

ORIGINAL

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

MAY - 9 2017

MICHAEL S. RICHIE
CLERK



DANIEL K. HOLTZCLAW,

Petitioner,

v.

THE STATE OF OKLAHOMA,

Respondent.

Case No. F-2016-0062

ORDER STRIKING PETITION FOR REHEARING

On March 9, 2017, Prof. Randal T. Coyne and J. Christian Adams, by and through counsel, Laura K. Deskin, filed a motion for leave to file an *amicus curiae* brief in support of Appellant Daniel K. Holtzclaw. On March 21, 2017, Appellee, by and through Matthew D. Haire, Assistant Attorney General, filed an objection. In an Order issued March 31, 2017, this Court denied the motion to file an *amicus curiae* brief. On April 20, 2017, attorney Laura Deskin filed a Petition for Rehearing. We **FIND** that this Petition should be stricken as it is not properly filed.


Our rules do not permit rehearing on an order denying the filing of an *amicus curiae* brief. Rule 3.4(F)(4), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2017) does not make provision for rehearing following such a denial. Rule 3.14, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2017) only allows the filing of a petition for rehearing "within twenty (20) days from the date on which the opinion in the cause was filed." Since the Petition filed in this matter is not a pleading filed as a

matter of right pursuant to Rule 3.4, the document was not properly filed. Rule 1.13(K), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2017).

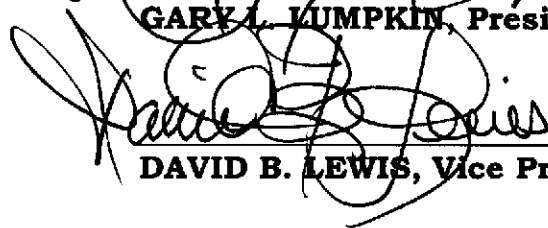
Deskin cites *Tiger v. State*, 1995 OK CR 59, 907 P.2d 1075, as authority for the filing of the Petitioner. However, *Tiger* did not grant the right to rehearing following the denial of an *amicus curiae* brief. *Id.*, 1995 OK CR 59, ¶¶ 1-5, 907 P.2d at 1076. Instead, *Tiger* addressed the State's untimely request for rehearing following this Court's issuance of an opinion granting relief from a guilty plea in a *certiorari* case. *Id.* As this Court has not issued an opinion in this matter, there can be no petition for rehearing. Therefore, the Petition for Rehearing filed on April 20, 2017 is **ORDERED** stricken. The Clerk of the Appellate Courts is directed to retain a copy of the Petition solely for the purposes of record keeping.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 9th
day of May, 2017.



GARY L. LUMPKIN, Presiding Judge



DAVID B. LEWIS, Vice Presiding Judge

NOT PARTICIPATING

ARLENE JOHNSON, Judge



CLANCY SMITH, Judge

Robert C. Hudson

ROBERT HUDSON, Judge

ATTEST:

Michael D. Dickie
Clerk

NF