

2016 OK CR 20
IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE
CLERK

IN RE:

REVISION OF PORTION OF
THE RULES OF THE COURT
OF CRIMINAL APPEALS

FOR PUBLICATION

CASE NO. CCAD-2016-2

**ORDER ADOPTING REVISION IN AND REPUBLISHING PORTION
OF THE RULES OF THE COURT OF CRIMINAL APPEALS**

¶1 In response to the Oklahoma Legislature's passage of 22 O.S.Supp.2016, § 977, we find that revision of the Rules for the Oklahoma Court of Criminal Appeals is necessary to ensure the security and proper use of personal identifier information in criminal prosecutions. Pursuant to the provisions of Section 1051(b) of Title 22 of the Oklahoma Statutes, we hereby revise, adopt, promulgate and republish portions of the *Rules of the Oklahoma Court of Criminal Appeals*, 22 O.S.Supp. 2013, Ch. 18, App. (2016), set forth as follows and as set out in the attachment to this order:

SECTION II. INITIATING AN APPEAL FROM THE TRIAL COURT
Rule 2.2(G) (Amended)
Rule 2.6 Internet (New Rule)
Rule 2.7 Procedures for Sealing Record (New Rule)

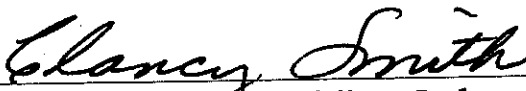
SECTION XIII. FORMS
FORM 13.3 Pauper's Affidavit (Amended)
FORM 13.8 Uniform Judgment and Sentence (Amended)
FORM 13.10 Uniform Plea of Guilty--Summary of Facts (Amended)

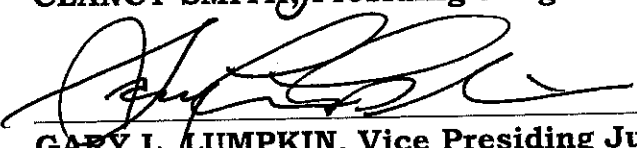
¶2 **IT IS THEREFORE ORDERED ADJUDGED AND DECREED** that these revisions shall become effective on the date of this order and shall only apply prospectively.

¶3 **IT IS THE FURTHER ORDER OF THIS COURT** that these revisions be available for access via the internet from this Court's website www.okcca.net on the date of this order and provided to West Publishing Company for publication. The Administrative Office of the Courts is requested to provide these Rules, amendments, and revisions to the judges of the District Courts via the Oklahoma State Court Network (OSCN) and the District Courts of the State of Oklahoma are directed to implement the utilization of these revisions effective on the date of this order.

¶4 **IT IS SO ORDERED.**

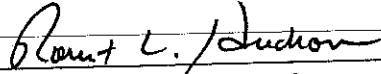
¶5 **WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 5th day of October, 2016.


CLANCY SMITH, Presiding Judge


GARY L. LUMPKIN, Vice Presiding Judge


ARLENE JOHNSON, Judge


DAVID B. LEWIS, Judge



ROBERT L. HUDSON, Judge

ATTEST:



Clerk

SECTION II. INITIATING AN APPEAL FROM THE TRIAL COURT

Rule 2.2 Form and Contents of Record

A. Duties of Clerk to Assemble Record. After a designation of the record is made, the trial court clerk shall promptly assemble, in chronological sequence, all of the instruments on file, together with transcripts as required by subpart B of this Rule, which have been designated for inclusion in the record on appeal. The instruments, numbered consecutively, indexed and bound in volumes which shall not exceed two hundred (200) pages each, shall be certified under the seal of the clerk of the trial court. All designations of record and a certified copy of all the appearance docket sheets, as well as the Judgment and Sentence **AND/OR** final order, shall be included. In accordance with Rule 3.2, three (3) certified copies shall be prepared for transmission to this Court and appellant's attorney. The Court recognizes the provisions of Section 1054 of Title 22, but directs the clerk of the trial court to retain the original record in the trial court. See Rule 4.3 for duties in certiorari appeals. (Emphasis added by the Court)

B. Duties of Court Reporter to Assemble Exhibits.

(1) The court reporter shall ensure trial exhibits are indexed and incorporated into the transcript by physical attachment. In the event the exhibit cannot be physically attached, the court reporter shall attach a clear and viewable photograph or photocopy accurately depicting the exhibit to both the original transcript (or separate volume if necessary) and copies as required below. All copies of exhibits, including photographs, provided pursuant to this Rule shall be in color unless the original exhibit was in black and white. Black and white photo copies of color exhibits are not acceptable. If the exhibit is an audio or video tape or other electronically reproduced medium, the reporter shall be responsible for ensuring that the original and two (2) copies of the item are filed with the transcripts. In each instance, as a condition to the admissibility of the exhibit for consideration on appeal, the trial court shall ensure the party introducing the exhibit shall be responsible for both its reproduction in the same quality as the original, including delivery to the court reporter, and the cost of reproduction. If a party fails to comply with a reporter's request to provide copies of exhibits in accordance with this Rule, the court reporter, after completion of the transcripts, shall file a notice of non-completion with the clerk of the District Court and the Clerk of this Court setting out with specificity the items that have not been provided, when the request was made and the party who has failed to comply with this Rule.

(2) The original transcript, indexed and certified as correct, together with two (2) certified copies (original and three (3) certified copies in capital

cases), and attached exhibits or photos or copies of exhibits, in volumes not to exceed three hundred (300) pages of text per volume, shall be filed with the court clerk in the trial court by the court reporter within sufficient time to allow the trial court clerk to file the notice required by Rule 2.3(A) within ninety (90) days of Judgment and Sentence in misdemeanor and regular felony appeals, and within six (6) months in capital appeals.

(3) Upon the filing of the transcript, the court reporter is required to notify in writing the defendant's appellate attorney, the district attorney, the attorney general, the trial court clerk and the Clerk of this Court that the transcripts have been filed with the trial court clerk. This notice shall be specific, itemizing and describing with particularity all transcripts (by volume number or date of hearing) and exhibits (by number/letter and description) filed with the court clerk. If more than one court reporter was involved in the proceedings at issue, each court reporter shall be responsible for filing a separate specific, itemized list. The clerk of the trial court shall file the notice with the record.

(4) No exhibits other than documentary, photographic or electronically recorded evidence, as required by subpart (B)(1) of this Rule, shall be incorporated into the record on appeal or transmitted to the Clerk of the Court of Criminal Appeals; PROVIDED HOWEVER, this Court may direct supplementation of the record for any exhibit necessary for the determination of the appeal. Under no circumstances will controlled or dangerous substances, weapons, or ammunition, or body fluids or tissues be included in the record.

C. Transcript Not Available. If no transcript has been previously prepared and no tape recording is available for any portion of the trial proceedings, the trial attorneys may stipulate or submit affidavits as to what transpired during the proceeding not transcribed or recorded. The trial judge shall enter an order adjudicating any matters upon which the attorneys cannot agree regarding what transpired during the unrecorded or untranscribed proceedings.

D. Transcript Available. The transcript prepared by the court reporter shall constitute the record of the proceedings from which it was transcribed. When such transcript is made, tape recordings made by the court reporter as a supplementary backup to the stenographic record to the completed transcript of proceedings shall not constitute a part of the official record unless such proceedings were recorded in accordance with Section 1223.1 of Title 22. See Sections 106.4(a), 106.4a, and 106.5 of Title 20. This Rule does not preclude findings of extreme necessity by the trial court that such recordings, if they exist, are necessary to supplement inadequate transcripts.

E. Form of Certification for Original Record in Trial Court. The original record to be filed in this Court must be certified by the clerk of the trial court utilizing the form set out in Section XIII, Form 13.9.

F. When a City or Municipality is a Party. When a city or municipality is a party, a certified copy of the specific ordinance(s) involved in the case shall be included in the record. It shall be the responsibility of the city or municipality to ensure the ordinance(s) are included in the record for appellate review. See *Hishaw v. City of Oklahoma City*, 1991 OK CR 122, 822 P.2d 1139.

G. When the Record Includes Child Pornography. When the record includes exhibits which depict or contain child pornography (See Section 1024.1 of Title 21), the trial court shall take precautionary steps in the handling of such exhibits. An exhibit depicting or containing child pornography may only be possessed by the court, the court clerk, the district attorney, an assistant district attorney, and law enforcement.

(1) An exhibit depicting or containing child pornography shall not be copied, duplicated, or reproduced in any manner. The condition to admissibility requiring the party introducing an exhibit to be responsible for delivering copies to the court reporter in Subsection B, above, shall not apply to an exhibit depicting or containing child pornography.

(2) The trial court shall enter an order sealing any exhibit introduced at trial which depicts or contains child pornography in accordance with Section 24A.29(A)(3) of Title 51. The trial court clerk shall take possession of the sealed exhibit and secure it in a locked, secured repository with access only as directed by the trial court and this Court.

(3) An exhibit depicting or containing child pornography shall not be transmitted with the record. Upon receipt of the Notice to Transmit, the District Court shall enter an Order to Transport directing the district attorney, assistant district attorney or law enforcement to transport the exhibit under seal with two (2) copies of the Order to Transport and hand-deliver both the sealed exhibit and the copies of the Order to Transport to the Clerk of this Court. Any exhibit depicting or containing child pornography shall be transported to the Clerk of this Court within ten (10) days of receipt of the Notice to Transmit. The trial court clerk shall certify the exhibit on the copies of the Order to Transport utilizing the form set out in Section XIII, Form 13.16.

(4) Upon receipt of the sealed exhibit and copies of the District Court's Order to Transport, the individual transporting such an exhibit shall execute and file a Receipt to Transport and acknowledge receipt of the sealed exhibit with the trial court clerk. The individual shall maintain proper chain-of-custody of the exhibit until hand-delivered to the Clerk of

this Court with two (2) copies of the Order to Transport. The individual shall return one copy of the District Court's Order to Transport with the Clerk of this Court's acknowledgment of receipt to the trial court clerk.

(5) Upon receipt of a sealed exhibit depicting or containing child pornography, the Clerk of this Court shall acknowledge receipt of the exhibit on one (1) copy of the District Court's Order to Transport and file one (1) copy of the Order to Transport. The clerk of this Court shall enter the exhibit on the case docket and secure the exhibit in a locked, secured repository with access only as directed by this Court. Counsel for Appellant and for the State may contact the Marshal of this Court for viewing of any exhibit depicting or containing child pornography. When an exhibit depicting or containing child pornography is no longer needed for judicial review, this Court will ~~order~~ enter an Order to Transport and return the sealed exhibit to the District Court and direct the destruction of the exhibit- upon the completion of federal habeas review.

Rule 2.6 Internet

A. Effective Date. As of November 1, 2016, pleadings, documents and materials filed in criminal cases in the courts of this state shall be governed by the following guidelines. This rule shall have prospective effect only.

B. Online Database. The Oklahoma State Courts Network's case search feature provides the public a convenient way to search for court records in the district and appellate courts. This online database does not replace the case management systems used by the courts to file cases and documents. In the event of a discrepancy between the case management system and the online database, this Court will rely upon the record set forth in the case management system. Rules 1.13 and 2.2 govern the Record on Appeal.

C. Personal Identifier Information. If a filer includes personal identifier information such as Social Security numbers, Tax Identification numbers, Financial Account numbers, Driver's License numbers, dates of birth, addresses or other sensitive information, in any document filed with the courts the document becomes a public record as filed. Filers should be aware that certain documents filed in a case file may be viewable on the Oklahoma State Courts Network or On Demand Court Records websites via the Internet.

D. Responsibility of Filer. The responsibility for following the guidelines set forth below rests solely with counsel, the parties, or any other filer. The Clerk of the Court shall not have any duty to review documents for compliance with this rule.

(1) Guidelines. Unless otherwise ordered or as otherwise provided by law, every filer shall limit the following information in all pleadings, papers, exhibits or other documents:

(a) Social Security Numbers. A social security number shall include only the last four digits.

(b) Taxpayer Identification Numbers. A taxpayer identification number shall include only the last four digits.

(c) Financial Account Numbers. A financial account number shall include only the last four digits.

(d) Credit Card Numbers. A credit card number shall include only the last four digits.

(e) Driver's License. A driver's license number shall include only the last four digits.

(f) Date of Birth. A date of birth shall include only the month, year and place of birth.

(2) Applicability of the Rule. An Arrest Warrant, Bench Warrant, Costs Warrant, Search Warrant, Information, or Traffic Ticket may contain complete personal identifier numbers if the document or any return on such document is not viewable on the Internet or World Wide Web after filing in the case file. The National Crime Information Center (NCIC), Law Enforcement Enterprise Portal (LEEP), National Data Exchange (N-DEX), National Instant Criminal Background Check System (NICS), or any other similar shared data management concept between the federal, state, local, and tribal criminal justice agencies is not considered part of the Internet or World Wide Web for the purposes of this rule.

E. Protected Materials. It is necessary in the interests of justice that certain materials are withheld from view on the Oklahoma State Courts Network and On Demand Court Records websites. Every filer shall advise the court clerk that a filing contains protected materials prior to presenting the item for filing. Counsel, the parties, or any other filer have a continuing duty to review documents for compliance with this rule.

(1) The following materials shall be withheld from view on the internet. To the extent that any of the materials are otherwise subject to the Oklahoma Open Records Act (51 O.S. § 24A.1, *et seq.*) the materials shall only be made available at the physical location of the court clerk's office.

(a) Juvenile records or any records the Legislature has determined are confidential;

(b) Names and personal information concerning prospective and sitting jurors as set forth in 38 O.S.Supp.2015, § 36;

(c) Any document or exhibit, other than the transcript of a court proceeding, which lists a crime victim's or surviving family member's date of birth, address, telephone number, place of employment, social security number, taxpayer identification number, financial account number, or driver's license number. 21 O.S.2011, § 142A-9;

(d) Any post-mortem photograph or video of the victim of a homicide or an exhibit containing such images;

(e) Any document or exhibit, other than the transcript of a court proceeding or exhibit revealing prior conviction, which lists a witness' date of birth, social security number, taxpayer

identification number, financial account number, or driver's license number. 21 O.S.2011, § 142A-9;

(f) Any photograph or video depicting injuries to the victim of a sexual offense or an exhibit containing such images. 21 O.S.2011, § 142A-9;

(g) Any photograph or video depicting "Lewdness," "Nudity," "Sexual conduct," "sexual excitement," "Sadomasochistic abuse," or "obscene material" as defined by 21 O.S.2011, §§ 1024.1, 1030, 1040.75.

(h) Any document or materials which have been withheld, removed, or sealed from the public record pursuant to court order. 51 O.S.Supp.2012, 24A.29.

(i) Any photograph, video, document, or other material depicting either alleged child pornography or explicit child pornography. 18 U.S.C. § 2252A; 21 O.S.2011, § 1040.80.

(j) Any document or materials, other than the transcript of a court proceeding, which contains complete personal identifier information, *e.g.*, Arrest Warrant, Bench Warrant, Costs Warrant, Search Warrant, Information, Traffic Ticket, or Report of Trial Judge in Capital Felony.

Rule 2.7 Procedures for Sealing Record

A. Effective Date. As of November 1, 2016, pleadings, documents and materials filed in criminal cases in the courts of this state shall be governed by the following guidelines. This rule shall have prospective effect only.

B. Orders sealing materials. Any court order which directs the sealing, withholding, or removal of pleadings or other material from the record shall comply with the requirements of 51 O.S.Supp.2012, § 24A.29.

C. Filing of sealed portions of the record on appeal. When materials sealed by a protective order of the district court are sent as part of the record, the trial court clerk shall:

- (1) Separate the sealed materials from other portions of the record on appeal but insert notice at the point in the record from which the materials are extracted giving notice that part of the record is sealed;
- (2) enclose the materials in a sealed manila envelope clearly marked "CONFIDENTIAL," and listing where in the record the materials were extracted;
- (3) affix a copy of the protective order to the outside of the envelope;
- (4) list the sealed materials in the index as "confidential documents";

D. Request to seal materials.

(1) A party may request that the court seal a pleading, document or other matter by filing a written motion, or the Court may, upon its own motion, initiate proceedings to seal or redact a court record. A party or attorney of record seeking to seal a pleading, document or other matter shall comply with the requirements of 51 O.S.Supp.2012, § 24A.29. The motion shall disclose, in its title, that sealing is being sought and the grounds upon which sealing is required. The motion must be served on all parties to the action;

(2) The pleading, document or other matter sought to be sealed shall be enclosed in a manila envelope clearly marked "CONFIDENTIAL" and filed with the clerk of this Court in accordance with 51 O.S.Supp.2012, § 24A.29;

(3) When a motion to seal a pleading, document or other matter has been filed, the information to be sealed remains confidential pending the Court's ruling on the motion;

E. Limitations on sealing. This Court will only remove materials from the public record in those instances where such withholding is necessary in the interest of justice and required by law. *Nichols v. Jackson*, 2001 OK CR 35, ¶ 10, 38 P.3d 228, 231; 51 O.S.Supp.2012, § 24A.29;

Materials shall not be sealed under these rules when a reasonable redaction will adequately resolve the issue. *Nichols v. Jackson*, 2001 OK CR 35, ¶ 15, 38 P.3d 228, 232; 51 O.S.Supp.2016, § 24A.5(2).

F. Procedures for maintaining sealed court records. The clerk, all parties, and attorneys of record shall maintain the confidentiality of materials sealed by protective order.

(1) When the clerk of this Court receives a protective court order directing the sealing or withholding of specified records, pleadings, documents or other matters, the clerk shall:

- (a) File the protective order, which shall be accessible to the public.
- (b) Docket the confidential materials as either “confidential record” or “confidential materials”;
- (c) Restrict access to the confidential materials so as to prevent unauthorized viewing of the materials.

(2) Confidential materials shall be opened and viewed only by an order of the Court.

(3) This Court will review confidential materials as part of the proper review of the record on appeal and as necessary to determine the issues raised. After such review, unless otherwise ordered, the materials shall remain confidential, sealed and withheld from the public record.

Form 13.3 Pauper's Affidavit

IN THE DISTRICT COURT OF _____ COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, Plaintiff,

vs.

Case No. _____

_____, Defendant.

PAUPER'S AFFIDAVIT

I, (Name) _____, (Last four digits of Soc.Sec.#) _____,

(Address) _____, upon
oath, do depose and state:

I. PERSONS IN HOUSEHOLD

Is Person a Dependent

Spouse:	_____	Yes() No()
Children:	_____	Yes() No()
	_____	Yes() No()
	_____	Yes() No()
Others:	_____	Yes() No()

Are you claimed as a dependent by parent or guardian? Yes() No()

If so, explain:

II. FINANCIAL STATUS--ASSETS (Defendant or person(s) responsible for defendant's support):

A. 1. Cash on Hand: \$ _____

2. Bank Accounts:

Bank Name/Address	<u>Last four digits of Account #</u>	<u>Checking/Savings</u>	<u>\$ Amount</u>
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. Bonds & Securities

Description

Value

_____	_____
_____	_____
_____	_____

4. All Other Possessions of Value: (including tax refunds, notes, accts. receivable, etc.)

Description

Value

_____	_____
_____	_____
_____	_____

B. 1. Current Employment:

2. Earnings:

3. If not currently employed, last employment:

Place & Date:

4. Supplemental Income: (V.A., Soc. Security, Disability, Child Support, etc.)

C. Home and Other Real Estate:

<u>Real Property</u>	<u>Value</u>	<u>Balance Owed</u>

D. Vehicle(s):

<u>Description</u>	<u>Value</u>	<u>Balance Owed</u>

E. Personal Property: (furniture, appliances, tools, equipment, etc.)

<u>Items</u>	<u>Market Value</u>	<u>Balance Owed</u>

F. Litigation you or your spouse have pending for recovery of money:

<u>Case No.</u>	<u>County</u>

III. FINANCIAL STATUS--LIABILITIES

A. Charge or Open Accounts:

<u>Description</u>	<u>Balance</u>

B. Housepayment or Rent:

<u>Mortgagee/Landlord</u>	<u>Monthly Payment</u>
If own, balance: _____	

C. Child Support Obligations

Monthly Payment: _____

D Other Debts:

Creditor

Balance

IV. OTHER

A. Have you transferred or sold any assets since charges were filed in this case? Yes () No ()

If so, describe the buyer and the amount received:

B. Have you retained counsel in this case or in any other pending criminal case? Yes () No ()

If so, state the case number, court, attorney and amount paid to attorney for services:

C. If you have posted bond, who provided the funds for the bond?

--

D. Do you have any friends or relatives who are able and willing to assist you in hiring counsel and paying for transcripts? Yes () No ()

If so, have those persons been asked to help? Yes () No ()

E. If a friend or relative has given previous financial assistance in this case, including the posting of bond, but is no longer able or willing to do so, an affidavit to that effect from that person shall be attached, stating why such help is no longer available.

I further swear and affirm that I am without funds or other sources of income to pay an attorney or to pay for transcripts and costs associated with this case. I understand I am under a continuing obligation to keep this Court informed of any changes in my financial status and this Court may conduct another hearing to determine my indigent status at any time.

Applicant's Signature

Subscribed and sworn to before me this _____ day of _____, 20____.

State of Oklahoma

County of _____ OR

Notary Public

My Commission Expires _____

COURT CLERK

By: _____
Deputy

Form 13.8 Uniform Judgment and Sentence

IN THE DISTRICT COURT OF _____ COUNTY
THE STATE OF OKLAHOMA

STATE OF OKLAHOMA,

Plaintiff,

vs.

Defendant.

Case No.: _____

Year of Birth DOB: _____

Place of Birth: _____

Last four digits of SS#: _____

DOC #: _____

Last four digits of DL#: _____

State of issuance: _____

JUDGMENT AND SENTENCE

Now, on this _____ day of _____, 20____, this matter comes on before the undersigned Judge, for sentencing and the Defendant, _____, appears personally and by Attorney _____, the State of Oklahoma represented by _____, and the Defendant, having previously:

- () Entered a plea of guilty
- () Entered a plea of Nolo Contendere
- () Been found guilty by jury
- () Been found guilty by Judge after waiver of jury trial
- () Other _____

To/of the crime(s) of:

Statutory Reference

Count _____: _____ O.S. _____

Count _____: _____ O.S. _____

Count _____: _____ O.S. _____

(Attach additional sheet for additional counts or if computerized, add to body of Judgment and Sentence at each appropriate place.)

- () The defendant has previously been convicted of _____ (insert number) felony crimes and the sentence has been enhanced in accordance with the provisions set forth in _____ O.S. _____; and,

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that the Defendant,

_____, is guilty of the above described offenses and is sentenced as follows:

TERM OF IMPRISONMENT

COUNT SENTENCED TO A TERM OF:

Under the custody and control of:

() Oklahoma Department of Corrections;

() the _____ County Sheriff; or

() other: _____

These terms to be served as follows (consecutive/concurrent):

Upon release from such confinement, the Defendant shall serve a term of post-imprisonment supervision, under conditions prescribed by the Department of Corrections, for a period of:

TERM OF IMPRISONMENT WITH EXECUTION OF SENTENCE SUSPENDED IN PART
(Attach additional sheet(s) to clarify, if necessary)

COUNT SENTENCED TO A TERM OF:

With all except the first _____ suspended under the custody and control of:

() Oklahoma Department of Corrections; or

() the _____ County Sheriff,

pursuant to the rules and conditions of probation entered by the court.

These term(s) to be served as follows (consecutive/concurrent):

TERMS OF IMPRISONMENT WITH EXECUTION OF SENTENCE SUSPENDED
(Attach additional sheet(s) to clarify, if necessary)

COUNT SENTENCED TO A TERM OF:

Under the custody and control of:

() Oklahoma Department of Corrections; or

() the _____ County Sheriff,

All of said term(s) of imprisonment suspended pursuant to the rules and conditions of probation entered by the court.

These term(s) to be served as follows (consecutive/concurrent):

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED BY THE COURT that in addition to the preceding terms, the Defendant is also sentenced to:

FINE

() The defendant shall pay a fine of \$ _____

() immediately; or

() on or before _____, 20__ at the rate of \$ _____ per _____, or within _____ days of release from the Department of Corrections.

() payment of \$_____ is suspended pursuant to Rules and Conditions of probation.

COSTS, VCA, RESTITUTION

() The defendant shall pay costs, fees, and restitution in accordance with the schedule attached as Exhibit _____.

RULES AND CONDITIONS OF PROBATION

The rules and conditions of probation as ordered by the court and signed by the defendant, acknowledging his/her understanding of the rules and conditions, are incorporated as Exhibit _____.

ATTORNEY FEES

() The defendant shall pay court-appointed attorney fee in the amount of \$_____ on or before _____, 20____, to _____.

HEARING ON ABILITY TO PAY AFTER INCARCERATION

() The defendant shall report to the District Court of _____ County within _____ days of release for a hearing on the defendant's ability to pay fines and costs pursuant to Section VIII of the Rules of the Court of Criminal Appeals, 22 O.S., Ch. 18, App.

IT IS FURTHER ORDERED that judgment is hereby entered against the Defendant as to the fines, costs and assessments set forth above.

The Court further advised the Defendant of his/her rights and procedure to appeal to the Court of Criminal Appeals of the State of Oklahoma, and that if he/she desired to appeal and was unable to afford counsel and a transcript of the proceedings, that the same would be furnished by the State subject to reimbursement of the cost of representation in accordance with Sec. 1355.14 of Title 22. The Court further advised the Defendant that, in the event the above sentence is for a crime involving domestic violence where the Defendant is or was a spouse, intimate partner, parent, or guardian of the victim or is or was involved in another similar relationship with the victim it may be unlawful for him or her to possess, purchase, receive, transport or ship a firearm including a rifle, pistol or revolver or ammunition pursuant to federal law under 18 U.S.C. Section 922(g)(8) or (9), or state law, or both.

In the event the above sentence is for incarceration in the Department of Corrections, the Sheriff of

_____ County, Oklahoma, is ordered and directed to deliver the Defendant to the Lexington Assessment and Reception Center at Lexington, Oklahoma, and leave therewith a copy of this Judgment and Sentence to serve as warrant and authority for the imprisonment of the Defendant as provided herein. A second copy of this Judgment and Sentence to be warrant and authority of the Sheriff for the transportation and imprisonment of the Defendant as herein before provided. The Sheriff to make due return to the Clerk of this Court, with his proceedings endorsed thereon.

COURT CLERK'S DUTY

[TRIAL JUDGE TO COMPLETE THIS SECTION]

IT IS FURTHER ORDERED that the Clerk of this Court shall register or report the following circumstances in accordance with the applicable statutory authority:

() As to Count(s) _____, the defendant is ineligible to register to vote pursuant to Section 4-101 of Title 26.

() Pursuant to Section 985.1 of Title 22, the Court departed from the mandatory minimum sentence of imprisonment as to Count(s) _____.

() As to Count(s) _____, the defendant is subject to the Methamphetamine Offender Registry requirements as set forth in Section 2-701 of Title 63.

() Defendant is a lawyer and certified copies of this document shall be transmitted to the Chief Justice of the Supreme Court and the General Counsel of the Bar Association within five (5) days as set forth in Rule 7.2 of the Oklahoma Rules of Professional Conduct, 5 O.S.Supp.2014, ch. 1, app. 1-A.

Witness my hand the day and year first above mentioned.

(SEAL)

JUDGE OF THE DISTRICT COURT

(Name of Judge Typed)

ATTEST:

Court Clerk

Deputy Clerk

CLERK'S CERTIFICATION OF COPIES

I, _____, Clerk of the District Court of _____ County, State of Oklahoma, do hereby certify the foregoing to be true, correct, full and complete copy of the original Judgment and Sentence in the case of the State of Oklahoma vs. _____ as the same appears of record in my office.

WITNESS my hand and official seal this _____ day of _____, 20_____.

(SEAL)

By:

Court Clerk

Deputy Court Clerk

SHERIFF'S RETURN

I received this Judgment and Sentence the _____ day of _____, 20____,

and executed it by delivering the Defendant to the Warden of the Lexington Assessment and Reception
Center at Lexington, Oklahoma, on the _____ day of _____, 20____.

I also certify the above prisoner has served _____ days in the County Jail on the present charge or
charges.

Sheriff

Deputy Sheriff

Form 13.10 Uniform Plea of Guilty - Summary of Facts

IN THE DISTRICT COURT OF _____ COUNTY
THE STATE OF OKLAHOMA

STATE OF OKLAHOMA,

Plaintiff,

VS.

Defendant.

Last four digits of SS# _____ D.O.B. _____

Last four digits of DL# State

Year of Birth	Place of Birth
---------------	----------------

Oklahoma DOC # _____

(Home Address)

PLEA OF GUILTY

SUMMARY OF FACTS

Part A: Findings of Fact, Acceptance of Plea

CIRCLE

1. Is the name just read to you your true name?

Yes No

If no, what is your correct name? _____

I have also been known by the name(s): _____

2. My lawyer's name is: _____

3. (a) Do you wish to have a record made of these proceedings by a Court Reporter?

Yes No

(b) Do you wish to waive this right?

Yes No

4. Age: _____ Grade completed in school: _____

5. Can you read and understand this form? (If the answer above is no, Addendum A is to be completed and attached.)

Yes No

- | | | | |
|-------|---|-----|----|
| 6. | Are you currently taking any medications or substances which affect your ability to understand these proceedings? | Yes | No |
| <hr/> | | | |
| 7. | Have you been prescribed any medication that you should be taking, but you are not taking?
If so, what kind and for what purpose? _____
_____ | Yes | No |
| <hr/> | | | |
| 8. | Have you ever been treated by a doctor or health professional for mental illness or confined in a hospital for mental illness?

If yes, list the doctor or health professional, place, and when occurred:

_____ | Yes | No |
| <hr/> | | | |
| 9. | Do you understand the nature and consequences of this proceeding? | Yes | No |
| 10. | Have you received a copy of the Information and read its allegations? | Yes | No |
| 11. | Does the State move to dismiss or amend any case(s) or count(s) in the information or on page 2 of the information? If so, set forth the cases/counts dismissed or amended. | Yes | No |
| 12. | A. Do you understand you are charged with: | | |
| | Crime Statutory Reference | | |
| (1) | _____ O.S. _____ | Yes | No |
| (2) | _____ O.S. _____ | Yes | No |
| (3) | _____ O.S. _____ | Yes | No |
| (4) | _____ O.S. _____ | Yes | No |

For additional charges: List any additional charges on a separate sheet and label as PLEA OF GUILTY ADDENDUM B.

B. Are you charged after former conviction of a felony? Yes No

If yes, list the felony(ies) charged: _____

13. Have you previously been convicted of a felony? If so, when, where and for what felony/felonies? _____

14. _____ (Check if applicable) Do you understand you are subject to the Delayed Sentencing Program for Young Adults and what that sentencing program involves? Yes No

_____ (Check if applicable) Do you understand that upon a conviction on a plea of guilty to the offense(s) of _____ you will be required to serve a minimum sentence of: Yes No

_____ 85% of the sentence of imprisonment imposed before being eligible for parole consideration and are not eligible for earned or other type of credits which will have the effect of reducing the length of sentence to less than 85% of the sentence imposed? Yes No

_____ % of the sentence of imprisonment imposed or received prior to becoming eligible for state correctional earned credits toward completion of your sentence or eligibility for parole? Yes No

_____ (Check if applicable) Do you understand that a conviction on a plea of guilty to the offense(s) of _____ will subject you to mandatory compliance with the Oklahoma Sex Offender Registration Act? Yes No

_____ (Check if applicable) Do you understand that any person sentenced to imprisonment for two (2) years or more for the offense(s) of _____, involving sexual abuse, sexual exploitation, or illegal sexual conduct, shall be required to serve a term of post-imprisonment supervision for at least three (3) years under conditions determined by the Department of Corrections in addition to the actual term of imprisonment. There will be no post-imprisonment supervision for a sentence of life or life without the possibility of parole for offenses involving sexual abuse, sexual exploitation, or illegal sexual conduct. Yes No

_____ (Check if applicable) Do you understand that a conviction on a plea of guilty to the offense(s) of _____ will subject you to mandatory compliance with the Oklahoma Methamphetamine Offender Registry Act? Yes No

_____ (Check if applicable) Do you understand that the Court is required to include in the sentence of any person convicted of a felony and sentenced to a term of imprisonment after November 1, 2012, a term of post-imprisonment supervision. The post-imprisonment supervision shall be for a period of not less than nine (9) months nor more than one (1) year following confinement of the person and shall be served under conditions prescribed by the Department of Corrections. There will be no post-imprisonment supervision for a sentence of life without the possibility of parole. Yes No

15. What is/are the charge(s) to which the defendant is/are entering a plea today?

16. Do you understand the range of punishment for the crime(s) is/are: (List in same order as in No. 15 above)?

- | | | | |
|-----|--|-----|----|
| (1) | Minimum of _____ to a maximum of _____ and/or a fine of \$ _____ | Yes | No |
| (2) | Minimum of _____ to a maximum of _____ and/or a fine of \$ _____ | Yes | No |
| (3) | Minimum of _____ to a maximum of _____ and/or a fine of \$ _____ | Yes | No |
| (4) | Minimum of _____ to a maximum of _____ and/or a fine of \$ _____ | Yes | No |

17. Read the following statements: You have the right to a speedy trial before a jury for the determination of whether you are guilty or not guilty and if you request, to determine sentence. (If pleading to capital murder, advise of procedure in 21 O.S. § 701.10(B)). At the trial:

- (1) You have the right to have a lawyer represent you, either one you hire yourself or if you are indigent a court appointed attorney.
- (2) You are presumed to be innocent of the charges.
- (3) You may remain silent or, if you choose, you may testify on your own behalf.
- (4) You have the right to see and hear all witnesses called to testify against you and the right to cross-examine them.
- (5) You may have your witnesses ordered to appear in court to testify and present evidence of any defense you have to these charges.
- (6) The state is required to prove your guilt beyond a reasonable doubt.
- (7) The verdict of guilty or not guilty decided by a jury must be unanimous. However, you can waive a jury trial and, if all parties agree, the case could be tried by a Judge alone who would decide if you were guilty or not guilty and if guilty, the appropriate punishment.

Do you understand each of these rights? Yes No

18. Do you understand by entering a plea of guilty you give up these rights? Yes No

19. Do you understand that a conviction on a plea of guilty could increase punishment in any future case committed after this plea? Yes No

20. Have you talked over the charge(s) with your lawyer, advised him/her regarding any defense you may have to the charges and had his/her advice? Yes No

21. Do you believe your lawyer has effectively assisted you in this case and are you satisfied with his/her advice? Yes No
22. Do you wish to change your plea of not guilty to guilty and give up your right to a jury trial and all other previously explained constitutional rights? Yes No
23. Is there a plea agreement? Yes No
- What is your understanding of the plea agreement? _____
- _____
- _____
24. Do you understand the Court is not bound by any agreement or recommendation and if the Court does not accept the plea agreement, you have the right to withdraw your plea of guilty? Yes No
25. Do you understand that if there is no plea agreement the Court can sentence you within the range of punishment stated in question 16? Yes No
26. Do you understand your plea of guilty to the charge(s) is/are after: (check one) Yes No
- () no prior felony convictions
- () one (1) prior felony conviction
- () two (2) or more prior felony convictions
- List prior felony convictions to which pleading: _____
- _____
- _____
27. What (is) (are) your plea(s) to the charge(s) (and to each one of them)?
- _____
- _____
- _____
28. Did you commit the acts as charged in the Information? Yes No
- State the factual basis for your plea(s) (attach additional page as needed, labeled as ADDENDUM C):
- _____
- _____
- _____

- | | | |
|-----|---|-----------|
| 29. | Have you been forced, abused, mistreated, or promised anything by anyone to have you enter your plea(s)? | Yes No |
| 30. | Do you plead guilty of your own free will and without any coercion or compulsion of any kind? | Yes No |
| 31. | If you are entering a plea to a felony offense, you have a right to a Pre-Sentence Investigation and Report which would contain the circumstances of the offense, any criminal record, social history and other background information about you. Do you want to have the Report? | Yes No |
| 32. | (a) Do you have any additional statements to make to the Court? | Yes No |
| | (b) Is there any legal reason you should not be sentenced now? | Yes No |

HAVING BEEN SWORN, I, the Defendant whose signature appears below, make the following statements under oath:

(1) CHECK ONE:

____(a) I have read, understood and completed this form.

____(b) My attorney completed this form and we have gone over the form and I understand its contents and agree with the answers. See Addendum "A"

____(c) The Court completed this form for me and inserted my answers to the questions.

(2) The answers are true and correct.

(3) I understand that I may be prosecuted for perjury if I have made false statements to this Court.

DEFENDANT

I Acknowledge this ____ day of _____, 20 ____.

Notary Public/Deputy Court Clerk/Judge

33. I, the undersigned attorney for the Defendant, believe the Defendant understands the nature, purpose and consequence of this proceeding. (S)He is able to assist me in formulating any defense to the charge(s). I am satisfied that the Defendant's waivers and plea(s) of guilty are voluntarily given and he/she has been informed of all legal and constitutional rights.

ATTORNEY FOR DEFENDANT

34. The sentence recommendation in question 23 is correctly stated. I believe the recommendation is fair to the State of Oklahoma.

35. Offer of Proof (Nolo contendere plea) _____

36. On entering a plea to a felony offense, the State has a right to a pre-sentence investigation and report. The State waives the right to a pre-sentence investigation? Yes No

ASSISTANT DISTRICT ATTORNEY

THE COURT FINDS AS FOLLOWS:

37. A. The Defendant was sworn and responded to questions under oath.
- B. The Defendant understands the nature, purpose and consequences of this proceeding.
- C. The Defendant's plea(s) of _____ is/are knowingly and voluntarily entered and accepted by the Court.
- D. The Defendant is competent for the purpose of this hearing.
- E. A factual basis exists for the plea(s) (and former conviction(s), if applicable).
- F. The Defendant is guilty as charged: (check as appropriate)
- ☐ after no prior felony convictions.
 - ☐ after one (1) prior felony conviction.
 - ☐ after two (2) or more prior felony convictions.
- G. Sentencing or order deferring sentence shall be: imposed instant (☐); or continued until the ____ day of _____, 20____, at _____ m.
- If the Pre-Sentence Investigation and Report is requested, it shall be provided to the Court by the ____ day of _____, 20____.
- H. Defendant is committed to:
- _____ The RID Program
 - _____ The FORT Program
 - _____ The Delayed Sentencing Program for Youthful Offenders

DONE IN OPEN COURT this ____ day of _____, 20____.

Court Reporter Present

JUDGE OF THE DISTRICT COURT

Deputy Court Clerk

NAME OF JUDGE TYPED OR PRINTED

Part B: Sentence on Plea

Case No. _____

State v. _____

Date: _____

[NOTE ON USE: Part B to be used with the Summary of Facts if contemporaneous with the entry of plea or may be formatted as a separate sentencing form if sentencing continued to future date.]

THE COURT SENTENCES THE DEFENDANT AS FOLLOWS:

TIME TO SERVE

1. You are sentenced to confinement under the supervision of the Department of Corrections for a term of years as follows:
(list in same order as in question No. 15 in Part A)

Upon release from such confinement, you shall serve a term of post-imprisonment supervision under conditions prescribed by the Department of Corrections for a period of:

2. The sentence(s) to run:

_____ (concurrently/consecutively)

(OR)

_____ NOT APPLICABLE

3. Defendant shall receive:

_____ Credit for time served

_____ No credit for time served

DEFERRED SENTENCE

1. The sentencing date is deferred until _____, 20__ at _____m.
2. You (will/will not) be supervised. The terms set forth in the Rules and Conditions of Probation found in Addendum D shall be the rules you must follow during the period of deferment.

SUSPENDED SENTENCE or SUSPENDED AS TO PART

1. You are sentenced to confinement under the supervision of the Department of Corrections for a term of years as follows:

To be suspended as follows:

(a) ALL SUSPENDED YES ____ NO ____

(b) suspended **except** as to the first _____ (months)(years) of the term(s) during which time you are to be held in the custody of the Department of Corrections, the remainder of the sentence(s) to be suspended under the terms set forth in the Rules and Conditions of Probation found in Addendum D.

_____ Said period of incarceration shall be in the custody of the Department of Corrections, to be served in the County Jail, in lieu of the Department of Corrections, pursuant to the Community Service Sentencing Program, 22 O.S. Section 991a – 4.1.

_____ Defendant's term of incarceration shall be calculated as:

_____ Calendar days with credit for good behavior only (57 O.S Section 65)

_____ As calculated by the Sheriff with all implemented and allowable credits allowed by law

2. The sentence(s) to run:

_____(concurrently/consecutively)

(OR)

_____ NOT APPLICABLE

3. Defendant shall receive:

_____ Credit for time served

_____ No credit for time served

FINES AND COSTS

You are to pay a fine(s), costs, fees and/or restitution to the _____ County District Court Clerk as set out in Addendum E which is attached and made a part of this Order.

[NOTE ON USE: District Courts may develop and utilize schedules for payment of fines and costs as appropriate for each district and attach as Addendum E.]

COURT CLERK'S DUTY
[TRIAL JUDGE TO COMPLETE THIS SECTION]

IT IS FURTHER ORDERED that the Clerk of this Court shall register or report the following circumstances in accordance with the applicable statutory authority:

- () As to Count(s) _____, the defendant is ineligible to register to vote pursuant to Section 4-101 of Title 26.
- () Pursuant to Section 985.1 of Title 22, the Court departed from the mandatory minimum sentence of imprisonment as to Count(s) _____.
- () As to Count(s) _____, the defendant is subject to the Methamphetamine Offender Registry requirements as set forth in Section 2-701 of Title 63.
- () Defendant is a lawyer and certified copies of this document shall be transmitted to the Chief Justice of the Supreme Court and the General Counsel of the Bar Association within five (5) days as set forth in Rule 7.2 of the Oklahoma Rules of Professional Conduct, 5 O.S.Supp.2014, ch. 1, app. 1-A.

"NOTICE OF RIGHT TO APPEAL"

Sentence to Incarceration, Suspended or Deferred:

To appeal from this conviction, or order deferring sentence, on your plea of guilty, you must file in the District Court Clerk's Office a written Application to Withdraw your Plea of Guilty within ten (10) days from today's date. You must set forth in detail why you are requesting to withdraw your plea. The trial court must hold a hearing and rule upon your Application within thirty (30) days from the date it is filed. If the trial court denies your Application, you have the right to ask the Court of Criminal Appeals to review the District Court's denial by filing a Petition for Writ of Certiorari within ninety (90) days from the date of the denial. Within ten (10) days from the date the application to withdraw plea of guilty is denied, notice of intent to appeal and designation of record must be filed pursuant to Oklahoma Court of Criminal Appeals Rule 4.2(D). If you are indigent, you have the right to be represented on appeal by a court appointed attorney.

Do you understand each of these rights to appeal?

Yes No

Do you want to remain in the county jail ten (10) days before being taken to the place of confinement?

Yes No

Have you fully understood the questions that have been asked?

Yes No

Have your answers been freely and voluntarily given?

Yes No

I ACKNOWLEDGE UNDERSTANDING OF RIGHTS AND SENTENCE IMPOSED.

DEFENDANT

I, the undersigned attorney, have advised the Defendant of his appellate rights.

ATTORNEY FOR DEFENDANT

Done in open court, with all parties present, this _____ day of _____, 20____.

Court Reporter Present

JUDGE OF THE DISTRICT COURT

Deputy Court Clerk

NAME OF JUDGE TYPED OR PRINTED

ADDENDUM "A"

CERTIFICATE OF DEFENSE COUNSEL

As the attorney for the defendant, _____, I certify that:

1. The Defendant has stated to me that he/she is (able/unable) to read and understand the attached form, and I have: (check appropriate option)

_____ Determined the Defendant is able to understand the English language.

_____ Determined the Defendant is unable to understand the English language and obtained to interpret.

2. I have read and fully explained to the Defendant the allegations contained in the Information in this case.

3. I have read and fully explained to the Defendant all of the questions in the Plea of Guilty/Summary of Facts and the answers to the questions set out in the Summary of Facts are the Defendant's answers.

4. To the best of my knowledge and belief the statements and declaration made by the Defendant are accurate and true and have been freely and voluntarily made.

Dated this _____ day of _____, 20____.

ATTORNEY FOR DEFENDANT