

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

IN THE

SUPREME COURT OF THE UNITED STATES

DAMON NEAL DUNBAR, Jr.

VS.

OKLAHOMA COURT OF CRIMINAL APPEALS

AND

THE DISTRICT ATTORNEY OF CUSTER COUNTY

*of*

*Oklahoma*

ON PETITION FOR A WRIT OF CERTIORARI TO

OKLAHOMA COURT OF CRIMINAL APPEALS

NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE

PETITION FOR EXTENSION OF TIME

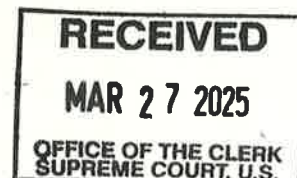
*Pursuant to Rule 30.4*

Damon Neal Dunbar, Jr.

{Oklahoma State Reformatory}

PO BOX 514

Granite, Oklahoma 73547



## **AUTHORITY**

Pursuant to 30.4

### Extraordinary Circumstances

1. On the date of February 27<sup>th</sup>, 2025 Petitioner was transferred from Dick Conner's Correctional Center to Oklahoma State Reformatory and has not yet received his property.
2. Under the extraordinary circumstances Petitioner is incompetent to federal law and Petitioner's is requesting an extension to perfect the Petitioner's writ.
3. Petitioner prays this honorable court grants his petitioner and orders mandate to the district court of Custer County deputy court clerk to furnish the trial transcripts. Petitioner has been diligent in his actions in trying to attain the record for appeal but has been denied. He is an indigent pro se litigant and requires the record to perfect his appeal in the interest of justice and his due liberty interest.

## **AUTHORITY**

The United States Supreme Court has held on numerous occasions that a denial of a transcript of a defendant's trial proceedings is a denial of equal protection of the law and due process of the law under the United States Constitution in *Lane v. Brown*, 83 S.Ct. 768, the Supreme Court held:

“...once the state chooses to establish appellate review in criminal cases, it may not Foreclose indigent from access to any phase of that procedure, because of their poverty.”

(*Id.*, at 722).

Also, in *Lane supra*, Court held:

"...the court made clear that these principles were not to be limited to direct appeals from the criminal convictions, but extended alike to state post-conviction proceedings" (Id., at 773)

In Eskridge v. Washington state board of prison terms and parole, 72 S. Ct 1061, the court held:

***"...destitute defendants must be afforded as adequate appellate review as defendants who have money to buy transcripts" (Id., at 1062) "emphasis added"***

## CONCLUSION

The petition for an extension of time for a writ of certiorari should be granted

Respectfully submitted,

*DAMON NEAL DUNBAR JR. #554556*

*DATE: MARCH 12, 2025*

ORIGINAL



IN THE COURT OF CRIMINAL APPEALS  
OF THE STATE OF OKLAHOMA

FILED  
IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA

DAMON NEAL DUNBAR, JR.,

JAN 27 2025

Petitioner,

JOHN D. HADDEN  
CLERK

v.

No. PC-2025-4

THE STATE OF OKLAHOMA,

Respondent.

**ORDER DENYING DIRECT APPEAL OUT OF TIME**

Petitioner, pro se, petitions this Court for a direct appeal out of time from his convictions in Custer County District Court Case No. CF-2019-329. Petitioner was convicted by jury and sentenced to twenty years in the Department of Corrections for Robbery First Degree (AFCF) and twenty years imprisonment for Burglary in the First Degree (AFCF). Petitioner filed a direct appeal and this Court affirmed the judgment and sentence. *Dunbar v. State*, No. F-2021-385 (Okla. Cr. December 8, 2022) (not for publication).

On November 21, 2024, Petitioner filed an original application for post-conviction relief in the District Court seeking a direct appeal out of time pursuant to Rule 2.1(E), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2025). He alleged he was

denied his right to a direct appeal through no fault of his own because he was in transport from the Department of Corrections to Canadian County every time he corresponded with the court, and he is innocent.

Finding Petitioner did appeal his conviction to the Oklahoma Court of Criminal Appeals and a mandate was issued, the Honorable Donna L. Dirickson, District Judge, denied the application in an order filed on November 21, 2024. From the record, she concluded that Petitioner was not denied his right to appeal through no fault of his own. We agree. In order to be granted an appeal out of time, Petitioner must prove he was denied an appeal through no fault of his own. *Dixon v. State*, 2010 OK CR 3, ¶ 5, 228 P.3d 531, 532. Petitioner's petition to this Court and the record fails to establish he was denied an appeal at all, let alone through no fault of his own. Therefore, Petitioner's request for a direct appeal out of time is **DENIED**.

Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2025), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

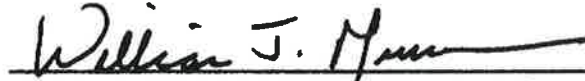
**IT IS SO ORDERED.**

**WITNESS OUR HANDS AND THE SEAL OF THIS COURT this**

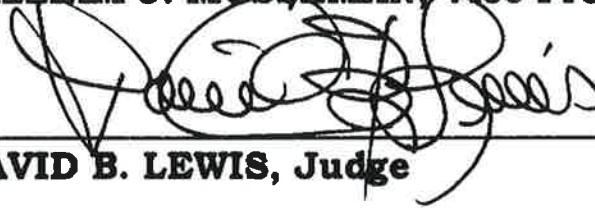
27<sup>th</sup> day of January, 2025.



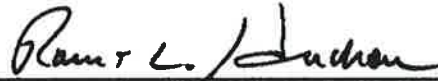
**GARY L. LUMPKIN, Presiding Judge**



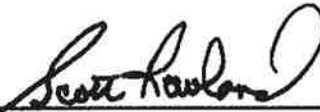
**WILLIAM J. MUSSEMAN, Vice Presiding Judge**



**DAVID B. LEWIS, Judge**



**ROBERT L. HUDSON, Judge**



**SCOTT ROWLAND, Judge**

**ATTEST:**



**Clerk**

**PA**

**SERVICE COPY**



**IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA**

Damon Neal Dunbar Jr,  
Petitioner,  
v.  
STATE OF OKLAHOMA,  
Respondent,

Case Number: PC-2025-4

TCC Number(s): CF-2019-329

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**MANDATE**

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To the Honorable Judge of the District Court in and for the County of CUSTER, State of Oklahoma, Greetings:

Whereas, the Court of Criminal Appeals of the State of Oklahoma has rendered its decision in the above styled and numbered case on the 27<sup>th</sup> day of January, 2025, resolving the appeal from the District Court in Case Number CF-2019-329.

Denied

Now, therefore, you are hereby commanded to cause such Decision to be filed and spread of record in your court and to issue such process (see 22 O.S. 2001, §§ 978 & 979, and 22 O.S. 2004 §980) and to take such other action as may be required by said Order (see 22 O.S. 2001 §§ 1066 and 1072). You shall then make due and prompt return to this court showing ultimate disposition of the above case.

Witness, the Honorable Gary L. Lumpkin, Presiding Judge of the Court of Criminal Appeals of the State of Oklahoma, Oklahoma Judicial Center, Oklahoma City, this 27<sup>th</sup> day of January, 2025 .

JOHN D. HADDEN  
Clerk

By: Candace Duncan  
Deputy

(seal)





IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

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STATE OF OKLAHOMA,  
Respondent,

Case Number: PC-2025-4

TCC Number(s): CF-2019-329

FILED  
IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA

FEB - 3 2025

RECEIPT FOR MANDATE

JOHN D. HADDEN  
CLERK

The undersigned court clerk of Custer County, State of Oklahoma, hereby acknowledges receipt of mandate and Order issued and filed in the above styled and numbered case.

Dated this 20 day of Jan, 2025



County of Custer

State of Oklahoma

Sari Hunter  
Court Clerk

Sign and Mail to:

Clerk of the Appellate Courts  
Oklahoma Judicial Center  
2100 N Lincoln Blvd., Suite 4  
Oklahoma City, OK 73105-4907

RECEIVED

APR 29 2025

OFFICE OF THE CLERK  
SUPREME COURT



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

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VS.

OKLAHOMA COURT OF CRIMINAL APPEALS

AND

THE DISTRICT ATTORNEY OF CUSTER COUNTY

**PROOF OF SERVICE**

I *Damon Neal Dunbar Jr.*, do swear that on this date , March 12, 2025 , as required by the supreme court rule 29 & 30 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND PETITION FOR EXTENSION OF TIME on each party to the above proceeding or that a party's counsel , and on every other person required to be served , by depositing an envelope containing the above documents in the united states mail properly addressed to each of them and with first class postage prepaid , or by delivery to a third party commercial carrier for delivery within 3 calendar days .

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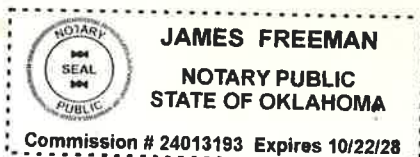
The names and addresses of those served are as follows:

Custer County Court Clerk (Staci Hunter)  
PO BOX D  
Arapaho, Oklahoma 73620

Oklahoma Judicial Center  
2100 N. Lincoln Blvd. suite 4  
Oklahoma City, Oklahoma 73105

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

Executed on the 12 day of March , 2025



*James Freeman*  
Notary

*Damon N. Dunbar, Jr.*  
Damon N. Dunbar, Jr. #554556