

Capital Case

Case No. _____

**In the
Supreme Court of the United States**

JEMAINE CANNON,
Petitioner,
v.
THE STATE OF OKLAHOMA,
Respondent.

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

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

Petitioner, Jemaine Cannon, by and through his undersigned attorney, pursuant Supreme Court Rule 39.1 and Title 18, United States Code, Section 3006A(d)(7), 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, Jemaine Cannon, an indigent party.

Petitioner was previously found indigent at trial and appellate proceedings in the District Court of Tulsa County and in the Oklahoma Court of Criminal Appeals, thus, under S. Ct. Rule 39 and 18 U.S.C. § 3006A (d)(7), negating the requirement of an attached affidavit. *See* Order Appointing Oklahoma Indigent Defense System (OIDS), *State v. Cannon*, No. CF-1995-727 (Tulsa Co. Mar. 19, 1997) (OIDS to represent Cannon in his post-conviction matters); *see also* Order appointing the Office of the Federal Public Defender, *Cannon v. Royal*, No. CIV-99-297-TCK-PJC (N.D. Okla. June 13, 2017).

Respectfully submitted,

s/ Emma V. Rolls

EMMA V. ROLLS, OBA # 18820*
Assistant Federal Public Defender
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Western District of Oklahoma
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ATTORNEY FOR PETITIONER,
JEMAINÉ CANNON

* Counsel of Record

Dated this 15th day of December, 2021

FILE COPY

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

DISTRICT COURT
FILED

MAR 19 1997

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

Mar 19 3 05 PM '97
SALLY HOWE SMITH

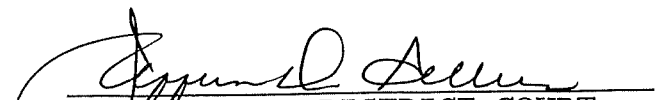
THE STATE OF OKLAHOMA,)
)
 Plaintiff,)
)
 -vs-)
)
 JEMAINA MONTEIL CANNON,)
)
 Defendant.)

No. CF 95-727

**ORDER APPOINTING OKLAHOMA INDIGENT DEFENSE
SYSTEM ON POST-CONVICTION RELIEF APPEAL**

Now on this 19th day of March, 1997, having considered the Defendant's Application for the Appointment of the Oklahoma Indigent Defense System (OIDS) for purpose of post-conviction relief IT IS HEREBY ORDERED THAT OIDS be appointed to represent the Defendant for purpose of post-conviction appeal pursuant to 22 O.S.Supp.1995, §1089.

Section 1089.B prescribes that OIDS is to receive a certified copy of the appeal record. Therefore, IT IS FURTHER ORDERED that the court reporters involved in the direct appeal prepare and file an additional copy of the transcripts. Costs shall be paid from the Court Fund. Further, the Tulsa County Court Clerk shall prepare and certify an additional copy of the original record and deliver same, with transcripts, to OIDS.



JUDGE OF THE DISTRICT COURT

CERTIFICATE OF MAILING

This is to certify that on this 19th day of MARCH, 1997, a copy of the above and foregoing Document was were mailed to:

Oklahoma Indigent Defense System
Capital Post-Conviction Division
1660 Cross Center Driver
Norman, OK 73109

and

Attorney General's Office
2300 N. Lincoln Blvd
112 State Capitol Building
Oklahoma City, OK 73105-4894

with sufficient postage thereon.

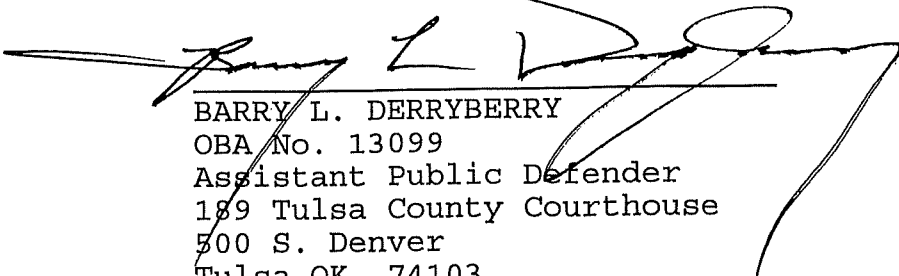
CERTIFICATE OF DELIVERY

This is to certify that on this 19th day of March, 1997, a true and correct copy of the above and foregoing document was delivered to:

SALLY SELF, Ct. Reporter
c/o Tulsa County Courthouse
500 S. Denver
Tulsa, OK 74103

and

LYNETTE QUETONE, Ct. Reporter
329 Tulsa County Courthouse
500 S. Denver
Tulsa, OK 74103


BARRY L. DERRYBERRY
OBA No. 13099
Assistant Public Defender
189 Tulsa County Courthouse
500 S. Denver
Tulsa OK 74103
(918) 596-5530

As pertinent to this case, the Criminal Justice Act (CJA) provides that:

[u]nless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including . . . all available post-conviction process, together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.

18 U.S.C. § 3599(e). Thus, the scope of an attorney's representation extends beyond the confines of the original proceeding to include "every subsequent stage of available judicial proceedings." See Hooper v. Jones, 536 F. App'x 796, 799-800 (10th Cir. 2013) (unpublished)² (discussing scope of counsel's CJA appointment). When the Court allowed attorney Jack Fisher to withdraw, the CJA required that similarly qualified substitute counsel be appointed to represent Petitioner for any remaining "available" process. Therefore, Petitioner's motion to reconsider the denial of his request for appointment of counsel is granted. The Court hereby appoints counsel from the Death Penalty Federal Habeas Corpus division of the Federal Public Defender's Office for the Western District of Oklahoma, 215 Dean A. McGee, Suite 109, Oklahoma City, Oklahoma, 73102, to represent Petitioner for any subsequent stage of this proceeding. The Federal Public Defender's Office shall designate an attorney to file an Entry of Appearance within five days from receipt of this Order.

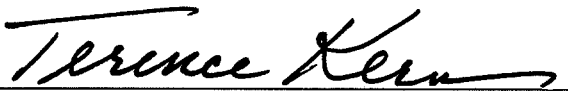
ACCORDINGLY, IT IS HEREBY ORDERED that:

1. Petitioner's second motion to reconsider (Dkt. # 346) is **granted**.
2. The Court appoints counsel from the Federal Public Defender's Office for the Western District of Oklahoma to represent Petitioner for any subsequent stage of this proceeding.

²This unpublished opinion is not precedential but is cited for its persuasive value. See Fed. R. App. P. 32.1; 10th Cir. R. 32.1.

3. The Clerk's Office shall mail a copy of this Order to the Federal Public Defender's Office at the address cited above. The Federal Public Defender's Office shall designate an attorney to file an Entry of Appearance within five days from receipt of this Order.
4. Petitioner's first motion to reconsider (Dkt. # 342) and third motion for appointment of counsel (Dkt. # 349) are **declared moot**.
5. The Clerk shall send a copy of this Order to the Tenth Circuit Court of Appeals.

DATED this 13th day of June, 2017.


TERENCE KERN
United States District Judge