

Form 13.11. Application for Post Conviction Relief

In the District Court of Seminole County
State of Oklahoma

SEMINOLE COUNTY, OKLAHOMA
FILED
IN DISTRICT COURT

MAR 13 2018

BY [Signature] KIM A. DAVIS, COURT CLERK
DEPUTY

Robert Wayne Mitchell,

Petitioner,

vs.

THE STATE OF OKLAHOMA,
and Seminole County

Respondents.

)
)
)
) No. CF-93-100
)
)
)
)

APPLICATION FOR POST-CONVICTION RELIEF

(Petitioner must use one application for each conviction.)

PART A

I, Robert Wayne Mitchell, whose present address is
P.O. Box 97 Meplatona, OK 74501, hereby apply for relief under the
Post-Conviction Procedure Act, Section 1080 et seq. of Title 22.

The sentence from which I seek relief is as follows:

1. (a) Court in which sentence was rendered Seminole County District Court
(b) Case Number CF-93-100
2. Date of sentence November 1, 1993
3. Terms of sentence Life without Parole and 20 yrs.
4. Name of Presiding Judge Gordon R. Nelson
5. Are you now in custody serving this sentence? Yes ☒ No ()
Where? Oklahoma State Penitentiary
6. For what crime or crimes were you convicted? 1st Degree
Murder And 1st Degree Burglary

7. Check whether the finding of guilty was made:

After plea of guilty () After plea of not guilty ☒

8. If found guilty after plea of not guilty, check whether the finding was made by:

A jury ☒ A judge without a jury ()

9. Name of lawyer who represented you in trial court:

Rob Pyper

10. Was your lawyer hired by you or your family? Yes () No ☒
Appointed by the court? Yes ☒ No ()

11. Did you appeal the conviction? Yes ☒ No ()

To what court or courts? Court of Criminal Appeals

12. Did a lawyer represent you for the appeal? Yes ☒ No ()

Was it the same lawyer as in No. 9 above? Yes () No ☒

If "no," what was this lawyer's name? Tom Pucell

Address? _____

13. Was an opinion written by the appellate court? Yes ☒ No ☒

If "yes," give citations if published: _____

If not published, give appellate case no.: F-1993-1247

14. Did you seek any further review of or relief from your conviction at any other time in any court? Yes ☒ No ()

If "Yes," state when you did so, the nature of your claim and the result (include citations to any reported opinions.)

Indian Land Issues on post conviction

denied on Jan 10, 2008

PART B

(If you have more than one proposition for relief, attach a separate sheet for each proposition. Answer the questions below as to each additional proposition, labeled SECOND PROPOSITION, THIRD PROPOSITION.)

I believe that I have 03 (number of) propositions for relief from the conviction and sentence described in PART A. This is the first proposition. 0

Miller v. Alabama U.S. 132 S.Ct. 2455 (2012)

Montgomery v. Alabama

1. Of what legal right or privilege do you believe you were deprived in your case?

Cruel and unusual punishment as a Juvenile

2. In the facts of your case, what happened to deprive you of that legal right or privilege and who made the error of which you complain?

3. List by name and citation any case or cases that are very close factually and legally to yours as examples of the error you believe occurred in your case.

Miller v. Alabama, Montgomery v. Alabama

Graham v. Florida

4. How do you think you could now prove the facts you have stated in answer to Question No. 2, above? Attach supporting documentation. _____

5. If you did not timely appeal the original conviction, set forth facts showing how you were denied a direct appeal through no fault of your own. _____

6. Is this a proposition that could have been raised on Direct Appeal? Yes () No (X)

Explain: these cases just came up in 2016

PART C

I understand that I have an absolute right to appeal to the Court of Criminal Appeals from the trial court's order entered in this case, but unless I do so within thirty (30) days after the entry of the trial judge's order, I will have waived my right to appeal as provided by Section 1087 of Title 22.

PART D

I have read the foregoing application and assignment(s) of error and hereby state under oath that there are no other grounds upon which I wish to attack the judgment and sentence under which I am presently convicted. I realize that I cannot later raise or assert any reason or ground known to me at this time or which could have been discovered by me by the exercise of reasonable diligence.

I further realize that I am not entitled to file a second or subsequent application for post-conviction relief based upon facts within my knowledge or which I could discover with reasonable diligence at this time.

PART E (As Applicable)

I hereby apply to have counsel appointed to represent me. I believe I am entitled to relief. I do not possess any money or property except the following: (If none, state "None").

None

Statutory Verification

I STATE under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct 12 O.S. § 426. Rule 1.13(d) of Rules of Oklahoma Court of Criminal Appeals

2-28-17

Date

Robert Mitchell
Signature

STATE OF OKLAHOMA)

COUNTY OF _____)

_____, being first sworn under oath, states that he/she signed the above application and that the statements therein are true to the best of his/her knowledge and belief.

Signature

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

NOTARY PUBLIC

My Commission Expires: _____