



# OKLAHOMA STATE COURTS NETWORK

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## **BROADSTONE v. STATE**

2025 OK CR 12

Case Number: C-2024-614

Decided: 08/07/2025

Mandate Issued: 08/07/2025

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



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Cite as: 2025 OK CR 12, \_\_ P.3d \_\_

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**DEADREA ZENISE BROADSTONE, Petitioner**

**v.**

**STATE OF OKLAHOMA, Respondent**

### **SUMMARY OPINION DENYING CERTIORARI**

#### **HUDSON, JUDGE:**

¶1 On February 22, 2024, Petitioner, Deadrea Zenise Broadstone, entered a negotiated plea of guilty in the District Court of Tulsa County, Case No. CF-2023-1438, to Count 1: Felon in Possession of a Firearm, After Former Conviction of Two or more Felonies, in violation of 21 O.S.Supp.2022, § 1283; and Count 2: Possession of Stolen Property under \$1,000.00, a misdemeanor, in violation of 21 O.S.2021, § 1713. Pursuant to the plea agreement, Petitioner was ordered to complete the Women in Recovery (WIR) program. The failure to do so would result in the imposition of a ten-year sentence of imprisonment. The Honorable Sharon K. Holmes, District Judge, accepted Broadstone's plea and postponed sentencing for Petitioner to complete the WIR program.

¶2 On June 27, 2024, after Petitioner absconded from the WIR program, the matter came on for sentencing. Judge Holmes sentenced Petitioner to ten years imprisonment on Count 1, and six months in the county jail on Count 2. Judge Holmes ordered these sentences to run concurrently and imposed various costs and fees.

¶3 On July 5, 2024, Petitioner, through plea counsel, filed a timely motion to vacate her plea. Petitioner complained in her motion to withdraw that: (1) she did not completely and fully understand the consequences of her plea; (2) she was having "emotional, mental and medical health issues"; and (3) these issues "caused a complete breakdown of communication" between her and plea counsel. Conflict counsel was subsequently appointed.

¶4 At a hearing held on August 8, 2024, Judge Holmes took up the matter. At the conclusion of the hearing, which involved testimony from Petitioner and plea counsel, Judge Holmes denied Petitioner's motion to withdraw.

¶5 Petitioner now seeks a writ of certiorari based on the following proposition of error:

AS PETITIONER PARTICIPATED BY VIDEOCONFERENCE FROM PRISON WITHOUT A WAIVER, PETITIONER WAS DENIED HER DUE PROCESS RIGHT TO BE PHYSICALLY PRESENT AT THE HEARING ON HER MOTION TO WITHDRAW PLEA.

¶6 After thorough consideration of the entire record before us on appeal, including the original record, transcripts, and Petitioner's brief, we find that no relief is required under the law and evidence. Petitioner's Petition for Writ of Certiorari is **DENIED**.

¶7 Petitioner complains on appeal that she was denied her due process right to be *physically* present at her withdrawal hearing. Petitioner instead appeared "virtually" at the hearing "through videoconferencing" from the Eddie Warrior Correctional Center. <sup>1</sup> See 20 O.S.2021, § 130 ("The use of videoconferencing technology, or the equivalent thereof, in the district courts is hereby authorized in all stages of civil or criminal proceedings and shall be governed by the Rules for District Courts of Oklahoma."); Rule 34, *Rules for District Courts of Oklahoma*, Title 12 O.S.2021, Ch. 2, App. (2024). Petitioner argues, however, that because a hearing on a motion to withdraw guilty plea is a "critical stage" of a criminal proceeding, a waiver of her right to be physically present was mandated. See Rule 34(A)(9) & (E)(2), *Rules for District Courts of Oklahoma*, Title 12 O.S.2021, Ch. 2, App. (2024); *Dunn v. State*, 2018 OK CR 35, ¶ 7, 434 P.3d 1, 3. Because the record contains no waiver, Petitioner tells us a new withdrawal hearing is necessary.

¶8 Petitioner admits this issue was not raised at any point before the district court. It was also not raised in the petition for writ of certiorari filed with this Court. Normally, this issue is waived from our review on a certiorari appeal for failing to raise it both during the proceedings on the motion to withdraw plea and in the petition for writ of certiorari. Rule 4.2(B) and 4.3(C)(5), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2025); *Weeks v. State*, 2015 OK CR 16, ¶¶ 27-29, 362 P.3d 650, 657.

¶9 Petitioner nonetheless contends this Court should review her forfeited claim for plain error. Contrary to her contention, Petitioner's claim is not subject to plain error review. *Champion v. State*, 2020 OK CR 8, ¶ 5, 461 P.3d 952, 954 (forfeited claims in a certiorari appeal are not subject to plain error review). <sup>2</sup> No doubt, some of our published cases in the past have injected confusion into this area of the law by reviewing the merits of claims despite such review being firmly barred by our rules. However, more recently, this Court has consistently refused to consider issues that were not raised in the application to withdraw the plea or during the proceedings on the motion to withdraw and subsequently in the petition for writ of certiorari filed with this Court. And for good reason. Plain error review has no place in certiorari appeals given our rules.

¶10 To the extent our prior cases are inconsistent with our rules, these cases are overruled. See *Lewis v. State*, 2009 OK CR 30, ¶ 4, 220 P.3d 1140, 1142 (reviewing the merits of "unusual" claims that were procedurally barred by our rules for plain error); *Fields v. State*, 1996 OK CR 35, ¶ 30, 923 P.2d 624, 630 (reviewing waived claims for plain error); *Medlock v. State*, 1994 OK CR 65, ¶¶ 24, 33-35, 887 P.2d 1333, 1342, 1344 (same).

¶11 Petitioner in this case could have asserted her right to be physically present at the withdrawal hearing at the commencement of the withdrawal proceedings, if not sooner. The issue also could have been raised in the petition for writ of certiorari. Because it was not, this claim is waived from review in this certiorari appeal. Rule 4.2(B) and 4.3(C)(5), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2025); *Weeks*, 2015 OK CR 16, ¶¶ 27-29, 362 P.3d at 657. Moreover, unlike the Petitioner in *Champion*, Petitioner here does not raise a parallel claim of ineffective assistance of withdrawal counsel for failing to raise this issue below thus requiring a merits review of her forfeited claim. <sup>3</sup> Petitioner's sole proposition of error is denied.

### DECISION

¶12 The Petition for Writ of Certiorari is **DENIED**. The Judgment and Sentence of the District Court is **AFFIRMED**. 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 delivery and filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY**  
**THE HONORABLE SHARON K. HOLMES, DISTRICT JUDGE**

## APPEARANCES BELOW

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NO RESPONSE FROM THE STATE

**OPINION BY: HUDSON, J.**  
**LUMPKIN, P.J.: CONCUR**  
**MUSSEMAN, V.P.J.: CONCUR**  
**LEWIS, J.: CONCUR**  
**ROWLAND, J.: CONCUR**

## FOOTNOTES

### HUDSON, JUDGE:

<sup>1</sup> A few days prior to the withdrawal hearing, the district judge issued an Order and Writ for Virtual Appearance to the Eddie Warrior Correctional Center, directing that Petitioner be made available to appear "virtually through videoconferencing" at the hearing.

<sup>2</sup> Notably, the Court reviewed the merits of Petitioner's forfeited claims in *Champion*. This, however, was due to Champion's parallel claims of ineffective assistance of counsel that necessitated such review. *Champion*, 2020 OK CR 8, ¶¶ 11-12, 461 P.3d at 955. Indeed, the Court states that its resolution of Champion's ineffectiveness claims is "foreshadowed by [its] resolution of Petitioner's forfeited challenges to his guilty plea and related proceedings." *Id.* ¶ 12. *Champion* therefore does not hold that this Court will now routinely review forfeited claims.

<sup>3</sup> While Petitioner asserts that she was denied the effective assistance of plea and withdrawal counsel in footnote 1 of the petition for writ of certiorari, she does not raise an ineffectiveness claim anywhere within in her appeal brief.

**Citationizer<sup>®</sup> Summary of Documents Citing This Document**

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## Citationizer: Table of Authority

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#### Oklahoma Court of Criminal Appeals Cases

Cite	Name	Level
<u>1994 OK CR 65, 887 P.2d 1333,</u>	<u>MEDLOCK v. STATE</u>	Discussed
<u>1996 OK CR 35, 923 P.2d 624,</u>	<u>FIELDS v. STATE</u>	Discussed
<u>2009 OK CR 30, 220 P.3d 1140,</u>	<u>LEWIS v. STATE</u>	Discussed
<u>2015 OK CR 16, 362 P.3d 650,</u>	<u>WEEKS v. STATE</u>	Discussed at Length
<u>2018 OK CR 35, 434 P.3d 1,</u>	<u>DUNN v. STATE</u>	Discussed
<u>2020 OK CR 8, 461 P.3d 952,</u>	<u>CHAMPION v. STATE</u>	Discussed at Length

#### Title 20. Courts

Cite	Name	Level
<u>20 O.S. 130,</u>	<u>Videoconferencing in District Court Proceedings</u>	Cited

#### Title 21. Crimes and Punishments

Cite	Name	Level
<u>21 O.S. 1283,</u>	<u>Convicted Felons and Delinquents</u>	Cited
<u>21 O.S. 1713,</u>	<u>Receiving Stolen Property - Reasonable Inquiry Required</u>	Cited