

to the transport of criminal defendants, the and subsequent Writs of Habeas Corpus, Orders to Transport Detainees etc. were issued in criminal cases. Additionally, Judge Stice is attempting to enforce Cleveland County's Administrative Order in a criminal proceeding. The City sought relief from both the Cleveland County and Canadian County District Courts but was denied. *Cleveland County Administrative Order attached as Exhibit 1; Canadian County Administrative Order attached as Exhibit 2¹; City's Mot. to Vac., Cleveland County, attached as City's Exhibit 3; City's Mot. to Vac. Canadian County, attached as City's Exhibit 4; Cleveland County Order on City's Motion, attached as City's Exhibit 5; Canadian County Order on City's Motion, attached as a City's Exhibit 6.* As such, this Court has jurisdiction to entertain this Petition for Writ of Prohibition.

RELEVANT FACTS AND PROCEDURAL HISTORY

1. On April 1, 2020, Judge Thad Balkman, Chief Judge, Cleveland County, entered an administrative order, AO-2020-1, which mandated that "all persons arrested within Cleveland County for crimes allegedly committed and triable within Cleveland County shall be transported to the Cleveland County Detention Center regardless of whether the arresting authority is..... any other municipal or governmental authority lawfully operating within Cleveland County." *CLCO Order, Ex. 1.*
2. On April 10, 2020, Judge Jack D. McCurdy II, Chief Judge in Canadian County entered an identical Administrative Order, AO-2020-3. *CACO Order, Ex. 2.*

¹ Attached Copies of Canadian County Filings are not certified as the Canadian County Court Clerk's office is closed due to COVID-19 precautions.

3. The City of Oklahoma City is located within Cleveland and Canadian Counties and has, for over thirty years, transported its arrestees to the Oklahoma County Jail for booking, even if the offense occurred in Cleveland or Canadian County.
4. Judge Balkman's AO-2020-1 orders that the City's practice of booking all of its arrestees for crimes occurring within the City of Oklahoma City limits, in the Oklahoma County Detention Center "shall immediately cease and the detention of any person so arrested shall be conducted according to statute." *CLCO Order, Ex. 1.*
5. Judge McCurdy's AO-2020-3 is identical. *CACO Order, Ex. 2.*
6. The corporate limits of the City of Oklahoma City are located within Oklahoma County, Cleveland County, Canadian County and Pottawatomie County.
7. Following the entry of the two orders, the City of Oklahoma City filed Motions to vacate the Administrative Orders and requests for hearing in Cleveland County and Canadian County. *City's CLCO MTV, Ex. 3; City's CACO MTV, Ex. 4.*
8. The hearing on the City's Motion to Vacate was set before Judge Balkman in Cleveland County on July 7, 2020. The hearing on the City's Motion to Vacate was set before Judge McCurdy in Canadian County on July 21, 2020.
9. Prior to the hearings, Attorney General Mike Hunter facilitated meetings at his office with the City of Oklahoma City, and officials from Canadian and Cleveland Counties. These meetings occurred on June 22, 2020 and June 29, 2020. During these meetings, a tentative resolution was reached to resolve the issues, and the City provided a proposal to AG Hunter. *Proposed Agreement attached as City's Exhibit 7.*

10. Following the submission of the proposal, AG Hunter continued to meet with Command Staff at the City's Police Department to continue moving forward with a workable solution to the issues raised by the Administrative Orders and the City's Motions to Vacate.
11. Even during these negotiations, both Cleveland County and Canadian County continued to issue Writs of Habeas Corpus directed to Chief Wade Gourley, even though the prisoners were in the custody of the Oklahoma County Jail and/or Jail Trust. Canadian County uniformly issued Writs of Habeas Corpus and Cleveland County issued its orders in various forms including handwritten summary orders, typed Writs of Habeas Corpus, notes handwritten on the bottom of PC Affidavits, etc.. These orders were always directed to Chief Wade Gourley and OCPD has complied with the orders. *Various Cleveland County Criminal Filings attached as City's Exhibit 8; Canadian County Writs attached as City's Ex. 9.*
12. On July 6, 2020, Judge Balkman filed a Summary Order striking the hearing on the City's Motion to Vacate as moot. Judge Balkman stated that the City's Motion to Vacate was actually a public comment improperly styled as a Motion to Vacate and is "duly noted by the Court." See Summary Order attached as *Balkman MTV Order, Ex. 5.*
13. On July 17, 2020, Judge McCurdy filed a Court Minute stating that a hearing was not necessary and denied the City's Motion to Vacate. *McCurdy MTV Order, Ex. 6.*
14. Finally, on Sunday, July 19, 2020, Judge Stice entered an Order to Transport via two PC Affidavits, but filed under AO-2020-1. The Order to Transport ordered Chief Gourley to appear on July 21, 2020 at 3:30 pm "to show-cause why the Administrative Order (AO-20-1) filed April 1, 2020 was violated by the arrest and detention of the above named individual in the Oklahoma County Jail. Failure to Appear as ordered shall result in the

issuance of a bench warrant pursuant to Oklahoma statutes.” *Stice Order attached as City’s Exhibit 10.*

BRIEF IN SUPPORT

ALLEGED ERROR OF LAW I. JUDGE BALKMAN AND JUDGE MCCURDY LACKED AUTHORITY TO ENTER THE SUBJECT ADMINISTRATIVE ORDERS.

Oklahoma’s Code of Criminal Procedure is codified in Title 22 of the Oklahoma statutes. Title 22 §4A states that “Court” is defined as the district court of the State of Oklahoma, as defined in Title 20 §91.1. Title 22 §162 states that “Magistrates” include the Judges of the District Court, including Associate District Judges and Special Judges.

The Rules on Administration of Courts sets forth the authority for presiding judges and chief judges in Rule 1. Rule 1 (D) states that the presiding judge has supervisory authority over:

1. The assignment of pending cases to the judges;
2. The work of the courts;
3. The operation of all courts in the judicial administrative district to assure adherence to statewide court objectives and policies; and
4. Such other duties assigned by the Chief Justice.

Rule 1(E) further states that the Presiding Judge may “Perform such other duties and enter such orders necessary to carry out the purposes of these rules.”

Title 20 §91.8, states that “local rules and administrative orders **shall** not conflict with any statutes of this state or any rules of a superior court.” (emphasis added).

The District Court of Cleveland County has local rules. Rule No. 26 discusses the selection and duties of the Chief Administrative Judge, and Section E lists the duties of the Chief Administrative Judge as follows:

1. Preside over the governing board of the Court Fund.
2. Determine and authorize publication of court dockets.
3. Supervise the district
4. Make the assignment of judges to the various duties within the District Court, including docket assignments for District, Associate and Special Judges.
5. Approve assignment of court reporters within the administrative district.
6. Sit on the Law Library Board.
7. Call conference meetings of District Court.
8. Establish jury terms and order appearance of jurors.
9. Act as spokesperson for the Conference of District Judges.
10. Assist the Court Clerk with the preparation of State and County court budgets.
11. Authorize and schedule use of the courtrooms.
12. Hear protests regarding the issuance of beverage licenses
13. Manage transfers of cases to and from dockets assigned to District, Associate District and/or Special Judges.
14. Preside over motions for recusal of assigned judge pursuant to statute.
15. Make determinations of applications for excuse from jury duty.
16. Preside over election disputes requiring immediate action.
17. Upon a grand jury being called by the Presiding Judge, the Chief Judge shall have the responsibility to empanel and preside over the grand jury until it is dismissed, even though grand jury sessions may extend beyond the term of that judge as Chief Judge.
18. Any other matter directed to the Chief Administrative Judge by statute or rule.

Clearly, Cleveland County's local rules are for the routine administration of court procedures. It is the City's position that the only category in which Judge Balkman's Administrative Order at issue in this motion could conceivably fall under is subsection 18: Any other matter directed to the Chief Administrative Judge by statute or rule.

Canadian County's local Rule No. 3 discusses the selection and duties of the presiding Administrative Judge, and Section C lists the duties of the Presiding Administrative Judge as follows:

1. Presides over the governing board of the Court Fund.
2. Authorizes publication of court dockets.
3. Supervises district courts.
4. Makes the assignment of judges to the various divisions and duties within the District Court, including docket assignments for District, Associate and Special Judges.
5. Approves assignment of court reporters within the administrative district.
6. Selects the Court Administrator with confirmation by the District Judges.
7. Calls conference meetings of District and Associate District Judges. Conference of judges shall take place at the call of the Presiding Administrative District Judge upon the request for a meeting being made to the Presiding Administrative Judge by any other District Judge.
8. Establishes jury terms and orders appearance of jurors.
9. Act as spokesperson for the Conference of District Judges.
10. Assigns judges to Courts of Tax Review upon assignment from the Supreme Court of Oklahoma.
11. Meets monthly with Assembly of Presiding Judges of the Oklahoma Judicial Conference.
12. Upon notification by the Public Defender, conducts inquiry and takes action if any person is irregularly confined to county jail.
13. Conducts or designates a judge to conduct private process server docket.
14. Authorizes use of the courtrooms by public groups.
15. Hears protests regarding the issuance of beverage licenses.
16. Any other matter directed to the Presiding Administrative Judge by statute or rule.

It is the City's position that the only category in which Judge McCurdy's Administrative Order at issue in this motion would fall under is subsection 16: Any other matter directed to the Presiding Administrative Judge by statute or rule.

Regardless of the respective applicability of subsection 18 in Cleveland County or 16 in Canadian County, the City argues that there is no statute or rule that allows the Chief Administrative Judge to order or dictate where the Chief of the Oklahoma City Police Department must take prisoners, with one limited exception, as discussed below.

ALLEGED ERROR OF LAW II. MURDER IN THE FIRST DEGREE IS THE ONLY NON-BAILABLE OFFENSE IN THE STATE OF OKLAHOMA, RENDERING THE ADMINISTRATIVE ORDERS NONCOMPLIANT WITH STATE LAW.

A municipal police officer has the power to make an arrest for any violation of state law or of the ordinances of their municipality, or a combination of both. 11 O.S. § 34-101(A). Such arrests may be made pursuant to an arrest warrant or without a warrant. In either situation, an arrested person "must, in all cases, be taken before [a] magistrate without unnecessary delay." 22 O.S. § 181. Judges of the district court, including associate district judges and special judges, are magistrates. 22 O.S. §162.

What is considered an unnecessary delay which would constitute denial of substantial rights depends upon the circumstances and facts of each case. *Luttrell v. Freeman*, 1968 OK CR 152, 444 P.2d 857, 859 (Under particular circumstances, delays of 8 days and 33 days were not prejudicial). "Following an arrest for a misdemeanor or felony offense and before formal charges have been filed or an indictment made, the arrested person may have bail set by the court." 22 O.S. § 1105.2. Article 2, Section 8 of the Oklahoma Constitution guarantees an accused the right to

bail, subject to limited exceptions. *Brill v. Gurich*, 1998 OK CR 49, 965 P.2d 404, 405, as corrected (Sept. 23, 1998).

These constitutional provisions are also codified at 22 O.S. § 1101. This statute provides that “[e]xcept as otherwise provided by law, bail, by sufficient sureties, shall be admitted upon all arrests in criminal cases where the offense is not punishable by death...”

In the case *In re Morphis*, 1974 OK CR 5, 518 P.2d 315, 315, a defendant was charged with Murder in the Second Degree, punishable by up to 10 years to life imprisonment. At the conclusion of the preliminary hearing, the defendant demanded and was denied bail. The State argued that Murder in the Second Degree is not aailable offense. Arraignment was held and defendant was again denied bail. The defendant then filed a petition for a writ of habeas corpus. After citing Article 2, Section 8 of the Oklahoma Constitution, the Court of Criminal Appeals conducted a straightforward analysis - is Murder in the Second Degree a “capital offense?” The Court said it was not, because a capital offense is one where the punishment may be death. Accordingly, the Court remanded the case and directed the district court to admit the petitioner to bail. *Id* at 316.

This means that a “nonailable” offense is one punishable by death. All other criminal offenses areailable. *See also Application of Cody*, 1961 OK CR 51, 361 P.2d 1109, 1110 (Article 2, section 8 of the Oklahoma Constitution and title 22, section 1102 of the Oklahoma Statutes guarantee the right to bail except for capital offenses when proof of guilt is evident, or the presumption thereof is great.)

As discussed below, there are two statutes that discuss where a person arrested for a “nonailable” offense shall be detained, depending on whether the person was arrested with or without a warrant.

ALLEGED ERROR OF LAW III. THE CITY OF OKLAHOMA CITY IS LEGALLY AUTHORIZED TO HOLD ITS PRISONERS IN THE OKLAHOMA COUNTY JAIL.

In general, if a person is arrested upon a warrant, the officer “must take the defendant before the nearest or most accessible magistrate of the county in which the offense is triable.” 22 O.S. §184. However, if the offense charged in the warrant is a felony, the person is to be taken before the magistrate who issued the warrant. 22 O.S. §176. If the magistrate who issued the warrant is unavailable, the person may then be taken before another magistrate in the same county, in person or via video broadcast. 22 O.S. §176.

When arrested with a warrant for a “nonbailable” offense, 22 O.S. § 459 requires the arrested person to “be held in custody by the sheriff of the county *in which the indictment or information is filed.*” 22 O.S. § 459 (italics added for emphasis). Prior to charges being filed, whether bailable or nonbailable, state law does not specify whether the municipality or the county is responsible for detention. This question was addressed in Attorney General Opinion 84-93, which noted that while Section 42 of Title 57 requires county sheriffs to detain offenders *after* charges are filed, state law was silent on the question of who is responsible for detention *prior to* state charges being filed. See 57 O.S. § 42: “The common jails in the several counties in the charge of the respective sheriffs, shall be used as prisons..... (1) for the detention of persons charged with offenses and duly committed for trial.” *Id.*

According to the Attorney General, “To the extent, then, that *Oklahoma law is silent on the question of whether the municipality or the county is responsible for the detention of state law violators arrested by municipal policemen prior to the time the arrestees are charged and duly committed for trial*, we conclude that this is a matter to be resolved between municipal and county authorities. Further, *the arresting municipal policeman*, being a “peace officer” pursuant to 21 O.S.

99 (1981), is *under a duty to secure the arrestee until the authorities resolve the matter.*” 1984 OK AG 93, ¶12 (italics added for emphasis). Until the matter is resolved, the municipal officer would secure the prisoner in the municipal jail, or in the case of Oklahoma City, in the Oklahoma County Jail with whom the City has contracted for the housing of municipal prisoners.

ALLEGED ERROR OF LAW IV. THE ADMINISTRATIVE ORDERS ARE BEYOND THE SCOPE OF 22 O.S. §453.

If a person is arrested for a “nonbailable” offense without a warrant, 22 O.S. §190.1 requires the arrested person to be held in the custody of the sheriff in the county in which the arrest was made. If the person is arrested without a warrant for an offense that is bailable, the provisions of 22 O.S. §190.1 do not apply.

As noted earlier, the statutes do not address who shall hold the person – the county or the municipal arresting officer – after a person is arrested without a warrant for a bailable offense, and no indictment or information is yet filed. Once the district attorney has filed charges, however, the Attorney General opined that “the county sheriff must accept the arrestee. Conversely, if state charges have not been filed, the county sheriff is not required to accept the municipal officer's arrestee.” 2001 OK AG 12, ¶4.

If municipal charges have also been filed, “it depends on whether the county and municipality have executed an agreement pertaining to the housing of arrestees.” *Id.* There is such an agreement between Oklahoma County and the City of Oklahoma City, by way of an annual contract through which the City of Oklahoma City pays the Oklahoma County Sheriff for the housing of persons arrested by Oklahoma City police officers on municipal or state charges. If the Oklahoma County District Attorney files state charges against a person arrested by Oklahoma City police and held in the Oklahoma County Jail, the City will dismiss any municipal charges and the

probable cause hold for state charges will be electronically transmitted to the Oklahoma County Jail, effectively transferring the person from the "custody" of the City to the custody of the County.

Finally, the statutes do contemplate a person being arrested in one county for charges that will ultimately be resolved in a different county. Title 22 O.S. §461, Bail Taken in Another County, provides that if a defendant is brought before a magistrate in another county for purpose of bail, the magistrate must proceed. Therefore, the statutes actually contemplate a defendant appearing before a magistrate of a different county because the defendant is in custody in a different county.

In any arrest, whether with or without a warrant and regardless of whether the offense is bailable or nonbailable, there is no question that the person shall be immediately taken to appear before a magistrate. Only when a person is arrested on a warrant do the statutes dictate to which specific magistrate the person should be taken. In a situation where the person shall be held in custody pending the filing of charges, the sheriff is not obligated to take custody of an arrestee until the district attorney has filed an information or indictment, although nothing would preclude the sheriff from taking custody prior to charges being filed. Until the sheriff takes custody, however, the municipal officer has a duty to secure the arrestee. If the municipality has an agreement with a sheriff by which the sheriff will house the municipality's prisoners, the arrestee should be taken to that sheriff's jail.

It is the City's position that the only statute that allows this Court to order a person to be brought to Cleveland County or Canadian is 22 O.S. §453, Officer to Bring Defendant Before Court. This statute states that the court may direct the officer in whose custody he is to bring the defendant before the Court to be arraigned. Thus, the City would concede, that this Court may

order a defendant to be brought to Cleveland County or Canadian County before it for arraignment of the defendant.

ALLEGED ERROR OF LAW V. THE CITY HAS A SUBSTANTIAL INTEREST IN CONTINUING TO DETAIN ITS PRISONERS IN THE OKLAHOMA COUNTY JAIL.

As the Court is aware, the City of Oklahoma City corporate limits are located within four counties, including Oklahoma County, Canadian County, and Cleveland County. Because Oklahoma City does not operate its own jail, it has contracted with the Oklahoma County Detention Center (OCDC) for the preliminary detention of its prisoners. The reasons for the use of one County Jail for initial booking of its prisoners are numerous. Some of these reasons include, but are limited to, the following:

- OCPD has a secured room for its computer, printing, and drug testing at the OCDC
- OCPD utilizes a single drug testing process throughout the department
- OCPD currently has a process that transmits the booking AFIS information and mugshots from OCDC directly to OCPD's own AFIS and RMS systems. Cleveland County and Canadian County Jails do not have their own AFIS system and there is not a way to export the information to OCPD.
- Cleveland and Canadian County Jails does not have in place a system for OCPD to have its own Livescans for mugshots and fingerprints
- OCPD's RMS report systems utilizes the Offender Tracking Number (OTN), AFIS ID, and FBI numbers, along with mugshot photos. The OTN system is the preferred system to track a defendant throughout the entire criminal justice process, from arrest through final verdict. The capabilities at the Cleveland and Canadian County Jails will not allow for this integration.
- Authentication of interviews of arrestees by OCPD Detectives is not compromised, as the interview rooms utilized by OCPD at the OCDC record the interview and automatically uploads into the OCPD case file, without the need or use of flash drives or DVDs.
- Ability of OCPD Detectives to timely interview subjects arrested on state charges.
- Process in place for the collection of DNA swabs on all subjects arrested by OCPD.
- All inmates arrested by OCPD and taken to OCDC are checked through OCPD AFIS to correctly identify them in a centralized location by utilizing the Oklahoma County Sheriff's Office, OCPD and OSBI data base.
- Expedited booking process at OCDC whereby OCPD officers can go back in-service quicker, thereby allowing for an increase in police presence on the streets.
- OCPD has a data entry clerk at OCDC to facilitate the entry of charges, amendment of charges, etc.

- All property being booked into the OCPD Property Management Unit will still need to be booked downtown OKC, not at the Cleveland and Canadian County Jail.

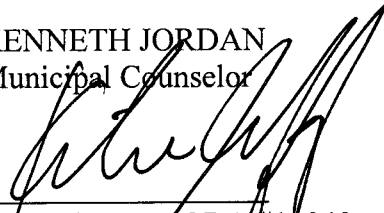
The Cleveland and Canadian County jails simply do not provide the resources of the Oklahoma County jail. Further, OCPD presently contracts, and has for decades, with the Oklahoma County jail to house its prisoners in the Oklahoma County facility.

CONCLUSION

As previously argued, it is the position of the City of Oklahoma City that the Cleveland and Canadian County District Courts do not have authority to order where the Oklahoma City Police Department must initially detain its prisoners. Oklahoma City police officers who arrest persons without a warrant for a bailable offense in a county other than Oklahoma County, should be allowed to continue to take that person to the Oklahoma County Jail for booking, based on longstanding practice and the reasons detailed above. If state charges are later filed in Cleveland County or Canadian County, the court, pursuant to 22 O.S. §453 may direct the officer in whose custody the defendant is to bring that defendant before the court for Arraignment, a practice which the City has complied with. Other than that statute, the City asserts that there is no other statute which gives the Canadian or Cleveland County District Courts the authority to enter the respective administrative orders. Additionally, the entry of this administrative order is not authorized under each county's respective local rules, and Title 20 §91.8, states that local rules and administrative orders **shall** not conflict with any statutes of this state or any rules of a superior court. Therefore, the City of Oklahoma City requests this Court prohibit further enforcement of the subject administrative orders by the Cleveland and Canadian County benches.

Respectfully Submitted,

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Municipal Counselor



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Attorneys for The City of Oklahoma City

CERTIFICATE OF SERVICE

I hereby certify that on the ²¹20th day of July, a true and correct copy of the Petition for Writ of Prohibition was sent via US mail to the following:

Thad Balkman
Chief Judge, Cleveland County
200 S. Peters Ave
Norman, OK 73069
Respondent

Steve Stice
Special District Judge, Cleveland County
Chief Judge, Cleveland County
200 S. Peters Ave
Norman, OK 73069
Respondent

Jack McCurdy
Chief Judge, Canadian County
301 N. Choctaw
El Reno, OK 73036
Respondent



Assistant Municipal Counselor

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA



IN RE: DETENTION OF CLEVELAND)
COUNTY ARRESTEES)
IN OKLAHOMA COUNTY JAIL.)

AO-2020-1

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

FILED

APR 01 2020

**ORDER SUSPENDING TRANSPORTATION OF
INMATES DETAINED IN OKLAHOMA COUNTY**

NOW, on this 1st day of April, 2020, the following orders are issued:

In the office of the
Court Clerk MARILYN WILLIAMS

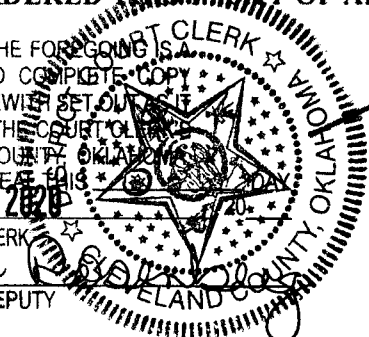
1. All persons arrested within Cleveland County for crimes allegedly committed and triable within County Cleveland shall be transported to the Cleveland County Detention Center regardless of whether the arresting authority is an agency of the State of Oklahoma, the Cleveland County Sheriff's Department, the City of Norman or any other municipal or governmental authority lawfully operating within Cleveland County. Said order is made pursuant to all statutory authority requiring persons to be confined upon arrest and/or the filing of charges in the county in which the offense was committed. See 22 O.S. §1115.1 *et seq*, 22 O.S. §190.1, 22 O.S. §459, *et al*.
2. The long standing practice of certain municipalities within Cleveland County to transport arrestees to the Oklahoma County Jail for offenses allegedly committed and triable within Cleveland County has never been sanctioned nor condoned by the Cleveland County Sheriff's Office, the Cleveland County Board of County Commissioners nor the Cleveland County judiciary except as evidenced by any written contract to accept inmates pertaining to the two detention facilities, if any. Absent an agreement to the contrary, the practice shall immediately cease and the detention of any person so arrested shall be conducted according to statute.
3. Due to the global pandemic, the safety of the public, detention facility personnel and inmates supercedes any convenience of an arresting agency who utilize a practice that does not conform to state law. Furthermore, health and safety concerns weigh in favor of suspending the transport of any person held in the Oklahoma County Jail to the Cleveland County Detention Center whether performed by the Oklahoma County Sheriff's Office, the Cleveland County Sheriff's Office or by the original arresting agency.
4. Any persons arrested within Cleveland County for crimes allegedly committed and triable within Cleveland County that are booked in at or are currently in the Oklahoma County Jail in contravention of this Order shall remain there unless released on bond by a magistrate of Cleveland County until further order.
5. This Order specifically and directly vacates any prior order with conflicting or contrary provisions.

IT IS SO ORDERED THIS 1ST DAY OF APRIL, 2020.

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HEREWITNESS SET OUT APPEARS ON RECORD IN THE COURT OF THE OFFICE OF CLEVELAND COUNTY, OKLAHOMA. WITNESS MY HAND AND SEAL THIS 1ST DAY OF APRIL 2020.

JUL 20 2020

MARKLYN WILLIAMS COURT CLERK
BY Jesse Balkman DEPUTY



Thad Balkman
Thad Balkman, Chief Judge



APR 10 2020

IN THE DISTRICT COURT OF CANADIAN COUNTY
STATE OF OKLAHOMA

BY Marie Hirst
DEPUTY

IN RE: DETENTION OF CANADIAN)
COUNTY ARRESTEES)
IN OKLAHOMA COUNTY JAIL.)

AO-2020- 3

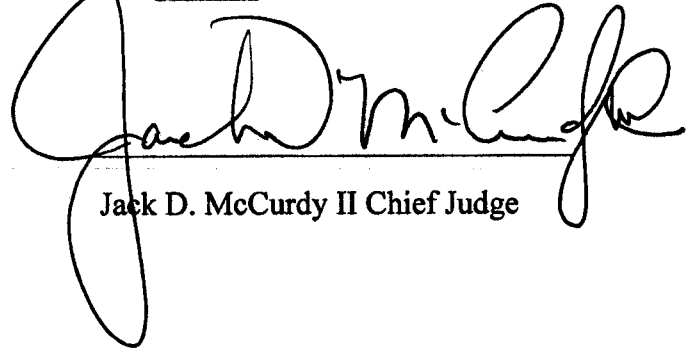
**ORDER SUSPENDING TRANSPORTATION OF
INMATES DETAINED IN OKLAHOMA COUNTY**

NOW, on this 10TH day of April, 2020, the following orders are issued:

1. All persons arrested within Canadian County for crimes allegedly committed and triable within Canadian County shall be transported to the Canadian County jail regardless of whether the arresting authority is an agency of the State of Oklahoma, the Canadian County Sheriff's Department, or any municipal or governmental authority lawfully operating within Canadian County. Said order is made pursuant to all statutory authority requiring persons to be confined upon arrest and/or the filing of charges in the county in which the offense was committed. See 22 O.S. §1115.1 *et seq.*, 22 O.S. §190.1, 22 O.S. §459, *et al.*
2. The long standing practice of certain municipalities within Canadian County to transport arrestees to the Oklahoma County Jail for offenses allegedly committed and triable within Canadian County has never been sanctioned nor condoned by the Canadian County Sheriff's Office, the Canadian County Board of County Commissioners nor the Canadian County judiciary except as evidenced by any written contract to accept inmates pertaining to the two detention facilities, if any. Absent an agreement to the contrary, the practice shall immediately cease and the detention of any person so arrested shall be conducted according to statute.
3. Due to the global pandemic, the safety of the public, detention personnel and inmates supersedes and convenience of an arresting agency who utilize a practice that does not conform to state law. Furthermore, health and safety concerns weigh in favor of suspending the transport of any person held in the Oklahoma County jail to the Canadian County jail whether performed by the Oklahoma County Sheriff's Office, The Canadian County Sheriff's Office or by the original arresting agency.
4. Any persons arrested within Canadian County for crimes allegedly committed and triable within Canadian County that are booked in at or are currently in the Oklahoma County Jail in contravention of this order shall remain there unless released on bond by a magistrate of Canadian County until further order.
5. This Order specifically and directly vacates any prior order with conflicting or contrary provisions.

EXHIBIT
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tabbles

IT IS SO ORDERED THIS 10th DAY OF APRIL, 2020.

A handwritten signature in black ink, appearing to read "Jack D. McCurdy II". The signature is written in a cursive style with large, sweeping loops. It is positioned above a horizontal line that spans the width of the signature.

Jack D. McCurdy II Chief Judge

COVID19



IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

IN RE: DETENTION OF CLEVELAND)
COUNTY ARRESTEES)
IN OKLAHOMA COUNTY JAIL) AO-2020-1
)

FILED
MAY 27 2020

MOTION OF THE CITY OF OKLAHOMA CITY
TO VACATE ADMINISTRATIVE ORDER ENTERED ON
APRIL 1, 2020 SUSPENDING TRANSPORTATION OF
INMATES DETAINED IN OKLAHOMA COUNTY
AND REQUEST FOR HEARING

In the office of the
Court Clerk MARILYN WILLIAMS

COMES NOW, Petitioner, the City of Oklahoma City, by and through counsel of record, and for its Motion to Vacate Administrative Order Entered on April 1, 2020 Suspending Transportation of Inmates Detained in Oklahoma County and Request for Hearing, would show the Court as follows:

PROCEDURAL HISTORY

1. On April 1, 2020, Judge Thad Balkman, Chief Judge, District Court of Cleveland County, entered an administrative order, AO-2020-1, which mandated that "all persons arrested within Cleveland County for crimes allegedly committed and triable within Cleveland County shall be transported to the Cleveland County Detention Center regardless of whether the arresting authority is..... any other municipal or governmental authority lawfully operating within Cleveland County."

2. The City of Oklahoma City is almost 700 square miles, and is located within four counties, including Cleveland County. For over thirty years, the Oklahoma City Police Department (OCPD) has transported its arrestees to the Oklahoma County Jail for booking,



even if the offense occurred in Cleveland County, Canadian County or Pottawatomie County.

3. Judge Balkman's AO-2020-1 orders that the City's practice of booking all of its arrestees for crimes occurring within the City of Oklahoma City limits, in the Oklahoma County Detention Center "shall immediately cease and the detention of any person so arrested shall be conducted according to statute."

BRIEF IN SUPPORT

I. Powers and Duties of Magistrate

Oklahoma's Code of Criminal Procedure is codified in Title 22 of the Oklahoma statutes. Title 22 §4A states that "Court" is defined as the district court of the State of Oklahoma, as defined in Title 20 §91.1. Title 22 §162 states that "Magistrates" include the Judges of the District Court, including Associate District Judges and Special Judges.

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Rule 1(E) further states that the Presiding Judge may "Perform such other duties and enter such orders necessary to carry out the purposes of these rules."

Title 20 §91.8, states that “local rules and administrative orders shall not conflict with any statutes of this state or any rules of a superior court.” (emphasis added).

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9. Act as spokesperson for the Conference of District Judges.
10. Assist the Court Clerk with the preparation of State and County court budgets.
11. Authorize and schedule use of the courtrooms.
12. Hear protests regarding the issuance of beverage licenses
13. Manage transfers of cases to and from dockets assigned to District, Associate District and/or Special Judges.
14. Preside over motions for recusal of assigned judge pursuant to statute.
15. Make determinations of applications for excuse from jury duty.
16. Preside over election disputes requiring immediate action.
17. Upon a grand jury being called by the Presiding Judge, the Chief Judge shall have the responsibility to empanel and preside over the grand jury until it is dismissed, even though grand jury sessions may extend beyond the term of that judge as Chief Judge.
18. Any other matter directed to the Chief Administrative Judge by statute or rule.

Clearly, Cleveland County's local rules are for the routine administration of court procedures. It is the City's position that the only category in which Judge Balkman's Administrative Order at issue in this motion could conceivably fall under is subsection 18: Any other matter directed to the Chief Administrative Judge by statute or rule. However, the City argues that there is no statute or rule that allows the Chief Administrative Judge to order or dictate where the Chief of the Oklahoma City Police Department must take prisoners, with one limited exception, as discussed below.

II. Powers and Duties of Peace Officers

A municipal police officer has the power to make an arrest for any violation of state law or of the ordinances of their municipality, or a combination of both. 11 O.S. § 34-101(A). Such arrests may be made pursuant to an arrest warrant or without a warrant. In either situation, an arrested person "must, in all cases, be taken before [a] magistrate without unnecessary delay." 22 O.S. § 181. Judges of the district court, including associate district judges and special judges, are magistrates. 22 O.S. §162.

What is considered an unnecessary delay which would constitute denial of substantial rights depends upon the circumstances and facts of each case. *Luttrell v. Freeman*, 1968 OK CR 152, 444 P.2d 857, 859 (Under particular circumstances, delays of 8 days and 33 days were not prejudicial). "Following an arrest for a misdemeanor or felony offense and before formal charges have been filed or an indictment made, the arrested person may have bail set by the court." 22 O.S. § 1105.2. Article 2, Section 8 of the Oklahoma Constitution guarantees an accused the right to bail, subject to limited

exceptions. *Brill v. Gurich*, 1998 OK CR 49, 965 P.2d 404, 405, as corrected (Sept. 23, 1998).

These constitutional provisions are also codified at 22 O.S. § 1101. This statute provides that “[e]xcept as otherwise provided by law, bail, by sufficient sureties, shall be admitted upon all arrests in criminal cases where the offense is not punishable by death...”

In the case *In re Morphis*, 1974 OK CR 5, 518 P.2d 315, 315, a defendant was charged with Murder in the Second Degree, punishable by up to 10 years to life imprisonment. At the conclusion of the preliminary hearing, the defendant demanded and was denied bail. The State argued that Murder in the Second Degree is not a bailable offense. Arraignment was held and defendant was again denied bail. The defendant then filed a petition for a writ of habeas corpus. After citing Article 2, Section 8 of the Oklahoma Constitution, the Court of Criminal Appeals conducted a straightforward analysis - is Murder in the Second Degree a “capital offense?” The Court said it was not, because a capital offense is one where the punishment may be death. Accordingly, the Court remanded the case and directed the district court to admit the petitioner to bail. *Id* at 316.

This means that a “nonbailable” offense is one punishable by death. All other criminal offenses are bailable. *See also Application of Cody*, 1961 OK CR 51, 361 P.2d 1109, 1110 (Article 2, section 8 of the Oklahoma Constitution and title 22, section 1102 of the Oklahoma Statutes guarantee the right to bail except for capital offenses when proof of guilt is evident, or the presumption thereof is great.)

As discussed below, there are two statutes that discuss where a person arrested for a “nonbailable” offense shall be detained, depending on whether the person was arrested with or without a warrant.

Arrest with a Warrant

In general, if a person is arrested upon a warrant, the officer “must take the defendant before the nearest or most accessible magistrate of the county in which the offense is triable.” 22 O.S. §184. However, if the offense charged in the warrant is a felony, the person is to be taken before the magistrate who issued the warrant. 22 O.S. §176. If the magistrate who issued the warrant is unavailable, the person may then be taken before another magistrate in the same county, in person or via video broadcast. 22 O.S. §176.

When arrested with a warrant for a “nonbailable” offense, 22 O.S. § 459 requires the arrested person to “be held in custody by the sheriff of the county *in which the indictment or information is filed.*” 22 O.S. § 459 (italics added for emphasis). Prior to charges being filed, whether bailable or nonbailable, state law does not specify whether the municipality or the county is responsible for detention. This question was addressed in Attorney General Opinion 84-93, which noted that while Section 42 of Title 57 requires county sheriffs to detain offenders *after* charges are filed, state law was silent on the question of who is responsible for detention *prior to* state charges being filed. See 57 O.S. § 42: “The common jails in the several counties in the charge of the respective sheriffs, shall be used as prisons..... (1) for the detention of persons charged with offenses and duly committed for trial.” *Id.*

According to the Attorney General, "To the extent, then, that *Oklahoma law is silent on the question of whether the municipality or the county is responsible for the detention of state law violators arrested by municipal policemen prior to the time the arrestees are charged and duly committed for trial, we conclude that this is a matter to be resolved between municipal and county authorities. Further, the arresting municipal policeman, being a "peace officer" pursuant to 21 O.S. 99 (1981), is under a duty to secure the arrestee until the authorities resolve the matter.*" 1984 OK AG 93, ¶12 (italics added for emphasis). Until the matter is resolved, the municipal officer would secure the prisoner in the municipal jail, or in the case of Oklahoma City, in the Oklahoma County Jail with whom the City has contracted for the housing of municipal prisoners.

Arrest Without a Warrant

If a person is arrested for a "nonbailable" offense without a warrant, 22 O.S. §190.1 requires the arrested person to be held in the custody of the sheriff in the county in which the arrest was made. If the person is arrested without a warrant for an offense that is bailable, the provisions of 22 O.S. §190.1 do not apply.

As noted earlier, the statutes do not address who shall hold the person – the county or the municipal arresting officer – after a person is arrested without a warrant for a bailable offense, and no indictment or information is yet filed. Once the district attorney has filed charges, however, the Attorney General opined that "the county sheriff must accept the arrestee. Conversely, if state charges have not been filed, the county sheriff is not required to accept the municipal officer's arrestee." 2001 OK AG 12, ¶4.

If municipal charges have also been filed, "it depends on whether the county and municipality have executed an agreement pertaining to the housing of arrestees." *Id.* There is such an agreement between Oklahoma County and the City of Oklahoma City, by way of an annual contract through which the City of Oklahoma City pays the Oklahoma County Sheriff for the housing of persons arrested by Oklahoma City police officers on municipal or state charges. If the Oklahoma County District Attorney files state charges against a person arrested by Oklahoma City police and held in the Oklahoma County Jail, the City will dismiss any municipal charges and the probable cause hold for state charges will be electronically transmitted to the Oklahoma County Jail, effectively transferring the person from the "custody" of the City to the custody of the County.

Finally, the statutes do contemplate a person being arrested in one county for charges that will ultimately be resolved in a different county. Title 22 O.S. §461, Bail Taken in Another County, provides that if a defendant is brought before a magistrate in another county for purpose of bail, the magistrate must proceed. Therefore, the statutes actually contemplate a defendant appearing before a magistrate of a different county because the defendant is in custody in a different county.

In any arrest, whether with or without a warrant and regardless of whether the offense is bailable or nonbailable, there is no question that the person shall be immediately taken to appear before a magistrate. Only when a person is arrested on a warrant do the statutes dictate to which specific magistrate the person should be taken. In a situation where the person shall be held in custody pending the filing of charges, the sheriff is not obligated to take custody of an arrestee until the district attorney has filed an information

or indictment, although nothing would preclude the sheriff from taking custody prior to charges being filed. Until the sheriff takes custody, however, the municipal officer has a duty to secure the arrestee. If the municipality has an agreement with a sheriff by which the sheriff will house the municipality's prisoners, the arrestee should be taken to that sheriff's jail.

It is the City's position that the only statute that allows this Court to order a person to be brought to Cleveland County is 22 O.S. §453, Officer to Bring Defendant Before Court. This statute states that the court may direct the officer in whose custody he is to bring the defendant before the Court to be arraigned. Thus, the City would concede, that this Court may order a defendant to be brought to Cleveland County before it for arraignment of the defendant.

As the Court is aware, the City of Oklahoma City corporate limits are located within four counties, including Oklahoma County and Cleveland County. Because Oklahoma City does not operate its own jail, it has contracted with the Oklahoma County Detention Center (OCDC) for the preliminary detention of its prisoners. The reasons for the use of one County Jail for initial booking of its prisoners are numerous. Some of these reasons include, but are limited to, the following:

- OCPD has a secured room for its computer, printing, and drug testing at the OCDC
- OCPD utilizes a single drug testing process throughout the department
- OCPD currently has a process that transmits the booking AFIS information and mugshots from OCDC directly to OCPD's own AFIS and RMS systems. Cleveland County Jail does not have their own AFIS system and there is not a way to export the information to OCPD, with the Cleveland County Jail current setup

- Cleveland County Jail does not have in place a system for OCPD to have its own Livescans for mugshots and fingerprints
- OCPD's RMS report systems utilizes the Offender Tracking Number (OTN), AFIS ID, and FBI numbers, along with mugshot photos. The OTN system is the preferred system to track a defendant throughout the entire criminal justice process, from arrest through final verdict. The capabilities at the Cleveland County Jail will not allow for this integration.
- Authentication of interviews of arrestees by OCPD Detectives is not compromised, as the interview rooms utilized by OCPD at the OCDC record the interview and automatically uploads into the OCPD case file, without the need or use of flash drives or DVDs.
- Ability of OCPD Detectives to timely interview subjects arrested on state charges.
- Process in place for the collection of DNA swabs on all subjects arrested by OCPD.
- All inmates arrested by OCPD and taken to OCDC are checked through OCPD AFIS to correctly identify them in a centralized location by utilizing the Oklahoma County Sheriff's Office, OCPD and OSBI data base.
- Expedited booking process at OCDC whereby OCPD officers can go back in-service quicker, thereby allowing for an increase in police presence on the streets.
- OCPD has a data entry clerk at OCDC to facilitate the entry of charges, amendment of charges, etc.
- All property being booked into the OCPD Property Management Unit will still need to be booked downtown OKC, not at the Cleveland County Jail.

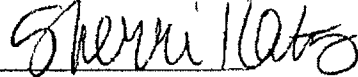
CONCLUSION

As previously argued, it is the position of the City of Oklahoma City that this court does not have authority to order where the Oklahoma City Police Department must initially detain its prisoners. Oklahoma City police officers who arrest persons without a warrant for a bailable offense in a county other than Oklahoma County, should be allowed to continue to take that person to the Oklahoma County Jail for booking, based on longstanding practice and the reasons detailed above. If state charges are later filed in Cleveland County, the court, pursuant to 22 O.S. §453 may direct the officer in whose

custody the defendant is to bring that defendant before the court for Arraignment. Other than that statute, the City asserts that there is no other statute which gives this Court the authority to enter the Administrative Order AO-2020-1, entered on April 1, 2020. Additionally, the entry of this administrative order is not authorized under Cleveland County Local Rule 26, and Title 20 §91.8, states that local rules and administrative orders **shall** not conflict with any statutes of this state or any rules of a superior court. Therefore, the City of Oklahoma City requests this Court vacate or rescind AO-2020-1 entered on April 1, 2020.

Respectfully Submitted,

KENNETH JORDAN
Municipal Counselor



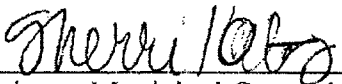
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katie.goff@okc.gov
Attorneys for The City of Oklahoma City

CERTIFICATE OF SERVICE

I hereby certify that on the 27 day of May, 2020, a true and correct copy of the Motion to Vacate Administrative Order Entered on April 1, 2020 Suspending Transportation of Inmates Detained in Oklahoma County and Request for Hearing was mailed by depositing in the US Mail, postage prepaid to the following:

Thad Balkman
Chief Judge, Cleveland County
Norman, OK 73069

Lori M. Walkley
District Judge, Cleveland County
Norman, OK 73069



Assistant Municipal Counselor

NOTICE OF HEARING

To: Thad Balkman
Chief Judge, Cleveland County
Norman, OK 73069

Lori M. Walkley
District Judge, Cleveland County
Norman, OK 73069

This motion is set for hearing before the Honorable Judge Balkman on the 9th day of JULY, 2020, at 2:30 PM

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HEREBY SET OUT AS IT APPEARS ON RECORD IN THE COURT CLERK'S OFFICE OF CLEVELAND COUNTY, OKLAHOMA. WITNESS MY HAND AND SEAL THIS 9th DAY OF JULY 2020.
BY 
DEPUTY CLERK OF DISTRICT COURT
CLEVELAND COUNTY, OKLAHOMA



IN THE DISTRICT COURT OF CLEVELAND COUNTY, STATE OF OKLAHOMA

In Re: DETENTION OF CLEVELAND CO. ARRESTEES IN OKLAHOMA COUNTY

RICHARD MANN, SHERRI KATZ

KATIE GOFF Attorney(s) for Plaintiff(s)

Case No. AO-2020-1 TB

JUN 01 2020

- vs -

In the office of the Court Clerk MARILYN WILLIAMS Defendant(s)

Attorney(s) for Defendant(s)

SUMMARY ORDER

Date: 5.28.20 Court Reporter Judge: YB

motion to vacate previously set 7-9-20 reset this order on the court for evidentiary hearing to 6-19-20 at 10:00 am.

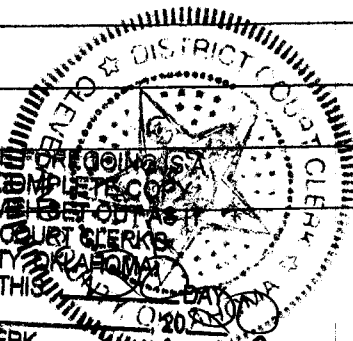
STATE OF OKLAHOMA } S.S. CLEVELAND COUNTY }

FILED

MAY 29 2020

In the office of the Court Clerk MARILYN WILLIAMS

I HEREBY CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HEREBY SET OUT AS IT APPEARS ON RECORD IN THE COURT CLERK'S OFFICE OF CLEVELAND COUNTY, OKLAHOMA. WITNESS MY HAND AND SEAL THIS DAY OF MAY 2020. MARILYN WILLIAMS COURT CLERK BY [Signature] DEPUTY



[Signature] JUDGE

JUN 10 2020

IN THE DISTRICT COURT OF CANADIAN COUNTY
STATE OF OKLAHOMA

BY Wendy [Signature]
DEPUTY

IN RE: DETENTION OF CANADIAN)
COUNTY ARRESTEES)
IN OKLAHOMA COUNTY JAIL) AO-2020-3
)

**MOTION TO VACATE ADMINISTRATIVE ORDER ENTERED ON
APRIL 10, 2020 SUSPENDING TRANSPORTATION OF
INMATES DETAINED IN OKLAHOMA COUNTY
AND REQUEST FOR HEARING**

COMES NOW, Petitioner, the City of Oklahoma City, by and through counsel of record, and for its Motion to Vacate Administrative Order Entered on April 10, 2020 Suspending Transportation of Inmates Detained in Oklahoma County and Request for Hearing, and would show the Court as follows:

PROCEDURAL HISTORY

1. On April 1, 2020, Judge Thad Balkman, Chief Judge, Cleveland County, entered an administrative order, AO-2020-1, which mandated that "all persons arrested within Cleveland County for crimes allegedly committed and triable within Cleveland County shall be transported to the Cleveland County Detention Center regardless of whether the arresting authority is..... any other municipal or governmental authority lawfully operating within Cleveland County."
2. On April 10, 2020, Judge Jack D. McCurdy II, Chief Judge, entered virtually an identical Administrative Order, AO-2020-3.
3. The City of Oklahoma City is almost 700 square miles, and is located within four counties, including Canadian County. For over thirty years, the Oklahoma City Police

EXHIBIT
4

Department (OCPD) has transported its arrestees to the Oklahoma County Jail for booking, even if the offense occurred in Cleveland County, Canadian County or Pottawatomie County.

4. Judge McCurdy's AO-2020-3 orders that the City's practice of booking all of its arrestees for crimes occurring within the City of Oklahoma City limits, in the Oklahoma County Detention Center "shall immediately cease and the detention of any person so arrested shall be conducted according to statute."

BRIEF IN SUPPORT

I. Powers and Duties of Magistrate

Oklahoma's Code of Criminal Procedure is codified in Title 22 of the Oklahoma statutes. Title 22 §4A states that "Court" is defined as the district court of the State of Oklahoma, as defined in Title 20 §91.1. Title 22 §162 states that "Magistrates" include the Judges of the District Court, including Associate District Judges and Special Judges.

The Rules on Administration of Courts sets forth the authority for presiding judges and chief judges in Rule 1. Rule 1 (D) states that the presiding judge has supervisory authority over:

1. The assignment of pending cases to the judges;
2. The work of the courts;
3. The operation of all courts in the judicial administrative district to assure adherence to statewide court objectives and policies; and
4. Such other duties assigned by the Chief Justice.

Rule 1(E) further states that the Presiding Judge may "Perform such other duties and enter such orders necessary to carry out the purposes of these rules."

Title 20 §91.8, states that local rules and administrative orders shall not conflict with any statutes of this state or any rules of a superior court. (emphasis added).

Canadian County has local rules. Rule No. 3 discusses the selection and duties of the presiding Administrative Judge, and Section C lists the duties of the Presiding Administrative Judge as follows:

1. Presides over the governing board of the Court Fund.
2. Authorizes publication of court dockets.
3. Supervises district courts.
4. Makes the assignment of judges to the various divisions and duties within the District Court, including docket assignments for District, Associate and Special Judges.
5. Approves assignment of court reporters within the administrative district.
6. Selects the Court Administrator with confirmation by the District Judges.
7. Calls conference meetings of District and Associate District Judges. Conference of judges shall take place at the call of the Presiding Administrative District Judge upon the request for a meeting being made to the Presiding Administrative Judge by any other District Judge.
8. Establishes jury terms and orders appearance of jurors.
9. Act as spokesperson for the Conference of District Judges.
10. Assigns judges to Courts of Tax Review upon assignment from the Supreme Court of Oklahoma.
11. Meets monthly with Assembly of Presiding Judges of the Oklahoma Judicial Conference.
12. Upon notification by the Public Defender, conducts inquiry and takes action if any person is irregularly confined to county jail.
13. Conducts or designates a judge to conduct private process server docket.
14. Authorizes use of the courtrooms by public groups.
15. Hears protests regarding the issuance of beverage licenses.
16. Any other matter directed to the Presiding Administrative Judge by statute or rule.

It is the City's position that the only category in which Judge McCurdy's Administrative Order at issue in this motion would fall under is subsection 16: Any other matter directed to the Presiding Administrative Judge by statute or rule. However, the City argues that there is no statute or rule that allows the Presiding Administrative Judge to order or dictate where the Chief of the Oklahoma City Police Department must take prisoners, with one limited exception, as discussed below.

II. Powers and Duties of Peace Officers

A municipal police officer has the power to make an arrest for any violation of state law or of the ordinances of their municipality, or a combination of both. 11 O.S. § 34-101(A). Such arrests may be made pursuant to an arrest warrant or without a warrant. In either situation, an arrested person "must, in all cases, be taken before [a] magistrate without unnecessary delay." 22 O.S. § 181. Judges of the district court, including associate district judges and special judges, are magistrates. 22 O.S. §162.

What is considered an unnecessary delay which would constitute denial of substantial rights depends upon the circumstances and facts of each case. *Luttrell v. Freeman*, 1968 OK CR 152, 444 P.2d 857, 859 (Under particular circumstances, delays of 8 days and 33 days were not prejudicial). "Following an arrest for a misdemeanor or felony offense and before formal charges have been filed or an indictment made, the arrested person may have bail set by the court." 22 O.S. § 1105.2. Article 2, Section 8 of the Oklahoma Constitution guarantees an accused the right to bail, subject to limited exceptions. *Brill v. Gurich*, 1998 OK CR 49, 965 P.2d 404, 405, as corrected (Sept. 23, 1998).

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As discussed below, there are two statutes that discuss where a person arrested for a “nonbailable” offense shall be detained, depending on whether the person was arrested with or without a warrant.

Arrest with a Warrant

In general, if a person is arrested upon a warrant, the officer “must take the defendant before the nearest or most accessible magistrate of the county in which the offense is triable.” 22 O.S. §184. However, if the offense charged in the warrant is a felony, the person is to be taken before the magistrate who issued the warrant. 22 O.S. §176. If the magistrate who issued the warrant is unavailable, the person may then be taken before another magistrate in the same county, in person or via video broadcast. 22 O.S. §176.

When arrested with a warrant for a “nonbailable” offense, 22 O.S. § 459 requires the arrested person to “be held in custody by the sheriff of the county *in which the indictment or information is filed.*” 22 O.S. § 459 (italics added for emphasis). Prior to charges being filed, whether bailable or nonbailable, state law does not specify whether the municipality or the county is responsible for detention. This question was addressed in Attorney General Opinion 84-93, which noted that while Section 42 of Title 57 requires county sheriffs to detain offenders *after* charges are filed, state law was silent on the question of who is responsible for detention *prior to* state charges being filed. See 57 O.S. § 42: The common jails in the several counties in the charge of the respective sheriffs, shall be used as prisons..... (1) for the detention of persons charged with offenses and duly committed for trial.

According to the Attorney General, “To the extent, then, that *Oklahoma law is silent on the question of whether the municipality or the county is responsible for the detention of state law violators arrested by municipal policemen prior to the time the arrestees are charged and duly committed for trial*, we conclude that this is a matter to be resolved

between municipal and county authorities. Further, the arresting municipal policeman, being a "peace officer" pursuant to 21 O.S. 99 (1981), is under a duty to secure the arrestee until the authorities resolve the matter." 1984 OK AG 93, ¶12 (italics added for emphasis). Until the matter is resolved, the municipal officer would secure the prisoner in the municipal jail, or in the case of Oklahoma City, in the Oklahoma County Jail with whom the City has contracted for the housing of municipal prisoners.

Arrest Without a Warrant

If a person is arrested for a "nonbailable" offense without a warrant, 22 O.S. §190.1 requires the arrested person to be held in the custody of the sheriff in the county in which the arrest was made. If the person is arrested without a warrant for an offense that is bailable, the provisions of 22 O.S. §190.1 do not apply.

As noted earlier, the statutes do not address who shall hold the person – the county or the municipal arresting officer – after a person is arrested without a warrant for a bailable offense, and no indictment or information is yet filed. Once the district attorney has filed charges, however, the Attorney General opined that "the county sheriff must accept the arrestee. Conversely, if state charges have not been filed, the county sheriff is not required to accept the municipal officer's arrestee." 2001 OK AG 12, ¶4.

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Sheriff for the housing of persons arrested by Oklahoma City police officers on municipal or state charges. If the Oklahoma County District Attorney files state charges against a person arrested by Oklahoma City police and held in the Oklahoma County Jail, the City will dismiss any municipal charges and the probable cause hold for state charges will be electronically transmitted to the Oklahoma County Jail, effectively transferring the person from the "custody" of the City to the custody of the County.

Finally, the statutes do contemplate a person being arrested in one county for charges that will ultimately be resolved in a different county. Title 22 O.S. §461, Bail Taken in Another County, provides that if a defendant is brought before a magistrate in another county for purpose of bail, the magistrate must proceed. Therefore, the statutes actually contemplate a defendant appearing before a magistrate of a different county because the defendant is in custody in a different county.

In any arrest, whether with or without a warrant and regardless of whether the offense is bailable or nonbailable, there is no question that the person shall be immediately taken to appear before a magistrate. Only when a person is arrested on a warrant do the statutes dictate to which specific magistrate the person should be taken. In a situation where the person shall be held in custody pending the filing of charges, the sheriff is not obligated to take custody of an arrestee until the district attorney has filed an information or indictment, although nothing would preclude the sheriff from taking custody prior to charges being filed. Until the sheriff takes custody, however, the municipal officer has a duty to secure the arrestee. If the municipality has an agreement with a sheriff by which

the sheriff will house the municipality's prisoners, the arrestee should be taken to that sheriff's jail.

It is the City's position that the only statute that allows this Court to order a person to be brought to Canadian County is 22 O.S. §453, Officer to Bring Defendant Before Court. This statute states that the court may direct the officer in whose custody he is to bring the defendant before the Court to be arraigned. Thus, the City would concede, that this Court may order a defendant to be brought to Canadian County before it for arraignment of the defendant.

As the Court is aware, the City of Oklahoma City corporate limits are located within four counties, including Oklahoma County and Canadian County. Because Oklahoma City does not operate its own jail, it has contracted with the Oklahoma County Detention Center (OCDC) for the preliminary detention of its prisoners. The reasons for the use of one County Jail for initial booking of its prisoners are numerous. Some of these reasons include, but are limited to, the following:

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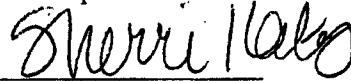
CONCLUSION

As previously argued, it is the position of the City of Oklahoma City that this court does not have authority to order where the Oklahoma City Police Department must initially detain its prisoners. Oklahoma City police officers who arrest persons without a warrant for a bailable offense in a county other than Oklahoma County, should be allowed to continue to take that person to the Oklahoma County Jail for booking, based on longstanding practice and the reasons detailed above. If state charges are later filed in Canadian County, the court, pursuant to 22 §453 may direct the officer in whose custody the defendant is to bring that defendant before the court for Arraignment. Other than that statute, the City asserts that there is no other statute which gives this Court the authority to enter the Administrative Order AO-2020-3, entered on April 10, 2020. Additionally, the

entry of this administrative order is not authorized under Cleveland County Local Rule 26, and Title 20 §91.8, states that local rules and administrative orders shall not conflict with any statutes of this state or any rules of a superior court. Therefore, the City of Oklahoma City requests this court vacate or rescind AO-2020-3 entered on April 10, 2020.

Respectfully Submitted,

KENNETH JORDAN
Municipal Counselor



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rich.mann@okc.gov
sherri.katz@okc.gov
katie.goff@okc.gov
Attorneys for The City of Oklahoma City

CERTIFICATE OF SERVICE

I hereby certify that on the 10 day of June, 2020, a true and correct copy of the Motion to Vacate Administrative Order Entered on April 10, 2020 Suspending Transportation of Inmates Detained in Oklahoma County and Request for Hearing was mailed by depositing in the US Mail, postage prepaid to the following:

Jack D. McCurdy II, Chief Judge
Chief Judge, Canadian County
El Reno, OK 73069


Assistant Municipal Counselor

NOTICE OF HEARING

To: Jack D. McCurdy II, Chief Judge
Canadian County
El Reno, OK 73069

This motion is set for hearing before the Honorable Judge McCurdy on the 21st day
of JULY, 2020, at 9 AM.



IN THE DISTRICT COURT OF CLEVELAND COUNTY, STATE OF OKLAHOMA

IN RE DETENTION CLEVELAND COUNTY, OKLAHOMA } s.s.
ARRESTEES IN OK CO JAIL, Plaintiff(s) **FILED**

Attorney(s) for Plaintiff(s)

- VS -

JUL 06 2020

Case No. AO-2020-1 TB

In the office of the
Defendant Court Clerk MARILYN WILLIAMS

Attorney(s) for Defendant(s)

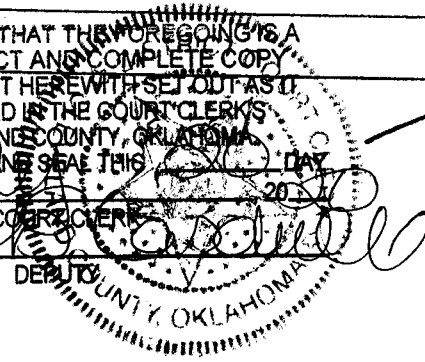
SUMMARY ORDER

Date: July 6, 2020 Court Reporter _____

Judge: Balkman

Hearing on The City of Oklahoma City's Motion to Vacate the Administrative Order issued on April 1, 2020 is Stricken as moot. The City of Oklahoma City's public comment (although improperly styled as a Motion to Vacate) on the Administrative Order of April, 2020 is duly noted by the Court.

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HEREWITH SET OUT AS IT APPEARS ON RECORD IN THE COURT CLERK'S OFFICE OF CLEVELAND COUNTY, OKLAHOMA. WITNESS MY HAND AND SEAL THIS _____ DAY OF _____ 20____
BY: _____
DEPUTY COURT CLERK



Brad Balkman
JUDGE





FILED
MARIE HIRST COURT CLERK
CANADIAN COUNTY, OKLAHOMA

JUL 17 2020

IN THE DISTRICT COURT OF CANADIAN COUNTY
STATE OF OKLAHOMA

CASE # AO-2020-3

BY [Signature]
DEPUTY

IN RE: DETENTION OF
CANADIAN COUNTY ARRESTEES
IN OK COUNTY JAIL

VS.

Attorney for Plaintiff

Attorney for Defendant

COURT MINUTE

DATE: 7/17/20

JUDGE: JACK M'CUROY

HEARING ON: MOTION TO VACATE

RULING BY COURT: THE COURT FINDS THAT THIS MATTER
IS CURRENTLY SET FOR EVIDENTIARY HEARING
ON JULY 21, 2020. THE COURT HAVING REVIEWED
THE MOTION FINDS THAT AN EVIDENTIARY
HEARING IS NOT NECESSARY AND WOULD BE OF
NO BENEFIT TO THE COURT. AS SUCH THE
COURT FINDS THAT THE MOTION SHOULD BE
AND IS HEREBY DENIED.

Approved: _____
Attorney for Plaintiff

Approved: _____
Plaintiff

Approved: _____
I, Marie Hirst, Court Clerk of Canadian
County, Oklahoma, certify that the
above and foregoing is a true and correct
copy as the same is in my office.
BY [Signature]
DATED 7.17.2020 DEPUTY

Approved: _____
Defendant

[Signature]
JUDGE OF THE DISTRICT COURT
JACK D. M'CUROY II



Katz, Sherri

From: Clifton, Jason S
Sent: Monday, July 6, 2020 9:45 AM
To: Mike Hunter
Cc: Minner, Joshua M; Green, Blake; paul.hesse@oscn.net; Katz, Sherri; jack.mccurdy@oscn.net; Prenos@ccsheriff.net; Mary Ann Roberts; Gourley, Wade R; Krise, Stephen J; lori.walkley@oscn.net
Subject: FW: Draft proposal

General Hunter,

Below is offered language from OCPD on the transportation of out of county arrest:

Due to the current inability to achieve a mutually agreeable joint solution for transporting out of county arrestees, and because it recognizes the need for a workable solution, the OCPD proposes the following remedy and solution.

OCPD agrees to transport persons arrested in a county other than Oklahoma County to the county jail where the offense is triable, no later than twenty-four (24) hours, or by the next business day, if applicable, after charges have been accepted by the district attorney. OCPD investigators will communicate with the DA and advise when charges have been accepted for filing. Prior to charges being accepted, the arrestee will be held in the Oklahoma County Jail as a City prisoner.

Further, where needed, OCPD agrees to assist in establishing a video and communication connection with the Oklahoma County Jail to satisfy the right of an arrestee to appear before a magistrate.

This solution addresses the concerns of the court and is in compliance with all statutory requirements and, if agreed to, may be implemented in thirty days.

We appreciate your involvement in this matter and hope this accommodation will resolve the issue.

Jason Clifton

Jason Clifton, Deputy Chief
Oklahoma City Police Department
Administration Bureau
Jason.clifton@okc.gov
405-316-5070 (O)
405-990-3710 (M)





Probable Cause Affidavit

CM-20-075

County: CLEVELAND

Arrested Person

Last Name: TRINE First: SARAH MI: K

DOB: 08/26/1983 SS#: 443-82-8440 Arrest Date: 04/29/2020

Case #: 2020-0031788 Related Case #:

Offense (Warrantless arrest for State Felony or misdemeanor Charge) 21-843 5 ABUSE/NEGLECT/EXPLOITATION OR SEXUAL ABUSE OF CHILD F, 21-644.G DOMESTIC ASSAULT AND BATTERY IN PRESENCE OF CHILD M

Synopsis of arrest to include all elements of the charged crime:

On 04/29/2020 at approximately 2211 hours, I was dispatched to a domestic call at 1001 SW 131st St in Oklahoma City, Cleveland County AR Trine came home intoxicated and struck her 6 year-old female child's left arm demanding to take her iPad IP Patricia Trine, the AR's mother who owned the residence, said that she tried to get AR Trine to go to her room to sleep her drunkenness off and tried to separate the 6 year-old girl and the other 4 year-old girl away from AR Trine AR Trine refused and began to follow the children downstairs IP Patricia called the children's father, IP Modarelli to take the children The 6 year-old and 4 year-old girls are AR Trine's and IP Modarelli's children from a previous romantic relationship but were no longer together AR Trine and IP Modarelli do not live together at the said address

STATE OF OKLAHOMA S.S. CLEVELAND COUNTY FILED

MAY 07 2020

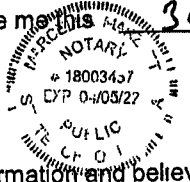
I swear the above information is true and correct to the best of my knowledge and belief

Officer: [Signature] Commission #: 2203

In the office of the Court Clerk MARILYN WILLIAMS

State of Oklahoma) County of Oklahoma) ss.

Subscribed and sworn to before me this 30 day of April, 2020



[Signature] Notary Public

My Commission Expires.

I have reviewed the above information and believe necessary elements exist for an arrest based on probable cause

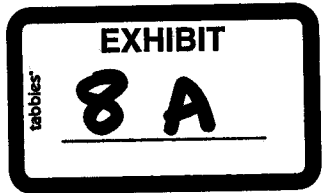
Supervisor: DUNCAN, TYLER Commission #: 1731

This court having conducted a probable cause determination for the above named person's arrest without a warrant finds:

- Probable cause for the person's arrest existed at the time of the arrest. Arraignment before a Magistrate is ordered
Probable cause for the person's arrest did NOT exist at the time of the arrest. The person is ordered released from custody immediately.

Done this ___ day of ___, at ___.

Judge of the District Court

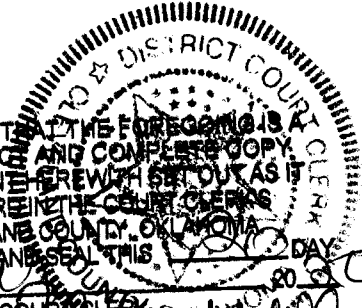


Probable Cause Affidavit
Continuation Sheet

Arrested Last Name: TRINE First: SARAH M.I. K

IP Modarelli arrived on scene in the driveway and placed his two children in his pickup truck to leave the scene. The two children were inside the vehicle when AR Trine attempted to enter the truck. IP Modarelli tried to physically stop AR Trine as AR Trine was yelling and cursing at her children. AR Trine grabbed the keys from IP Modarelli, began to strike IP Modarelli with her fists on the face as her children watched the incident, and was able to grab the keys. AR Trine then picked up a brick from the front lawn's flower bed. AR Trine threw the brick at the passenger side window three times. On the third throw, the front passenger side window's glass shattered with the children inside the vehicle. The vehicle was an extended cab pickup truck and the children were in close proximity where the brick landed. The 4 year-old girl daughter's left hand finger was cut by shards of glass as the brick landed in the vehicle's console. IP Modarelli had visible red marks on his face, neck, and had a cut on his right foot from when AR Trine threw the brick and landed on his foot. The 6 year-old who was inside the vehicle recorded part of the incident from inside the pickup truck.

I HEREBY CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HERewith SET OUT AS IT APPEARS ON RECORD IN THE CLERK'S OFFICE OF CLEVELAND COUNTY, OKLAHOMA. WITNESS MY HAND AND SEAL THIS DAY OF SEPTEMBER 2010
BY Marilyn Williams
DEPUTY



Officer: *Chilton Helm* 910 Commission Number: 2203

Probable Cause Affidavit

Arrested Person

County: CLEVELAND

Last Name: TRINE

First: SARA

MI: K

DOB: 08/26/1983

SS#: 443-82-8440

Arrest Date: 04/29/2020

Case #: 2020-0031788

Related Case #:

Offense (Warrantless arrest for State Felony or misdemeanor Charge)

21-843.5 ABUSE/NEGLECT/EXPLOITATION OR SEXUAL ABUSE OF CHILD F, 21-644.G DOMESTIC ASSAULT AND BATTERY IN PRESENCE OF CHILD M

Synopsis of arrest to include all elements of the charged crime

On 04/29/2020 at approximately 2211 hours, I was dispatched to a domestic call at 1001 SW 131st St in Oklahoma City, Cleveland County. AR Trine came home intoxicated and struck her 6 year-old female child's left arm demanding to take her iPad. IP Patricia Trine, the AR's mother who owned the residence, said that she tried to get AR Trine to go to her room to sleep her drunkenness off and tried to separate the 6 year-old girl and the other 4 year-old girl away from AR Trine. AR Trine refused and began to follow the children downstairs. IP Patricia called the children's father, IP Modarelli to take the children. The 6 year-old and 4 year-old girls are AR Trine's and IP Modarelli's children from a previous romantic relationship but were no longer together. AR Trine and IP Modarelli do not live together at the said address.

I swear the above information is true and correct to the best of my knowledge and belief

Officer: Christian [Signature] Commission #: 2203

State of Oklahoma }
County of Oklahoma } ss.

Subscribed and sworn to before me this 30 day of April, 2020

My Commission Expires. [Signature] Notary Public

I have reviewed the above information and believe necessary elements exist for an arrest based on probable cause

Supervisor: DUNCAN, TYLER Commission #: 1731

This court having conducted a probable cause determination for the above named person's arrest without a warrant finds:

- Probable cause for the person's arrest existed at the time of the arrest.
 Arraignment before a Magistrate is ordered
 Probable cause for the person's arrest did NOT exist at the time of the arrest. The person is ordered released from custody immediately.

Done this 30 day of April, 2020, at 9:00 AM



[Signature] Judge of the District Court

No Bail
Per statute
OKC PD transport
defendant to
court within
48 hours

Probable Cause Affidavit

Continuation Sheet

Arrested Last Name: TRINE

First: SARAH

M.I. K

IP Modarelli arrived on scene in the driveway and placed his two children in his pickup truck to leave the scene. The two children were inside the vehicle when AR Trine attempted to enter the truck. IP Modarelli tried to physically stop AR Trine as AR Trine was yelling and cursing at her children. AR Trine grabbed the keys from IP Modarelli, began to strike IP Modarelli with her fists on the face as her children watched the incident, and was able to grab the keys. AR Trine then picked up a brick from the front lawn's flower bed. AR Trine threw the brick at the passenger side window three times. On the third throw, the front passenger side window's glass shattered with the children inside the vehicle. The vehicle was an extended cab pickup truck and the children were in close proximity where the brick landed. The 4 year-old girl daughter's left hand finger was cut by shards of glass as the brick landed in the vehicle's console. IP Modarelli had visible red marks on his face, neck, and had a cut on his right foot from when AR Trine threw the brick and landed on his foot. The 6 year-old who was inside the vehicle recorded part of the incident from inside the pickup truck.

[Handwritten signature]

7702



Probable Cause Affidavit

CF-20-562

County: Cleveland

Arrested Person

Last Name: Bower First: Randy MI: _____

DOB: 03-31-82 SS#: 451-91-9323 Arrest Date: 04-30-2020

Case #: 2020-31967 Related Case #: _____

Offense (Warrantless arrest for State Felony or misdemeanor charge)
Domestic Assault and Battery by Strangulation 21-644.J, Domestic Assault and Battery (AFC) 21-644 C

Synopsis of arrest to include all elements of the charged crime:

On 04-30-2020 at approximately 1545 hours Sgt. Rodgers was dispatched to 19515 Newsome Rd, in reference to a Domestic call which occurred in Oklahoma City, Cleveland County. AR later identified as Bower, Randy was located at the scene upon Sgt. Rodgers arrival. VI-1 (AR's daughter) stated that AR came into the house while she was throwing crumbs across the floor. VI-1 and AR got into a verbal argument that became heated. VI-1 told Sgt. Rodgers AR put his hand around her throat (unknown which hand) and was holding VI-Bower in place. VI-1 stated AR did not try to choke her just hold her in place. VI-1 stated she did not lose consciousness or breath. VI-2 (AR's mother) heard screaming and came inside the residence. VI-2 stated she held AR in place by wrapping both hands around AR to stop him. AR head butted VI-2 while she was holding AR. VI-2 stated to Sgt. Rodgers when AR head butted

I swear the above information is true and correct to the best of my knowledge and belief.

Officer: Matt Stephenson Commission #: 1779

Digitally signed by Matt Stephenson
Date 2020.05.09 08:20:47 -05'00

STATE OF OKLAHOMA)
CLEVELAND COUNTY) S.S.

FILED

MAY 11 2020

State of Oklahoma)
County of Cleveland) SS.

In the office of the
Court Clerk MARILYN WILLIAMS

Subscribed and sworn to me this 11th day of May, 2020.

My Commission Expires _____



Jennifer Reed
Notary Public

I have reviewed the above information and believe the necessary elements exist for an arrest based on probable cause.

Supervisor: [Signature] Commission #: 1062

This court having conducted a probable cause determination for the above named person's arrest without a warrant finds:

- Probable cause for the person's arrest existed at the time of the arrest. Arraignment before a Magistrate is ordered
- Probable cause for the person's arrest did NOT exist at the time of the arrest. The person is ordered released from custody immediately.

Done this _____ day of _____, 20____, at _____ m.

Judge of the District Court



Probable Cause Affidavit
Continuation Sheet

Arrested Last Name: Bower

First: Randy

MI: _____

VI-2 AR's head hit VI-2 tooth busted AR's nose open. VI-1 stated on the call to call taker that she was getting choked. While speaking with Sgt. Rodgers VI-1 denied ever being strangled.

While conducting my follow up investigation I listed to the 911 call. VI-1 is speaking with the 911 call taker and at one point you can hear VI-1 screaming "he is choking my grandma, he is choking my grandma". VI-1 also stated AR had head butted her to the 911 call taker.

Sgt. Rodger's advised VI-1 had no visible injuries. On Sgt. Rodgers BWC you can see AR have a mark on his nose from the altercation.

AR has been convicted for Domestic Abuse by Strangulation on 01-16-2019 by a guilty plea under CF-17-1113 in Cleveland County.

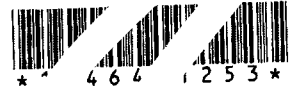


TO ★ DISTRICT COURT
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HEREAFTER SET OUT AS IT APPEARS ON RECORD IN THE COURT CLERK'S OFFICE OF CLEVELAND COUNTY, OKLAHOMA.
WITNESS MY HAND AND SEAL THIS _____ DAY OF _____ 20____
BY Marilyn Williams CLERK
DEPUTY

Officer: _____

Commission #: 1779

IN THE DISTRICT COURT OF THE TWENTY-FIRST JUDICIAL DISTRICT OF THE STATE OF OKLAHOMA SITTING IN AND FOR CLEVELAND COUNTY



THE STATE OF OKLAHOMA,

Plaintiff,

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

vs.

Case No. CF-2020-0654 (TB)

FILED

KEVIN BRANT ROBINSON

JUN 15, 2020

SSN: ***-**-5524

DOB: February, 1971

Defendant(s).

In the office of the
Court Clerk MARYLYN WILLIAMS

ISS
WRT

APPLICATION FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM

I, Greg Mashburn, the undersigned District Attorney of said County, in the name and by the authority and on behalf of the State of Oklahoma, state:

WHEREAS, by authority of Title 22 O.S. § 1151, the Judge of the District Court of Cleveland County, State of Oklahoma, has the power to issue a Writ of Habeas Corpus Ad Prosequendum for the purpose of bringing the body of any person confined in any prison or jail within this State to be surrendered in discharge of bail before said magistrate;

WHEREAS, KEVIN BRANT ROBINSON is a defendant in Felony Case Number CF-2020-0654, in the District Court of Cleveland County, State of Oklahoma, set for Arraignment - District Court on the 19th day of June, 2020 at 1:30 PM;

WHEREAS, the defendant is now confined in the Oklahoma County Sheriff's Office, or any other Department of Corrections Facility that may have current custody of defendant, and cannot voluntarily appear before the District Court of Cleveland County for said court hearing;

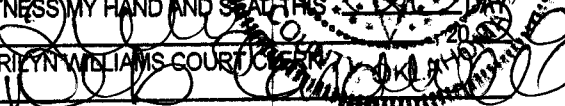
NOW, THEREFORE, the State of Oklahoma prays that the District Court issue a Writ of Habeas Corpus Ad Prosequendum directing the return of the defendant to Cleveland County, State of Oklahoma, for the purpose of said court hearing and thereafter directing his return to said facility.

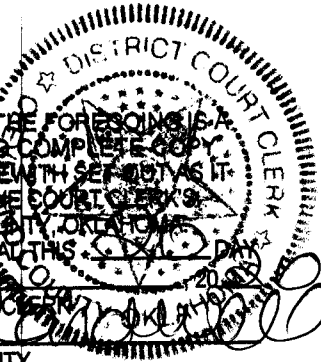
Dated this 11th day of June, 2020.

GREG MASHBURN
DISTRICT ATTORNEY

By: 
Assistant District Attorney

SG

I HEREBY CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HEREIN SET FORTH AS IT APPEARS ON RECORD IN THE COURT CLERK'S OFFICE OF CLEVELAND COUNTY, OKLAHOMA. WITNESS MY HAND AND SEAL THIS 11th DAY OF JUNE, 2020.
BY: 
DEPUTY



IN THE DISTRICT COURT OF CLEVELAND COUNTY, STATE OF OKLAHOMA, U.S.S. CLEVELAND COUNTY



State of Oklahoma

FILED

Plaintiff(s)

JUN 15 2020

Attorney(s) for Plaintiff(s)

- VS -

Case No. CF-2020-654

Kevin Brant Robinson

In the office of the

Deputy Clerk MARILYN WILLIAMS

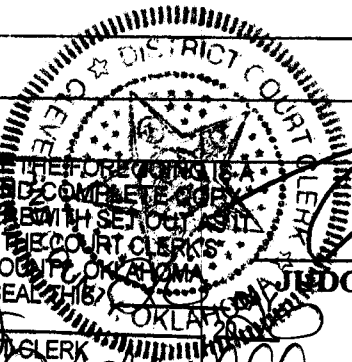
Attorney(s) for Defendant(s)

SUMMARY ORDER

Date: June 15, 2020 Court Reporter

Judge: Balkman

The Court is in receipt of the State's Application for Writ of Habeas Corpus Ad Prosequendum/Order to Transport. Writ to issue this date directing OCPD to transport the Defendant to CCDC instanter for purposes of appearing before a magistrate. The Defendant is detained in Oklahoma City on charges allegedly committed in Cleveland County.



I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HEREBY SET FORTH AS IT APPEARS ON RECORD IN THE COURT CLERK'S OFFICE OF CLEVELAND COUNTY, OKLAHOMA. WITNESS MY HAND AND SEAL THIS 15th DAY OF JUNE 2020. MARILYN WILLIAMS COURT CLERK BY [Signature] DEPUTY

[Signature: Rod Balkman]



IN THE DISTRICT COURT OF THE TWENTY-FIRST JUDICIAL DISTRICT OF T
OKLAHOMA SITTING IN AND FOR CLEVELAND COUNTY



THE STATE OF OKLAHOMA,

Plaintiff,

vs.

GLORICIA WOODY

SSN: ***-**-4757
DOB: April, 1988

Defendant(s).

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

Case No. CF-2020-0573 (TB)

FILED

JUN 15 2020

ISS
WRIT

In the office of the
Court Clerk MARILYN WILLIAMS

APPLICATION FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM

I, Greg Mashburn, the undersigned District Attorney of said County, in the name and by the authority and on behalf of the State of Oklahoma, state:

WHEREAS, by authority of Title 22 O.S. § 1151, the Judge of the District Court of Cleveland County, State of Oklahoma, has the power to issue a Writ of Habeas Corpus Ad Prosequendum for the purpose of bringing the body of any person confined in any prison or jail within this State to be surrendered in discharge of bail before said magistrate;

WHEREAS, GLORICIA WOODY is a defendant in Felony Case Number CF-2020-0573, in the District Court of Cleveland County, State of Oklahoma, set for Arraignment - District Court on the 19th day of June, 2020 at 1:30 PM;

WHEREAS, the defendant is now confined in the Oklahoma County Sheriff's Office, or any other Department of Corrections Facility that may have current custody of defendant, and cannot voluntarily appear before the District Court of Cleveland County for said court hearing;

NOW, THEREFORE, the State of Oklahoma prays that the District Court issue a Writ of Habeas Corpus Ad Prosequendum directing the return of the defendant to Cleveland County, State of Oklahoma, for the purpose of said court hearing and thereafter directing her return to said facility.

Dated this 10th day of June, 2020.

GREG MASHBURN
DISTRICT ATTORNEY

By: *M. P. Jones*
Assistant District Attorney

I HEREBY CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HEREWITH SET OUT AS IT APPEARS ON RECORD IN THE COURT CLERK'S OFFICE OF CLEVELAND COUNTY, OKLAHOMA. WITNESS MY HAND AND SEAL THIS 10th DAY OF JUNE 2020.
BY: *Marilyn Williams*
DEPUTY

EXHIBIT
8F

IN THE DISTRICT COURT OF CLEVELAND COUNTY, STATE OF



State of Oklahoma

Plaintiff(s) STATE OF OKLAHOMA, S.S.
CLEVELAND COUNTY

Attorney(s) for Plaintiff(s)

- vs -

Case No. CF-2020-573

FILED

Gloricia Woody

Defendant(s)

JUN 15 2020

Attorney(s) for Defendant(s)

SUMMARY ORDER

Date: June 15, 2020

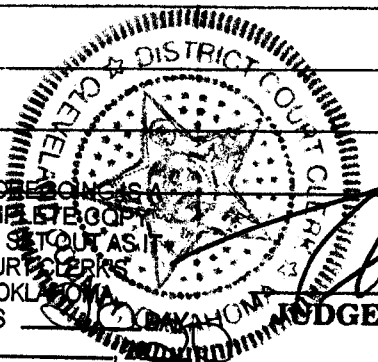
Court Reporter

in the office of the Court Clerk MARILYN WILLIAMS

Judge:

Balkman

The Court is in receipt of the State's Application for Writ of Habercus Corpus Ad Prosequendum/Order to Transport. Writ to issue this date directing OCPD to transport the Defendant to CCDC instanter for purposes of appearing before a magistrate. The Defendant is detained in Oklahoma City on charges allegedly committed in Cleveland County.



I HEREBY CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT AND COMPLETE COPY OF THE INSTRUMENT HEREWITH SET OUT AS IT APPEARS ON RECORD IN THE COURT CLERK'S OFFICE OF CLEVELAND COUNTY, OKLAHOMA. WITNESS MY HAND AND SEAL THIS DAY OF MAY 2020.
MARILYN WILLIAMS COURT CLERK
BY: [Signature] DEPUTY

[Signature: Rod Balkman]



IN THE DISTRICT COURT OF CANADIAN COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,)
Plaintiff,)
v.)

Case No. CF-2020-303

DAVID MARK FELIX,
Defendant.

ISSUED

6/22/2020
MARIE HIRST
COURT CLERK, CANADIAN COUNTY

WRIT OF HABEAS CORPUS

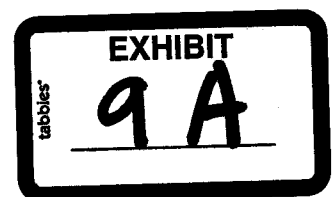
THE STATE OF OKLAHOMA TO: Police Chief Wade Gourley
Oklahoma City Police Department
700 Colcord Drive
Oklahoma City, Oklahoma

WHEREAS, David Mark Felix, the above named defendant, has been charged by information in the District Court of Canadian County in the above styled and numbered case with the felony offense of Pointing a Firearm, in violation of 21 O.S. § 1289.16;

WHEREAS, the Defendant was arrested without a warrant for the above or related offense(s) on June 7, 2020, in Canadian County, by an Oklahoma City Police Officer and was then transported from the location of his arrest to the Oklahoma County Jail where he has remained incarcerated since the date of his arrest;

WHEREAS, the Defendant is not currently being held at the Oklahoma County Jail on any unrelated violation of law or warrant;

WHEREAS, Canadian County District Court Administrative Order AO-2020-3, filed on April 10, 2020, provides that "all persons arrested within Canadian County for



crimes allegedly committed and triable within Canadian County shall be transported to the Canadian County jail ...”;

WHEREAS, Canadian County Sheriff Chris West has announced that he will no longer transport Oklahoma City arrestees from the Oklahoma County Jail to the Canadian County Jail without a warrant or writ commanding him to do so;

WHEREAS, Section 181 of Title 22 of the Oklahoma Statutes provides that a “defendant must, in all cases, be taken before the magistrate without unnecessary delay”;

and

WHEREAS, pursuant to Section 1151 of Title 22 of the Oklahoma Statutes, a judge of the district court has the power to issue writs of habeas corpus for the purpose of bringing the body of any person confined in any prison before them, to testify or be surrendered in discharge of bail.

IT IS THEREFORE ORDERED that Police Chief Wade Gourley, or any person having custody of David Mark Felix, immediately produce and deliver David Mark Felix to the undersigned District Court Judge at the Canadian Courthouse in El Reno, Oklahoma, if David Mark Felix remains incarcerated at the Oklahoma County Jail when this writ is delivered and served.

IT IS SO ORDERED this 22nd day of June, 2020.



PAUL HESSE
JUDGE OF THE DISTRICT COURT

RETURN OF SERVICE

I received this Writ of Habeas Corpus on the _____ day of June, 2020, and executed the same on the _____ day of June, 2020, by _____.

OKLAHOMA COUNTY SHERIFF P.D. TAYLOR

BY DEPUTY SHERIFF

I, Marie Hirst, Court Clerk of Canadian County, Oklahoma, do hereby certify that the above and foregoing is a true and correct copy as the same in my office.

BY [Signature]
DATED 6/22/2020 DEPUTY

IN THE DISTRICT COURT OF CANADIAN COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,)
Plaintiff,)

v.

JOSE ANTONIO CRUZ,
Defendant.

Case No. CF-2020-307

ISSUED

6/22/2020

MARIE HIRST
COURT CLERK, CANADIAN COUNTY

WRIT OF HABEAS CORPUS

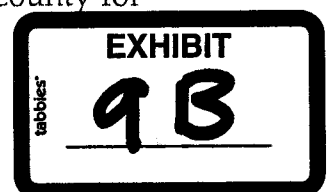
THE STATE OF OKLAHOMA TO: Police Chief Wade Gourley
Oklahoma City Police Department
700 Colcord Drive
Oklahoma City, Oklahoma

WHEREAS, Jose Antonio Cruz, the above named defendant, has been charged by information in the District Court of Canadian County in the above styled and numbered case with the felony offenses of Pointing a Firearm, in violation of 21 O.S. § 1289.16, and Possession of a Firearm After Former Felony Conviction, in violation of 21 O.S. § 1283;

WHEREAS, the Defendant was arrested without a warrant for the above or related offense(s) on June 7, 2020, in Canadian County, by an Oklahoma City Police Officer and was then transported from the location of his arrest to the Oklahoma County Jail where he has remained incarcerated since the date of his arrest;

WHEREAS, the Defendant is not currently being held at the Oklahoma County Jail on any unrelated violation of law or warrant;

WHEREAS, Canadian County District Court Administrative Order AO-2020-3, filed on April 10, 2020, provides that "all persons arrested within Canadian County for



crimes allegedly committed and triable within Canadian County shall be transported to the Canadian County jail ...”;

WHEREAS, Canadian County Sheriff Chris West has announced that he will no longer transport Oklahoma City arrestees from the Oklahoma County Jail to the Canadian County Jail without a warrant or writ commanding him to do so;

WHEREAS, Section 181 of Title 22 of the Oklahoma Statutes provides that a “defendant must, in all cases, be taken before the magistrate without unnecessary delay”;

and

WHEREAS, pursuant to Section 1151 of Title 22 of the Oklahoma Statutes, a judge of the district court has the power to issue writs of habeas corpus for the purpose of bringing the body of any person confined in any prison before them, to testify or be surrendered in discharge of bail.

IT IS THEREFORE ORDERED that Police Chief Wade Gourley, or any person having custody of Jose Antonio Cruz, immediately produce and deliver Jose Antonio Cruz to the undersigned District Court Judge at the Canadian Courthouse in El Reno, Oklahoma, if Jose Antonio Cruz remains incarcerated at the Oklahoma County Jail when this writ is delivered and served.

IT IS SO ORDERED this 22nd day of June, 2020.



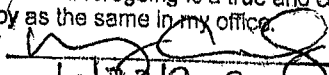
PAUL HESSE
JUDGE OF THE DISTRICT COURT

RETURN OF SERVICE

I received this Writ of Habeas Corpus on the _____ day of June, 2020, and executed the same on the _____ day of June, 2020, by _____.

OKLAHOMA COUNTY SHERIFF P.D. TAYLOR

BY DEPUTY SHERIFF

I, Marie Hirst, Court Clerk of Canadian County, Oklahoma, do hereby certify that the above and foregoing is a true and correct copy as the same in my office.
BY 
DATED 6/22/2020 DEPUTY

1 DOC

IN THE DISTRICT COURT OF CANADIAN COUNTY
STATE OF OKLAHOMA

ISSUED
7/7/2020
MARIE HIRST
COURT CLERK CANADIAN COUNTY

THE STATE OF OKLAHOMA,)
Plaintiff,)
v.)
RUSTY ALAN GLAZIER,)
Defendant.)

Case No. CF-2020-334

WRIT OF HABEAS CORPUS

THE STATE OF OKLAHOMA TO: Police Chief Wade Gourley
Oklahoma City Police Department
700 Colcord Drive
Oklahoma City, Oklahoma

WHEREAS, Rusty Alan Glazier, the above named defendant, has been charged by information in the District Court of Canadian County in the above styled and numbered case with the felony offense of Stalking, in violation of 21 O.S. § 1173;

WHEREAS, the Defendant was arrested without a warrant for the above or related offense(s) on June 17, 2020, in Canadian County, by an Oklahoma City Police Officer and was then transported from the location of his arrest to the Oklahoma County Jail (now the Oklahoma County Detention Center) where he has remained incarcerated since the date of his arrest;

WHEREAS, the Defendant is not currently being held at the Oklahoma County Detention Center on any unrelated violation of law or warrant;

WHEREAS, Canadian County District Court Administrative Order AO-2020-3, filed on April 10, 2020, provides that "all persons arrested within Canadian County for

EXHIBIT
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crimes allegedly committed and triable within Canadian County shall be transported to the Canadian County jail ...”;

WHEREAS, Canadian County Sheriff Chris West has announced that he will no longer transport Oklahoma City arrestees from the Oklahoma County Detention Center to the Canadian County Jail without a warrant or writ commanding him to do so;

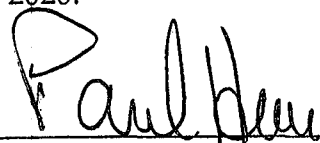
WHEREAS, Section 181 of Title 22 of the Oklahoma Statutes provides that a “defendant must, in all cases, be taken before the magistrate without unnecessary delay”;

and

WHEREAS, pursuant to Section 1151 of Title 22 of the Oklahoma Statutes, a judge of the district court has the power to issue writs of habeas corpus for the purpose of bringing the body of any person confined in any prison before them, to testify or be surrendered in discharge of bail.

IT IS THEREFORE ORDERED that Police Chief Wade Gourley, or any person having custody of Rusty Alan Glazier, immediately produce and deliver Rusty Alan Glazier to the undersigned District Court Judge at the Canadian Courthouse in El Reno, Oklahoma, if Rusty Alan Glazier remains incarcerated at the Oklahoma County Detention Center when this writ is delivered and served.

IT IS SO ORDERED this 7th day of July, 2020.



PAUL HESSE
JUDGE OF THE DISTRICT COURT

RETURN OF SERVICE

I received this Writ of Habeas Corpus on the _____ day of July, 2020, and executed the same on the _____ day of July, 2020, by _____.

OKLAHOMA COUNTY SHERIFF P.D. TAYLOR

BY DEPUTY SHERIFF

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I, Marie Hirst Court Clerk of Canadian County Oklahoma do hereby certify that the above and foregoing is a true and correct copy as the same in my office.

BY Richard Bradley
DATED 7-7-2020 DEPUTY

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

IN RE: TRANSPORT ORDER

)
)

AO-2020-1

ORDER TO TRANSPORT

THE STATE OF OKLAHOMA TO:

Wade Gourley, Chief of Police, Oklahoma City Police Department
P.D. Taylor, Sheriff, Oklahoma County, Oklahoma/Oklahoma County Jail Trust Authority

NOW on the 19 day of July, 2020, upon the presentation of the Probable Cause Affidavit (PC Affidavit) by the Oklahoma City Police Department (OCPD) on 7-19-20, this Court finds that Jacob Trillo, was arrested without a warrant pursuant to 22 O.S. §196 for an offense(s) alleged to have been committed in Cleveland County, State of Oklahoma (PC Affidavit attached). The defendant is now confined by OCPD in the Oklahoma County Jail since his/her arrest on 7-19-20, in violation of AO-20-1.

The Court further finds and Orders:

X PROBABLE CAUSE FOR THE PERSON'S ARREST EXISTED AT THE TIME OF THE ARREST. PER 22 O.S. §§183, 453, et al., DEFENDANT IS ORDERED TO BE TRANSPORTED BY THE OFFICER HAVING CUSTODY OF THE DEFENDANT TO THE CLEVELAND COUNTY DETENTION CENTER (CCDC)

IMMEDIATELY

WITHIN 24 HOURS

WITHIN 48 HOURS

NO BOND PER STATUTE

BOND IS SET AT: 4,000-

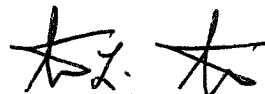
PROBABLE CAUSE FOR THE PERSON'S ARREST DID NOT EXIST AT THE TIME OF THE ARREST. DEFENDANT IS ORDERED RELEASED FROM CUSTODY IMMEDIATELY.

Defendant shall be transported to the CCDC by OCPD by virtue of their arrest of the defendant or by the OCSO/Jail Trust Authority, by virtue of their contract with the City of Oklahoma City for the detention of persons arrested by the OCPD. A determination of or a dispute between those entities regarding who shall be responsible for transport shall not be just cause for the violation of this Order or to delay the transport of the defendant.

This order shall be transferred from an Administrative Order filing to any case filed by the State of Oklahoma against the person named above and will be sealed and/or stricken from the AO filing category upon transfer.

IT IS FURTHER ORDERED that Wade Gourley, Chief of Police of the Oklahoma City Police Department is hereby ordered to appear on the 21 day of July, 2020 at 3:30 AM - 5:00 PM to show-cause why the Administrative Order (AO-20-1) filed April 1, 2020 was violated by the arrest and detention of the above named individual in the Oklahoma County Jail. Failure to appear as ordered shall result in the issuance of a bench warrant pursuant to Oklahoma statutes.

IT IS SO ORDERED this 19 day of July, 2020.



JUDGE OF THE DISTRICT COURT



Probable Cause Affidavit

Arrested Person

County: CLEVELAND

Last Name: TRILLO First: JACOB MI: F

DOB: 07/23/1997 SS#: 441-11-7315 Arrest Date: 07/19/2020

Case #: 2020-0054750 Related Case #:

Offense (Warrantless arrest for State Felony or misdemeanor Charge)
47-11.902 DUI/APC - 2ND OFFENSE LIQUOR OR DRUGS F (DUI)

Synopsis of arrest to include all elements of the charged crime:

On 7-19-20 at 0355 hours, I was dispatched to the 100 block of SW 175th in OKC, Cleveland county in reference to a male passed out in a vehicle. Upon my arrival, I observed AR sitting in his vehicle with the door open and his legs hanging out. The vehicle was running. I approached the vehicle and observed AR slumped over, passed out in the drivers seat. I asked AR several times to wake up. AR did not. I sternum rubbed AR several times. AR eventually woke up. Once I began speaking to AR, I observed an odor of an alcoholic beverage on AR's breath. There were also two bottles of liquor sitting in the seat next to AR. I had AR stand up and step out of the vehicle. AR did so but was very unsteady on his feet. AR's eyes were very red and bloodshot. AR spoke with very slurred speech. I placed AR under arrest for actual physical control of a motor vehicle. I tested AR's vehicle by driving it forward and backwards a short distance. I read AR the implied consent test request from the states website. When I asked AR if he would take the test, AR said "No, there's no reason to." AR has a previous DUI conviction in Oklahoma city on 6/19/16.

I swear the above information is true and correct to the best of my knowledge and belief.

Officer: [Signature] Commission #: 1634

State of Oklahoma)
County of C) ss.

Subscribed and sworn to before me this 19 day of July, 20.

10-04-22
My Commission Expires:

[Signature]
Notary Public



I have reviewed the above information and believe necessary elements exist for an arrest based on probable cause.

Supervisor: RICKETTS, WILLIAM Commission #: 1275

This court having conducted a probable cause determination for the above named person's arrest without a warrant finds:

- Probable cause for the person's arrest existed at the time of the arrest. Arraignment before a Magistrate is ordered
Probable cause for the person's arrest did NOT exist at the time of the arrest. The person is ordered released from custody immediately.

Done this ___ day of ___, at ___

* See attached order

Judge of the District Court