

25-6820

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
JAN 24 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

TROY DECKER — PETITIONER
(Your Name)

vs.

STATE OF OKLAHOMA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

STATE OF OKLAHOMA COURT OF CRIMINAL APPEALS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

TROY DECKER

(Your Name)

216 North Murray Street

(Address)

Helena, OK 73741

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Whether a state court's failure to address a pro se pre-trial motion raising violations of mandatory warrant issuance and probable cause determination under state law (22 O.S. § 171) and federal constitutional standards (*Gerstein v. Pugh*), when the motion is not adopted by appointed counsel, violates the Due Process Clause of the Fourteenth Amendment or the right to self-representation under the Sixth Amendment.

Whether the disqualification from prosecution or continued detention without a judicial probable cause determination following a warrantless arrest, based on alleged official neglect, violates the Fourth Amendment's protection against unreasonable seizures or the Due Process Clause of the Fourteenth Amendment.

Whether the failure to conduct a timely preliminary examination or issue a mandatory arrest warrant, leading to prolonged detention and prosecution, violates the speedy trial rights under the Sixth Amendment and due process under the Fourteenth Amendment, particularly when such delays exceed eight months without legislative justification.

Whether trial counsel's failure to adopt or litigate a pro se motion for dismissal or mandamus relief based on warrant and probable cause defects constitutes ineffective assistance of counsel in violation of the Sixth and Fourteenth Amendments, where the evidence and law supported such actions and could have resulted in pre-trial dismissal.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

NONE LISTED

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**IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix
the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the United States district court appears at Appendix
the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

For cases from **state courts**:

The opinion of the Oklahoma Court of Criminal Appeals (OCCA) affirming
Petitioner's conviction is unpublished and reproduced in the Appendix at A-1.
The OCCA's decision was issued on October 30, 2025, in Case No. F-2024-
451.

JURISDICTION

[X] For cases from state courts:

The OCCA entered its final judgment on October 30, 2025. This petition is filed within 90 days of that judgment. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourth Amendment: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Sixth Amendment: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial ... and to have the Assistance of Counsel for his defence."

Fourteenth Amendment: "... nor shall any State deprive any person of life, liberty, or property, without due process of law...."

22 O.S. § 171: "When a complaint, verified by oath or affirmation, is laid before a magistrate, of the commission of a public offense, he must, if satisfied therefrom that the offense complained of has been committed, and that there is reasonable ground to believe that the defendant has committed it, issue a warrant of arrest."

21 O.S. § 345: "Every public officer who willfully neglects or refuses to perform any duty of his office, when no special provision has been made for the punishment of such delinquency or refusal, is guilty of a misdemeanor."

STATEMENT OF THE CASE

Petitioner Troy Decker was arrested without a warrant on December 7, 2022, in Tulsa County, Oklahoma. Charges were filed the same day for first-degree murder and unlawful possession of a controlled substance, stemming from a December 4, 2022, incident at the Pioneer Plaza Apartments where Petitioner resided. A summons was issued on December 4, 2022, and arraignment occurred on December 9, 2022, before Special Judge Rodney Sparkman.

At arraignment, the State presented information to the court, but no probable cause determination was made, and no arrest warrant was issued as required by 22 O.S. § 171. Petitioner filed a pro se motion to dismiss with prejudice or, in the alternative, an application for writ of mandamus, arguing that the Tulsa County District Attorney's Office, Public Defender's Office, Judge Sparkman, ADA Elyssa Kohler, Katie Kojack, Jay Swab, and Hannah Scandry grossly neglected their duties. The motion asserted that the quasi-judicial power was invoked without the power to invoke arrest or probable cause affidavit, and the State had been counting time without jurisdiction for over eight months.

The motion detailed:

The State's gross neglect in performing Petitioner's clear legal right to a mandatory warrant and probable cause examination.

Judge Sparkman's failure to invoke the mandatory warrant because the prior proceeding (arraignment) did not have the power to invoke it.

Violation of the case for preliminary examination, with Petitioner "manufactured" past December 9, 2022, without warrant filing.

Authorization for mandamus on grounds that the State prosecuted without jurisdiction on arrest grounds, forfeited authority to file pleadings, and Judge Sparkman failed mandatory duties after arrest, with the prosecutor failing to file sufficient pleadings.

Jurisdiction under Oklahoma Statutes and Constitutions, U.S. Const. Amends. VI, XIV, etc., with venue in Tulsa County.

Arguments that prosecutors and officials delayed or mishandled the case (no timely preliminary hearing or warrant), violating due process and speedy trial rights.

STATEMENT OF THE CASE-CONTINUED

The motion cited 22 O.S. § 171's mandatory language ("must" as a plain legal duty, excluding discretion, per Black's Law Dictionary and cases like *People v. Municipal Court*). It argued legislative intent to issue warrants upon verified information, and Judge Sparkman failed to do so on December 9, 2022.

Further, it incorporated Fourth Amendment context from cases like *Ex parte Burford*, 3 Cranch 448 (1806); *U.S. v. Hamilton*, 3 Dall. 17 (1795); *Draper v. U.S.*, 358 U.S. 307 (1959); *Albrecht v. U.S.*, 273 U.S. 1 (1927); *Shadwick v. City of Tampa*, 407 U.S. 345 (1972); *Coolidge v. New Hampshire*, 403 U.S. 443 (1971); *Gerstein v. Pugh*, 420 U.S. 103 (1975); *U.S. v. U.S. District Court*, 407 U.S. 297 (1972).

The motion highlighted the absence of investigative reports or records, indicating lack of trustworthiness under evidentiary rules.

Additional precedents included *Hilferty v. Cummings* (1941); *U.S. v. Turand* (1884); *Leger v. Warren*, 62 Ohio St. 500 (1900); *Blackstone Commentaries*; and historical legal lectures emphasizing prompt warrant issuance to avoid unlawful detention.

The trial court did not address the motion, and appointed counsel did not adopt or litigate it. Proceedings continued without warrant or probable cause resolution. On May 26, 2023, a preliminary examination was held despite the defects.

Petitioner was convicted by a jury in May 2024 of first-degree murder and possession of a controlled substance. The jury sentenced him to life without parole on the murder count and one year on the drug count. The trial court imposed the sentences on June 10, 2024.

On appeal to the OCCA (Case No. F-2024-451), Petitioner raised the unaddressed pre-trial defects as violations of due process, Fourth Amendment rights, speedy trial, and ineffective assistance for counsel's failure to pursue the motion. The OCCA affirmed in an unpublished opinion on October 30, 2025, holding that pro se motions in represented cases need not be addressed (no hybrid representation), the defects were not jurisdictional, and counsel's performance was reasonable.

This petition follows.

REASONS FOR GRANTING THE WRIT

This case presents important federal questions on due process in pre-trial procedures, Fourth Amendment protections for warrantless arrests, speedy trial rights, and ineffective assistance. The OCCA's decision conflicts with this Court's precedents and creates splits with other courts, warranting review.

I. The OCCA's Ruling on the Unaddressed Pro Se Motion Raises Important Federal Questions Regarding Due Process and Hybrid Representation in Pre-Trial Procedural Challenges.

The OCCA held that the trial court was not required to address Petitioner's pro se motion because counsel did not adopt it, invoking a no-hybrid-representation rule. This violates due process and self-representation rights.

The motion raised a clear legal right to mandatory warrant issuance under 22 O.S. § 171 and *Gerstein v. Pugh*, which requires a neutral magistrate's probable cause determination as a prerequisite to extended restraint after warrantless arrest. Denying consideration without inquiry into Petitioner's intent deprives him of a liberty interest without due process.

This conflicts with *Faretta v. California*, 422 U.S. 806 (1975), recognizing the Sixth Amendment right to self-representation. While states may regulate hybrid representation for orderly proceedings, summarily ignoring a motion alleging fundamental defects (no warrant, no probable cause) violates *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing interests in liberty, risk of erroneous deprivation, and governmental burden.

Lower courts are split on pro se motions in represented cases. Some require hearings if meritorious (e.g., Florida on immunity claims), others strictly enforce no-hybrid rules (like Oklahoma). This split, combined with the recurring nature of warrantless arrest issues, warrants resolution.

The motion's arguments—that “must” in § 171 imposes a nondiscretionary duty, supported by Black's Law Dictionary and cases like *People v. Municipal Court*—highlight a substantive right to pre-trial dismissal, akin to speedy trial claims requiring hearings.

Granting certiorari would clarify due process for pro se challenges in criminal proceedings.

II. The Failure to Issue a Mandatory Warrant and Determine Probable Cause Implicates Fourth Amendment Rights and Due Process.

REASONS FOR GRANTING THE WRIT-CONTINUED

The OCCA affirmed despite the lack of warrant or probable cause determination, holding no jurisdictional defect. This violates the Fourth Amendment and due process.

Gerstein v. Pugh, 420 U.S. 103 (1975), requires a prompt judicial probable cause finding after warrantless arrest for extended detention. Here, no determination occurred at arraignment or thereafter, with delays exceeding eight months. This contravenes *Gerstein* and related cases like *Shadwick v. City of Tampa*, 407 U.S. 345 (1972) (neutral magistrate required), *Coolidge v. New Hampshire*, 403 U.S. 443 (1971), and *Albrecht v. U.S.*, 273 U.S. 1 (1927) (invalid warrants based on defective affidavits).

The motion argued that 22 O.S. § 171's mandatory language ("must issue") excludes discretion, supported by legislative intent to protect against unwarranted arrests. The State's neglect supersedes detention processes, invalidating the law per precedents like *Wisconsin State Board of Accountancy*, 223 Wis. 179 (1937).

Historical practice from *Ex parte Burford*, 3 Cranch 448 (1806), and *U.S. v. Hamilton*, 3 Dall. 17 (1795), viewed by Framers as models for reasonable seizures (*Draper v. U.S.*, 358 U.S. 307 (1959)), reinforces this.

Courts are divided on remedies for *Gerstein* violations; some dismiss (e.g., federal circuits), others suppress evidence. This case's prolonged detention without remedy warrants review to ensure uniform Fourth Amendment protections.

III. Prolonged Delay Without Warrant or Preliminary Examination Violates Speedy Trial and Due Process Rights.

The OCCA found no speedy trial violation despite eight months without warrant or preliminary examination. This misapplies due process.

The motion argued the delay violated speedy trial rights, with the State excepting legislative intent. Under the Sixth Amendment, delays are assessed by length, reason, assertion, and prejudice. Here, the delay was presumptively prejudicial, caused by State neglect, asserted in the motion, and prejudiced Petitioner through incarceration without basis.

This conflicts with cases like *U.S. v. U.S. District Court*, 407 U.S. 297 (1972), guarding against overzealous enforcement. The absence of records or reports indicates untrustworthiness, violating evidentiary standards.

REASONS FOR GRANTING THE WRIT-CONTINUED

Lower courts split on whether Gerstein delays trigger speedy trial remedies; certiorari would clarify integration of Fourth and Sixth Amendment protections in pre-trial contexts.

IV. Counsel's Failure to Litigate Pre-Trial Defects Constituted Ineffective Assistance Under Strickland.

The OCCA held counsel reasonable for not adopting the motion. This misapplies Strickland v. Washington, 466 U.S. 668 (1984).

Counsel's performance was deficient: No reasonable strategy ignores a meritorious motion alleging jurisdictional defects under § 171 and Gerstein, which could have led to dismissal. Prejudice is clear: Proper litigation likely results in mandamus or dismissal.

The motion's depth—citing mandatory duties, precedents like Leger v. Warren (unlawful detention), Hilferty v. Cummings, and Blackstone—shows a viable claim. Counsel's omission risked conviction without addressing foundational flaws.

Review is warranted to apply Strickland to pre-trial procedural challenges.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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Date: January 24, 2026