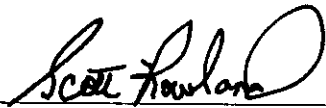


post-conviction relief is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2021), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this

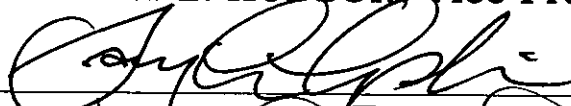
29th day of October, 2021.



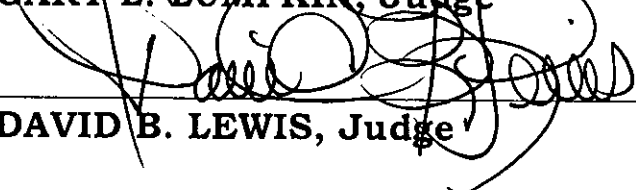
SCOTT ROWLAND, Presiding Judge



ROBERT L. HUDSON, Vice Presiding Judge

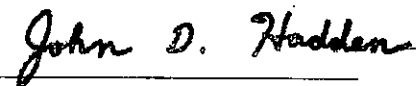


GARY L. LUMPKIN, Judge



DAVID B. LEWIS, Judge

ATTEST:



Clerk

PA

IN THE DISTRICT COURT IN AND FOR MAYES COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
MAYES CO., OKLAHOMA
SEP 13 2021
JENNIFER CLINTON, COURT CLERK
BY *J. Brown* DEPUTY

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.) Case No. CF-1999-105
)
BYRON LYNN WHITE,)
)
Defendant.)

**ORDER LIFTING STAY AND
DENYING POST-CONVICTION RELIEF APPLICATION**

Now on this 13th day September, 2021, after having reviewed the file and pleadings herein and the post-conviction relief application of the Petitioner and any response filed on behalf of the State of Oklahoma, the Court finds as follows:

1. At the time of Petitioner's initial filing for post-conviction relief, a final determination of the effect of *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020), in Oklahoma had not occurred.

2. The case of *Oklahoma v. Bosse*, 2021 OK CR 3, that appeared to be controlling, was appealed to the United States Supreme Court. Its implementation as controlling law in Oklahoma was stayed by the Oklahoma Court of Criminal Appeals while the case was being reconsidered.

3. As a result of the Oklahoma Court of Criminal Appeal's stay order, this Court stayed its decision regarding Petitioner's post-conviction relief application, awaiting further instruction regarding the interpretation of *McGirt* on post-conviction relief applications. Petitioner's application claimed this Oklahoma court lacked jurisdiction to hear Petitioner's case, therefore the Petitioner's original conviction should be vacated.

4. Since this Court's stay order, the Oklahoma Court of Criminal Appeals has issued *State v. Wallace*, 2021 OK CR 21. In *Wallace*, the Oklahoma Court of Criminal Appeals held that,

APPENDIX "B" 33

"*McGirt* and our post-*McGirt* reservation rulings shall not apply retroactively to void a final state conviction." *Wallace* at ¶40.

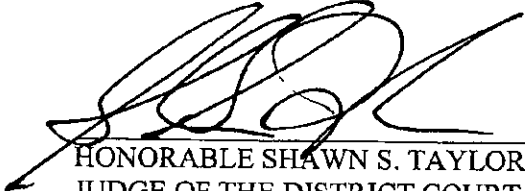
5. In addition to issuing the Order in *Wallace*, the Oklahoma Court of Criminal Appeals vacated *Bosse* and other cases that were inconsistent with their holding in *Wallace*. (See, *Bosse v. State*, 2021 OK CR 23, *Bench v. State*, 2021 OK CR 24, *Ryder v. State*, 2021 OK CR 25, *Cole v. State*, 2021 OK CR 26).

6. Petitioner's application for post-conviction relief is necessitated upon the retroactive application of *McGirt* to support the claim that Oklahoma did not have subject matter jurisdiction over Petitioner at the time of the disposition of Petitioner's case.

7. This Court finds, as a matter of law, based upon the Oklahoma Court of Criminal Appeals decision in *State v. Wallace*, 2021 OK CR 21, that Petitioner's post-conviction relief application should be denied. Regardless of the "Indian" status of the parties and whether the crime occurred on "a reservation," *Wallace* precludes the application of *McGirt* retroactively to void a final state conviction.

Petitioner's post-conviction relief application is hereby denied. The hearing previously set for September 27, 2021, is hereby stricken as moot.

IT IS SO ORDERED.

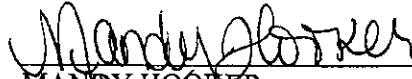

HONORABLE SHAWN S. TAYLOR
JUDGE OF THE DISTRICT COURT

CERTIFICATE OF MAILING

I, Mandy Hooker, Secretary/Bailiff for the Honorable Shawn S. Taylor, District Judge, do hereby certify that on the 13th day of September, 2021, a true and correct copy of the foregoing was mailed, postage prepaid, to the following:

Byron L. White, DOC #370938
Joseph Harp Correctional Center
P.O. Box 548
Lexington, OK 73051-0548

Matthew J. Ballard
MAYES COUNTY DISTRICT ATTORNEY'S OFFICE
Mayes County Courthouse
One Court Place, Suite 250
Pryor, OK 74361



MANDY HOOKER,
Secretary/Bailiff