



**ORIGINAL**

**IN THE SUPREME COURT OF THE STATE OF OKLAHOMA**

**FILED**  
SUPREME COURT  
STATE OF OKLAHOMA

**SEP 8 2021**

**JOHN D. HADDEN**  
CLERK

THE STATE OF OKLAHOMA, )  
By and through DAVID PRATER, )  
DISTRICT ATTORNEY FOR THE )  
SEVENTH JUDICIAL DISTRICT, )

Petitioner, )

v. )

ADAM LUCK, INDIVIDUALLY AS )  
A MEMBER OF THE PARDON AND )  
PAROLE BOARD, )

& )

KELLY DOYLE, INDIVIDUALLY )  
AS A MEMBER OF THE PARDON )  
AND PAROLE BOARD, )

Respondents. )

Case No. \_\_\_\_\_

**#11983 9**



**APPLICATION TO ASSUME ORIGINAL JURISDICTION AND ISSUE A WRIT OF PROHIBITION AND/OR IN THE ALTERNATIVE A WRIT OF MANDAMUS DIRECTED TO OKLAHOMA PARDON AND PAROLE BOARD MEMBERS ADAM LUCK AND KELLY DOYLE**

COMES NOW Petitioner, and respectfully requests this Honorable Court to assume original jurisdiction and issue a Writ of Prohibition preventing Adam Luck or Kelly Doyle from participating in or acting in the commutation matter of Julius Jones, or in the alternative, a Writ of Mandamus, directed to Adam Luck and Kelly Doyle, as individual members of the Oklahoma Pardon and Parole Board (hereinafter "Board"), directing each of them to disqualify from participating in or acting in any capacity to matters as it relates to inmate Julius Jones.

In support of this request the State would inform the Court that:

**RELEVANT FACTS**

- 1) Adam Luck is the Chairman of the Board;
- 2) Kelly Doyle is a member of the Board;
- 3) The Oklahoma Pardon and Parole Board is charged with making determinations related to the pardoning of inmates, the parole of inmates, and the commutation of sentences of inmates housed in the Department of Corrections;
- 4) Inmate Julius Jones was convicted of, *inter alia*, Murder in the First Degree, out of Oklahoma County in case number CF-1999-4373, and was sentenced to death as a result thereof;
- 5) Inmate Julius Jones has exhausted all of his appeals and a motion is currently before the Court of Criminal Appeals to set an execution date for inmate Julius Jones;
- 6) Inmate Julius Jones has filed an application for commutation of his sentence of death in CF-1999-4373, and the commutation hearing is set for 9:00 am on September 13, 2021;
- 7) The State filed a motion with the Board on September 2, 2021, seeking to disqualify Adam Luck from acting as an individual member in the matter of Julius Jones' sentence of death due to actual bias, implied bias, conflict of interest, and an appearance of impropriety, and this motion has evidence related to the partiality, bias, and conflict of interest of Adam Luck;

- 8) The State incorporates by reference herein, all of the allegations and appendices contained in the State's Motion to Recuse and/or Disqualify Oklahoma Pardon and Parole Board Member Adam Luck From Participating in Any and All proceedings related to the Commutation of Julius Jones for Actual Bias, Implied Bias, Conflict of Interest, and the Appearance of Impropriety;
- 9) The State filed a motion with the Board on September 2, 2021, seeking to disqualify Kelly Doyle from acting as an individual member in the matter of Julius Jones' sentence of death due to actual bias, implied bias, conflict of interest, and an appearance of impropriety and this motion has evidence related to the partiality, bias, and the conflict of interest of Kelly Doyle;
- 10) The State incorporates by reference herein, all of the allegations and appendices contained in the State's Motion to Recuse and/or Disqualify Oklahoma Pardon and Parole Board Member Kelly Doyle From Participating in Any and All proceedings related to the Commutation of Julius Jones for Actual Bias, Implied Bias, Conflict of Interest, and the Appearance of Impropriety;
- 11) The State sought to have individual members Adam Luck and Kelly Doyle make a public ruling as it relates to the State's disqualification request related to Julius Jones by Wednesday, September, 8, 2021, @ noon, in order to allow the State time to seek relief in the Supreme Court if either or both of them refused to disqualify themselves;

- 12) The State has received verbal notice on September 8, 2021, that both Adam Luck and Kelly Doyle have refused to disqualify themselves in the matter of Julius Jones;
- 13) The Oklahoma Pardon and Parole Board has no internal appeal mechanism when an individual member refuses to disqualify him or herself, therefore there are no further remedies to exhaust in the Board;
- 14) A designation of record has been filed in the Board as well as a Notice of Intent to Appeal;
- 15) Allowing either Adam Luck or Kelly Doyle to participate in or take any action in matters related to Julius Jones is a violation of the essential meaning of avoiding an appearance of impropriety, or conflict of interest, or actual or implied bias on the part of the decision maker.

### **RELIEF REQUESTED**

The State seeks a Writ of Mandamus directed individually to Adam Luck and another to Kelly Doyle, directing either or each of them to disqualify himself or herself from participating in or acting in any manner in the matter of inmate Julius Jones. In the alternative, the State seeks a Writ of Prohibition prohibiting Adam Luck and or Kelly Doyle from participating in or acting in any manner in the matter of inmate Julius Jones. This relief is requested due to and as a result of all of the matters outlined in the States' Motions to Disqualify Adam Luck and Kelly Doyle, which have been designated as a part of the record on appeal.

## APPLICABLE LAW

Pursuant to the Okla. Const. art. 7, § 4, this Court possesses original jurisdiction over all agencies, commissions, and boards created by law. Tit. 12 O.S. § 1451 provides that a writ of mandamus may be issued by the Supreme Court ... to any ...board or person, to compel the performance of any act which the law specially enjoins as a duty, resulting from an office, trust or station.

To obtain mandamus relief, a petitioner must demonstrate they meet the requirements of the following, five-factor test: (1) the petitioner has no plain and adequate remedy in the ordinary course of the law; (2) the petitioner possesses a clear legal right to the relief sought; (3) the respondent has a plain legal duty regarding the relief sought; (4) the respondent has refused to perform that duty; and (5) the respondent's duty does not involve the exercise of discretion. *Kent v. city of Oklahoma City*, 2020 OK CIV APP 21, 467 P.3d 726 (citing *Miller Dollarhide, P.C. v. Tal*, 2006 OK 27, ¶ 10, 174 P.3d 559 (footnote omitted)).

This Court's case law and the applicable statutes collectively illustrate that the parties to [any] proceeding have a clear legal right to a hearing that is not only fair and impartial, but also avoids the appearance that fairness and impartiality are lacking. *Id.* (citing *Johnson v. Board of Governors of Registered Dentists of State of Okl.*, 913 P.2d 1339, ¶ 32, and *Merritt v. Hunter*, 1978 OK 18 at ¶ 5, 575 P.2d 623)

The members of the Board have an obligation to carry out their duties in an

impartial manner. This duty of impartiality is found in multiple places. Art. VI, § 10 of the Oklahoma Constitution requires that Board members make “impartial investigation and study of applicants for commutation”.

Title 57 O.S.Supp. Section § 332.2 (H) further provides that “applications for commutation shall be given impartial “review” as required by Article VI, Section 10”, and [t]he Board[] must exercise its discretion as the public interest requires. *Phillips v. Williams*, 608 P.2d 1131,1135, 1980 OK 25 (citing *Shirley v. Chesnut*, 603 F.2d 805 (10<sup>th</sup> Cir. 1979) with approval).

Additionally, 74 O.S.App.1, Rule 4.7, provides that a state officer or employee should disqualify herself or himself when circumstances would cause a reasonable person to doubt his or her impartiality.

The Board’s own policy adopts these statutes in Rule 102, which provides that the Board’s “[d]uties, code of conduct and responsibilities will be consistent with Federal and State laws as well as guidelines and regulations adopted by the Office of Personnel Management”. Rule 104 requires employees to “avoid actual breaches of ethics as well as the perception of unethical behavior”.

This rule [of disqualification] applies equally to administrative boards acting in an adjudicatory capacity. *Johnson v. Board of Governors of Registered Dentists of State of Oklahoma*, 913 P.2d 1339, 1348, 1996 OK 41 (citing *Gibson v. Berryhill*, 411 U.S. 564, 579, 93 S.Ct. 1689, 1698, 36 L.Ed.2d 488 (1973)).

Further, *the standard is an objective one and is not dependent on the [members] belief. Id.* (citing *Merritt v. Hunter*, 575 P.2d 623, 624 (Okla.1978))

(emphasis added). When circumstances and conditions surrounding [hearings] are of such a nature that they *might reasonably cast doubt and question as to the impartiality of any judgment* the [member] may pronounce, said [member] should certify his or her disqualification. *Long v. City of Piedmont*, 359 P.3d 189, 191, 2015 OK CIV APP 85 (emphasis added). In making a decision to disqualify, a *Board member must be sensitive to the appearances of possible impropriety*[.] (emphasis added) *Id.*

Based on the foregoing, it is clear that Petitioner has no plain and adequate remedy in the ordinary course of the law. Petitioner has a clear legal right to individual Board members who are free of conflict and bias, and an appearance of impropriety. Adam Luck and Kelly Doyle have a plain legal duty to disqualify when conflicts of interest or bias exist, or when there is an appearance of impropriety. This refusal to disqualify is not an exercise of discretion, but is mandatory based on the law outlined above.

## CONCLUSION

**For premises considered**, State respectfully requests this Honorable Court to issue a Writ of Prohibition to Adam Luck and another to Kelly Doyle, prohibiting them from participating in - or acting in any manner related thereto – the commutation proceeding related to inmate Julius Jones or in the alternative to issue a Writ of Mandamus directing Adam Luck and Kelly Doyle from participating in, or acting in any manner related to the Julius Jones commutation.

Respectfully submitted,

DAVID PRATER  
DISTRICT ATTORNEY



320 Robert S. Kerr, Room 505  
Oklahoma City, Oklahoma 73102  
(405) 713-1600 FAX: 713-1749

**CERTIFICATE OF MAILING**

I certify that on the \_\_\_\_\_ day of September, 2021, that a true and correct copy of the above and foregoing instrument was hand delivered to the following:

Tom Bates, Executive Director on behalf of Adam Luck and Kelly Doyle  
c/o Pardon and Parole Board  
2915 N Classen Blvd #405  
Oklahoma City, OK 73106

Mark Barrett, Local Counsel for Julius Jones  
P.O. Box 896  
Norman, Ok 73070

