



OKLAHOMA STATE COURTS NETWORK

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WATSON v. STATE

2025 OK CR 21

Case Number: PC-2025-648

Decided: 10/24/2025

THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA



Cite as: 2025 OK CR 21, __ P.3d __

JOSEPH LUIS WATSON, JR., Petitioner,

v.

THE STATE OF OKLAHOMA, Respondent.

ORDER DISMISSING APPLICATION FOR POST-CONVICTION RELIEF

¶1 Petitioner, *pro se*, seeks to appeal the denial of his request to apply for resentencing under the Oklahoma Survivors' Act, 22 O.S.Supp.2024, § 1090.5 (C)(2), in Tulsa County District Court Case No. CF-2021-4683. Petitioner attached the trial court's order denying his request to apply for resentencing, dated July 1, 2025, to the "Appeal for Resentencing Pursuant to the Oklahoma Survivors' Act," filed in this Court on August 15, 2025.

¶2 Petitioner filed a Notice of Post-Conviction Appeal in the trial court on July 9, 2025. On August 15, 2025, he filed a document labeled "Defendant's Appeal for Resentencing Pursuant to the Oklahoma Survivors' Act, Okla.Stat.Tit. 22, § 1090.1, Et Seq" and "Legal Brief in Support of Petitioner's Claim Under the Oklahoma Survivor's Act."

¶3 The trial court's July 1, 2025, order is not appealable. Mr. Watson is challenging an order issued pursuant to 22 O.S.Supp.2024, § 1090.5(C)(2), which denied his request to apply for resentencing pursuant to the Oklahoma Survivors' Act. Individuals seeking resentencing pursuant to this Act must first seek and be granted permission to apply by the trial court. 22 O.S.Supp.2024, § 1090.5 (C). A trial court order denying such a request is not a final appealable order. 22 O.S.Supp.2024, § 1090.5(C)(2)("If the court finds that such person has not met the requirements to apply for resentencing as provided for in subsection A of this section, the court shall notify the person and deny his or her request without prejudice.").

¶4 The district court determinations of eligibility for applying for resentencing are not appealable because the Act has specified those determinations are "without prejudice," meaning a defendant can continue to obtain relevant information and re-apply without being barred by the district court's previous denial of the right to apply or to have a hearing on the application. See 22 O.S.Supp.2024, §§ 1090.5 (C)(2) & (G)(1).

¶5 Only when the district court rules on the merits of the application after conducting an evidentiary hearing pursuant to 22 O.S.Supp.2024, § 1090.5 (G)(2), by setting forth findings of facts and reasons for the order either denying resentencing or imposing a new sentence does the Act contemplate an appeal to this Court. See 22 O.S.Supp.2024, §§ 1090.5 (H), (I) & (J).

¶6 Since Petitioner is not barred from again seeking permission to apply for resentencing under the Act, there is an adequate remedy available to him. Accordingly, the Petitioner's application for post-conviction relief is **DISMISSED**. Issuance of this order concludes these proceedings before this Court.

¶7 **IT IS SO ORDERED.**

¶8 **WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 24th day of October, 2025.

/s/ _____

GARY L. LUMPKIN, Presiding Judge

/s/ _____

WILLIAM J. MUSSEMAN, Vice Presiding Judge

/s/ _____

DAVID B. LEWIS, Judge

/s/ _____

ROBERT L. HUDSON, Judge

/s/ _____

SCOTT ROWLAND, Judge

ATTEST:

/s/ _____

Clerk

LUMPKIN, PRESIDING JUDGE: SPECIALLY CONCUR

¶1 I join in the decision and write to point out the distinctive character of the Oklahoma Survivors Act.

¶2 As with most acts of the Legislature relating to Post Conviction claims, like the DNA Testing Act, when a claim is filed the trial court is directed to hold a hearing. The Survivor's Act is different in that a hearing is not required until a Petitioner provides the quantum of evidence required under the Act to the trial court. As this order reveals, when a trial court fails to find sufficient evidence to hold a hearing the Petitioner is denied "without prejudice." As a result, a Petitioner may file additional requests adding evidence to support his/her claim. For this reason, it would appear to be the better practice for record purposes, that any denial of a hearing due to failure to submit the quantum of evidence required by the statute be in writing setting out the reasons the trial court finds the evidence insufficient.

¶3 By providing such a record of the proceedings the trial court both advises a Petitioner of the reasons the evidence is not sufficient and provides the trial court a historical context for any subsequent filings that come later.

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None Found.

Citationizer: Table of Authority

Cite Name**Level****Title 22. Criminal Procedure**

Cite

Name

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22 O.S. 1090.5,Request to Apply for Resentencing - Evidence Required to Corroborate

Discussed at Length

Claim that Defendant was a Victim of Domestic Violence