU POST CASH BOND: <u>P. R. BOND</u>		
LIST ANY DEFENDANTS CHARGED WITH YOU:		

## VIII

1. Have you transferred or sold any assets since charges were filed in this case?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If so, describe the buyer and the amount received:	
2. Have you retained counsel in this case or in any other pending criminal case?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If so, state the case number, court, attorney and amount paid in attorney fee services.	
3. Do you have any friends or relatives who are able and willing to assist you in hiring and paying for transcripts?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
If so, have those persons been asked to help? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
4. If a friend or relative has given previous financial assistance in this case, but is no longer able or willing to do so, an affidavit to that effect from that person should be attached. Is that affidavit attached? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	

## IX. NAMES OF THREE ATTORNEYS YOU CONTACTED:

1. NAME: WHEN DID YOU CONTACT THIS ATTORNEY? <input type="checkbox"/> HOW DID YOU CONTACT THIS ATTORNEY? CAN YOU AFFORD TO HIRE THIS ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>
2. NAME: WHEN DID YOU CONTACT THIS ATTORNEY? <input type="checkbox"/> HOW DID YOU CONTACT THIS ATTORNEY? CAN YOU AFFORD TO HIRE THIS ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>
3. NAME: WHEN DID YOU CONTACT THIS ATTORNEY? <input type="checkbox"/> HOW DID YOU CONTACT THIS ATTORNEY? CAN YOU AFFORD TO HIRE THIS ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>

X. I DECLARE UNDER PENALTY OF PERJURY THAT THE INFORMATION I HAVE PROVIDED IS TRUE AND CORRECT. I UNDERSTAND THAT I MAY BE PROSECUTED FOR PROVIDING FALSE INFORMATION IN THIS APPLICATION AND AFFIDAVIT. I UNDERSTAND THAT I MUST INFORM THE OKLAHOMA INDIGENT DEFENSE SYSTEM OF ANY CHANGES IN MY FINANCIAL SITUATION THAT MAY CHANGE THE INFORMATION I HAVE PROVIDED. I FURTHER DECLARE THAT I HAVE CONTACTED THREE ATTORNEYS, LICENSED TO PRACTICE LAW IN THIS STATE, AND I AM WITHOUT FUNDS TO PAY AN ATTORNEY TO REPRESENT ME OR TO PAY FOR TRANSCRIPTS AND COSTS ASSOCIATED WITH THIS CASE.

DATED AND SIGNED THIS 23 DAY OF June 2014

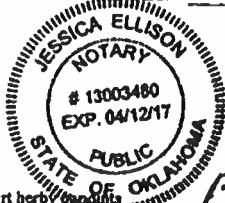
DEFENDANT Bill James

LEGAL GUARDIAN

SUBSCRIBED AND SWORN BY ME ON THE 24 DAY OF July 2013

MY COMMISSION EXPIRES: \_\_\_\_\_

Jessica Ellison  
NOTARY (or CLERK or JUDGE)



ORDER APPOINTING COUNSEL

The Court hereby appoints Bill James to represent the within named applicant(s)

Judge of the District Court **JACK D. MCCURDY II**



IN THE DISTRICT COURT OF CANADIAN COUNTY  
STATE OF OKLAHOMA

APPLICATION FEE DEFERRED

I FIND THAT THE DEFENDANT DOES NOT HAVE THE FINANCIAL RESOURCES TO PAY  
THE FEE AT THE

TIME OF MAKING THIS APPLICATION, AND I  
HEREBY DEFER

All  
OF  
(ALL OR PART)

THE \$40.00 APPLICATION FEE, TO ATTACH AS A COURT FEE UPON CONVICTION

*Jack McCurdy*  
JUDGE OF THE DISTRICT COURT

JACK D. MCCURDY II

NOTICE

A copy of this APPLICATION AND AFFIDAVIT shall be sent to the prosecuting attorney or office of  
attorney general,

whichever is applicable, for review, and upon request, the court shall hold a hearing to determine your  
eligibility for

legal services to be furnished to you at public expense.

IMPORTANT NOTICE

The court shall order you to pay the costs of your legal representation in total, or in installments. The  
court shall set

the amount and due date of each installment payment. The cost shall be paid to the court clerk in your  
county. The costs

shall be a debt against you until paid and shall subject you to debt collection procedures as provided by  
law. The costs

shall be deducted from any state income tax refund due you until the total costs are paid.

I, Marie Hirst, Court Clerk of Canadian  
County, Oklahoma do hereby certify that the  
above and foregoing is a true and correct

BY *Reed H. Bennett*  
DATED MAY 28 2019 DEPUTY

IN THE DISTRICT COURT OF CANADIAN COUNTY

STATE OF OKLAHOMA



\* 1 0 4 3 9 2 4 3 5 3 \*

THE STATE OF OKLAHOMA,

Plaintiff,

vs.

DEREK DON POSEY,

Defendant.

FILED  
MARIE HIRST COURT CLERK  
CANADIAN COUNTY, OKLAHOMA

JUL 22 2019

Brad A. Beane  
DEPUTY

) APPEAL CASE NO.  
 ) DISTRICT COURT CASE NO. CF-2013-463  
 )  
 ) TYPE OF APPEAL  
 ) (X) Direct Felony Appeal  
 ) ( ) Direct Misdemeanor Appeal  
 ) ( ) Certiorari  
 ) ( ) Revocation/Acceleration  
 ) ( ) Termination from Drug Court  
 ) ( ) State Appeal - 1089.1-1089.7  
 ) ( ) State Appeal - 1053/1053.1  
 ) ( ) Juvenile - Adjudication  
 ) ( ) Juvenile - (Certification)  
 ) ( ) Juvenile - (Reverse Certification)  
 ) ( ) Youthful Offender - (as Adult)  
 ) ( ) Other (specify) \_\_\_\_\_  
 ) (X) CAPITAL  
 ) ( ) NON-CAPITAL

I. NOTICE OF INTENT TO APPEAL

The Defendant was sentenced on the 22<sup>nd</sup> day of July, 2019, for:

<u>Crime(s)</u>	<u>Statute(s)</u>	<u>Sentence</u>
1.) Murder in the First Degree <i>Or in the Alternative</i>	Oklahoma Stat. tit 21, § 701.7(A)	Death
2.) Murder in the First Degree	Oklahoma Stat. tit. 21, § 701.7(B)	
3.) Murder in the First Degree <i>Or in the Alternative</i>	Oklahoma Stat. tit 21, § 701.7(B)	Death
4.) Murder in the First Degree	Oklahoma Stat. tit. 21, § 701.7(B)	
5.) Debit Card Theft	Oklahoma Stat. tit. 21, § 1550.22(a)	Three (3) years & a Three Thousand Dollar (\$3,000.00) Fine

The sentences was/were ordered to run (✓) concurrently ( ) consecutively as follows:

The Defendant intends to appeal (X) all convictions arising from the trial had in the above captioned case, whether herein above specifically listed or not; or ( ) only the following Counts: \_\_\_\_\_ to the Oklahoma Court of Criminal

ORIGINAL

Appeals pursuant to Okla. Stat. tit. 22, § 1051 et. seq. This Notice of Intent to Appeal and the Designation of Record, attached as Exhibit "A", pursuant to Rule 2.5(A) of the *Rules of the Court of Criminal Appeals*, Ch.18, App., of Title 22, was filed with the clerk of the trial court within ten (10) days of the date of the pronouncement of the Judgment and Sentence in this case and constitutes a valid initiation of a direct appeal in accordance with the Court of Criminal Appeals Rule 2.1(B). The Defendant further requests that the original record and transcripts be prepared in accordance with the completed Designation of Record, attached as Exhibit "A". To assist in the expediting of the appeal, an advisory list of propositions of error, if any, deemed viable by trial counsel, signed by trial counsel (if trial counsel will not be attorney on appeal), is attached as Exhibit "B".

Benjamin C. Brown  
Mitchell S. Solomon, OBA #11171  
Shea Smith, OBA #21548  
Raven S. Sealy, OBA #30714  
Benjamin C. Brown, OBA #15368  
Trial Counsel  
 Retained  
 Appointed  
 Individual  
 Oklahoma Indigent Defense System  
 Oklahoma County Public Defender  
 Tulsa County Public Defender

A true and correct certified copy of the Notice of Intent to Appeal and the Designation of Record with acknowledged receipt by the court reporter(s) were mailed this 22<sup>th</sup> day of July, 2019, to the Clerk of the Oklahoma Court of Criminal Appeals.

Benjamin C. Brown  
Mitchell S. Solomon, OBA #11171  
Shea Smith, OBA #21548  
Raven Sealy, OBA # 30714  
Benjamin C. Brown, OBA #15368  
Trial Counsel  
Capital Trial Division  
Oklahoma Indigent Defense System  
P.O. Box 926  
Norman, Oklahoma 73070  
405/801-2700

## II. APPLICATION FOR DETERMINATION OF INDIGENCE

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

(X) Indigency has been previously determined by this Court or its designee, and a pauper's affidavit in accordance with Rule 1.14(A) will be provided if this Court elects to review the Defendant's status.

( ) Indigency has not been previously determined by this Court or its designee, and a pauper's affidavit in accordance with Rule 1.14(A) is attached as Exhibit "C".

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

*Benjamin C. Brown*  
\_\_\_\_\_  
Mitchell S. Solomon, OBA #11171  
Shea Smith, OBA #21548  
Raven Sealy, OBA # 30714  
Benjamin C. Brown, OBA #15368  
Trial Counsel

### **III. DETERMINATION OF INDIGENCE**

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

#### **THE COURT ORDERS:**

##### **A. Preparation of the Appeal Record:**

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

Name: Kristi Wright, CSR

Mailing Address: Canadian County Courthouse

303 North Choctaw

El Reno, Oklahoma K 73070

Telephone: (405) 295-6217

Transcript Type: Preliminary Hearing

Transcript Date: October 1-2, 2014

Name: **Julee Thummel, CSR**  
Mailing Address: **Canadian County Courthouse**  
**303 North Choctaw**  
**El Reno, Oklahoma 73070**  
Telephone: **(405) 295-6209**  
Transcript Type: **District Court Arraignment**  
Transcript Date: **January 27, 2015**

Name: **Julee Thummel, CSR**  
Mailing Address: **Canadian County Courthouse**  
**303 North Choctaw**  
**El Reno, Oklahoma 73070**  
Telephone: **(405) 295-6209**  
Transcript Type: **Motion Hearing**  
Transcript Date: **November 16, 2015**

Name: **Julee Thummel, CSR**  
Mailing Address: **Canadian County Courthouse**  
**303 North Choctaw**  
**El Reno, Oklahoma 73070**  
Telephone: **(405) 295-6209**  
Transcript Type: **Motion Hearing**  
Transcript Date: **July 18, 2016**

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Status Conference  
Transcript Date: June 6, 2018

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion Hearing  
Transcript Date: October 2, 2018

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion (Burks) Hearing  
Transcript Date: October 4, 2018

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion Hearing  
Transcript Date: October 5, 2018

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion (Burks) Hearing  
Transcript Date: October 25, 2018

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion (Daubert/2702) Hearing  
Transcript Date: November 28, 2018

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion & In Camera Hearing  
Transcript Date: December 6, 2018

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Hearing  
Transcript Date: December 19, 2018

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion Hearing  
Transcript Date: December 28, 2018

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion Hearing  
Transcript Date: January 4, 2019

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion Hearing  
Transcript Date: January 11, 2019

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Motion Hearing  
Transcript Date: January 31, 2019

**Name:** Theresa Anderson, CSR  
**Mailing Address:** Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
**Telephone:** (405) 264-5623  
**Transcript Type:** Motion Hearing  
**Transcript Date:** Motion Hearing  
**Transcript Date:** March 11, 2019

**Name:** Theresa Anderson, CSR  
**Mailing Address:** Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
**Telephone:** (405) 264-5623  
**Transcript Type:** Call Docket  
**Transcript Date:** March 15, 2019

**Name:** Theresa Anderson, CSR  
**Mailing Address:** Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
**Telephone:** (405) 264-5623  
**Transcript Type:** Jury Trial  
**Transcript Date:** March 18, 2019 to June 6, 2019

Name: Theresa Anderson, CSR  
Mailing Address: Canadian County Children's Justice Center  
7905 East Highway 55  
El Reno, Oklahoma 73036  
Telephone: (405) 264-5623  
Transcript Type: Formal Sentencing  
Transcript Date: July 22, 2019

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

**B. IF INDIGENT:**

1. Mitchell S. Solomon, Shea Smith, Raven S. Sealy, and Benjamin C. Brown, trial counsel for the Defendant, timely completed this Notice of Intent to Appeal and has timely filed a Designation of Record.
2. The court reporter(s) has been served with a copy of the Designation of Record.
3. Appropriate transcripts are ordered at public expense.
4. **(X) CHIEF, HOMICIDE APPEALS DIVISION OF THE OKLAHOMA INDIGENT DEFENSE SYSTEM** ( ) CHIEF OF THE GENERAL APPEALS DIVISION OF THE OKLAHOMA INDIGENT DEFENSE SYSTEM ( ) PUBLIC DEFENDER OF TULSA COUNTY ( ) PUBLIC DEFENDER OF OKLAHOMA COUNTY ( ) A PRIVATE ATTORNEY, ADDRESS \_\_\_\_\_, TELEPHONE \_\_\_\_\_, is appointed to represent the Defendant on appeal. (The public defender of Tulsa County and Oklahoma County may only be appointed if that office represented the defendant at trial unless a conflict of interest exists as determined.)
5. Any Supplemental Designation of Record by the Oklahoma Indigent Defense System pursuant to Section 1362 of Title 22 must be filed and served upon the appropriate court reporter(s) within thirty (30) days from the date of appointment.
6. Mitchell S. Solomon, Shea Smith, Raven S. Sealy, and Benjamin C. Brown, trial counsel for the Defendant, and the Capital Trial Division–Norman, Oklahoma Indigent Defense System, are permitted to withdraw as counsel of record.
7. Cases in which death penalty imposed: Kristi Christopher, Chief of the Capital Post-Conviction Division of the Oklahoma Indigent Defense System, is appointed to represent the defendant on the filing of an application for post-conviction relief in accordance with the provisions of §§ 1089 and 1356 of Title 22.

**C. IF NOT INDIGENT:**

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

**IT IS SO ORDERED.**

**This order signed on this 22<sup>th</sup> day of July, 2019**

  
\_\_\_\_\_  
**THE HONORABLE BOB HUGHEY**  
**JUDGE OF THE DISTRICT COURT**

NOTE: A NOTICE OF INTENT TO APPEAL AND DESIGNATION OF RECORD MUST BE FILED WITHIN TEN (10) DAYS FROM THE DATE THE SENTENCE IS PRONOUNCED IN OPEN COURT WITH THE CLERK OF THE TRIAL COURT. THIS NOTICE AND DESIGNATION IS JURISDICTIONAL AND FAILURE TO TIMELY FILE CONSTITUTES WAIVER OF THE RIGHT TO APPEAL. A CERTIFIED COPY OF THIS NOTICE AND DESIGNATION SHALL ALSO BE FILED BY TRIAL COUNSEL WITH THE CLERK OF THE COURT OF CRIMINAL APPEALS WITHIN TEN (10) DAYS FROM THE DATE THE NOTICE IS FILED IN THE TRIAL COURT. NO TRIAL ATTORNEY MAY BE GRANTED PERMISSION TO WITHDRAW, IF THE DEFENDANT DESIRES TO APPEAL, UNLESS THESE DOCUMENTS ARE FILED. IF THE DEFENDANT DOES NOT WISH TO APPEAL THIS CONVICTION, TRIAL COUNSEL MUST FILE AN AFFIDAVIT SIGNED BY TRIAL COUNSEL AND ACKNOWLEDGED BY THE TRIAL JUDGE WITH THE CLERK OF THE DISTRICT COURT, BEFORE TRIAL COUNSEL IS ALLOWED TO WITHDRAW, ASSERTING THAT THE DEFENDANT HAS BEEN FULLY ADVISED OF HIS/HER APPEAL RIGHTS AND DOES NOT WISH TO PURSUE AN APPEAL OF THE CONVICTION. See Rule 1.14(D).