

ORIGINAL



IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

OCT - 6 2021

JOHN D. HADDEN
CLERK

No. PC-2018-1076

PATRICK JOSEPH TERRY,)
)
Petitioner,)
)
v.)
)
STATE OF OKLAHOMA,)
)
Respondent.)

ORDER AFFIRMING DENIAL OF POST-CONVICTION RELIEF

Petitioner, pro se, appealed to this Court from an order of the District Court of Ottawa County in Case No. CF-2012-242 denying his request for post-conviction relief.¹ Petitioner's post-conviction application asserted the same issues ultimately addressed in *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020). This Court affirmed the District Court's ruling and denied Petitioner's post-conviction appeal. *Terry v. State*, PC-2018-1076 (Okla.Cr. February 25, 2019) (unpublished). In *State ex rel. Matloff v. Wallace*, 2021 OK CR 21, ___ P.3d ___, his Court determined that the United States Supreme Court decision in *McGirt*, because it is a new procedural rule, is not retroactive and does not void final state convictions. *See Matloff*, 2021

¹ Petitioner sought review of our decision by the United States Supreme Court and that Court vacated our judgment and remanded this case to this Court for further consideration in light of *McGirt*. *Terry v. Oklahoma*, 141 S.Ct. 191 (2020).

OK CR 21, ¶¶ 27-28, 40.

The conviction in this matter was final before the July 9, 2020 decision in *McGirt*, and the United States Supreme Court's holding in *McGirt* does not apply. Therefore, the trial court's denial of post-conviction relief is **AFFIRMED**. The Respondent's Motion to File a Supplemental Brief filed with this Court's Clerk on September 2, 2021, is **DENIED**. 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

6th day of October, 2021.

Scott Rowland
SCOTT ROWLAND, Presiding Judge

Robert L. Hudson
ROBERT L. HUDSON, Vice Presiding Judge

Gary L. Lumpkin
GARY L. LUMPKIN, Judge

David B. Lewis
DAVID B. LEWIS, Judge

ATTEST:

John D. Hadden
Clerk