

AUG 12 2005

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE
CLERK

MARCUS TERRELL CURRIE,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

No. M 2004-0769

SUMMARY OPINION

Judgment and Sentence was entered August 12, 2004, in the District Court of Tulsa County, Case No. CF-1998-1111, finding Appellant guilty of Contempt of Court and sentencing Appellant to six months in the Tulsa County Jail. The sentence was ordered to be served consecutively to Tulsa County District Court Case No. CF-1996-1140. Appellant appeals from the misdemeanor Judgment and Sentence imposed.

On appeal Appellant raised the following propositions of error:

The court erred by failing to find Mr. Currie had a legitimate Fifth Amendment right against self-incrimination on April 10th and 12th 2000.

The record reflects Appellant was charged March 6, 1996, at age fifteen, with First Degree Murder in the Commission of a Crime – Robbery With A Firearm in Tulsa County District Court Case No. CF-1996-1140. Appellant testified on behalf of the State during his co-defendant Steven White's trial in June of 1998. A third defendant, Jamie Nicole Chambers, was charged in March 1998, entered a plea, and Appellant testified against Chambers at her sentencing.

On July 15, 1999, the State amended the charge against Appellant from First Degree Murder to Robbery With Firearm. Appellant pled guilty July 15, 1999, to Robbery With Firearm and was sentenced to fifteen years imprisonment and a fine of \$1,000.00.

Chambers was subsequently allowed to withdraw her plea and her case was set for trial. This appeal results from Appellant's compulsory appearance at Chambers' trial and Appellant's refusal to testify. Appellant argues that at the time he invoked the Fifth Amendment right to remain silent, "he had a good faith belief based upon counsel's legal opinion that his conviction for armed robbery would be set aside" and that he "had a reasonable belief that the statements he made in Ms. Chambers' trial could be used against him in a future trial of his own".

However, Appellant was granted immunity by the Honorable Jefferson Sellers, District Judge. In *Clem v. State*, 1985 OK CR 66, ¶ 20, 701 P.2d 770, we reiterated that it has been consistently held that testimony may properly be compelled from a witness in State proceedings regardless of the Fifth Amendment privilege if there is immunity from use of the compelled testimony in any subsequent prosecution of the witness.

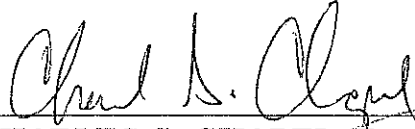
IT IS THEREFORE THE ORDER OF THIS COURT that Appellant's Judgment and Sentence for Direct Contempt of Court is **AFFIRMED**.

Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2005), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

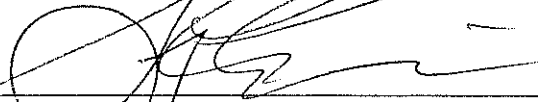
IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 12th

day of August, 2005.



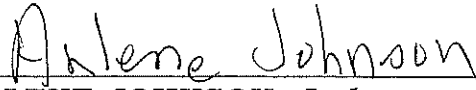
CHARLES S. CHAPEL, Presiding Judge



GARY L. LUMPKIN, Vice Presiding Judge

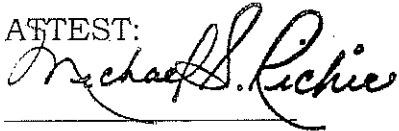


CHARLES A. JOHNSON, Judge



ARLENE JOHNSON, Judge

ATTEST:



Clerk

RA