

IN THE COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA

[Your Full Name],  
Petitioner,

v.

State of Oklahoma,  
Respondent.

OCCA Case No: \_\_\_\_\_

District Court Case No: \_\_\_\_\_

# PETITION IN ERROR

COMES NOW the Petitioner, [Your Full Name], appearing pro se, and respectfully submits this Petition in Error pursuant to Rule 5.2(C) of the Rules of the Oklahoma Court of Criminal Appeals. Petitioner seeks review of the District Court of [Your County]'s denial of Petitioner's post-conviction motions. In support, Petitioner states:

---

## 1. Procedural History

Petitioner filed a timely Application for Post-Conviction Relief in the District Court of [County] County on November 19, 2024, under 22 O.S. § 1089, alleging, among

other claims, ineffective assistance of appellate counsel and prosecutorial misconduct (Brady/Napue violations).

Petitioner filed a Motion for Evidentiary Hearing on December 13, 2024 pursuant to 22 O.S. § 1084.

On March 3, 2025, Petitioner filed a Motion for Summary Judgment due to the State's failure to respond within the statutory 90-day deadline under 22 O.S. § 1089(D)(1).

On [Date of Order], the District Court denied both the evidentiary hearing and summary judgment, stating only that the motions were “not proper in the case at bar,” with no ruling on the underlying claims or acknowledgment of the State’s failure to respond.

---

## 2. Grounds for Review

Petitioner asserts that the District Court committed reversible error in the following ways:

### A. Improper Denial of Evidentiary Hearing

The District Court failed to grant an evidentiary hearing despite unresolved issues of material fact related to constitutional claims. Under 22 O.S. § 1084, Petitioner was entitled to a hearing on factual disputes that cannot be resolved from the record alone.

### B. Failure to Enforce 90-Day Deadline

Under 22 O.S. § 1089(D)(1)

The District Court erred by not enforcing the 90-day statutory limit for the State's response. The State filed no answer, nor did it request an extension or leave to file out of time. Petitioner's motion for summary judgment was proper and timely under Oklahoma post-conviction procedure.

### C. Denial Without Substantive Review of Claims

The Court failed to address the merits of Petitioner's claims — including ineffective assistance of appellate counsel and withheld exculpatory evidence — instead denying relief on vague procedural grounds without explanation.

---

### 3. Relief Requested

Petitioner respectfully requests that this Honorable Court:

1. Reverse the District Court's denial of Petitioner's post-conviction motions;
2. Remand the case for an evidentiary hearing;
3. Or in the alternative, grant post-conviction relief outright due to the State's failure to respond within the time required by law;

4. And grant any other relief this Court  
deems just and proper.

---

Respectfully submitted,

[space for signature]

[Your Full Name]

[Your DOC #]

[Facility Name]

[Facility Address]

[City, State ZIP]

Pro Se Petitioner

---

# CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2025, I mailed a true and correct copy of this Petition in Error, postage prepaid, to:

District Attorney

[Name & Address of DA's Office]

and

Clerk of the Court of Criminal Appeals

Oklahoma Judicial Center

2100 N. Lincoln Blvd., Suite 4

Oklahoma City, OK 73105

[space for signature]

[Your Full Name]



Now the brief

IN THE COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA

[Your Full Name],  
Petitioner,

v.

State of Oklahoma,  
Respondent.

OCCA Case No: \_\_\_\_\_

District Court Case No: \_\_\_\_\_

BRIEF IN SUPPORT OF PETITION IN ERROR

COMES NOW the Petitioner, [Your Full Name], appearing pro se, and submits this Brief in Support of his Petition in Error

pursuant to Rule 3.5 and Rule 5.2 of the Rules of the Oklahoma Court of Criminal Appeals. Petitioner respectfully requests that this Honorable Court reverse the District Court's denial of his post-conviction motions and grant the relief sought therein.

---

## STATEMENT OF THE CASE

On November 19, 2024, Petitioner filed a timely Application for Post-Conviction Relief in the District Court of [County] County, raising multiple constitutional claims including ineffective assistance of appellate counsel and prosecutorial misconduct, supported by newly presented evidence.

Pursuant to 22 O.S. § 1089(D)(1), the State of Oklahoma was required to respond within 90 days. The State failed to file any response or request for an extension. In response to this failure, Petitioner filed:

A Motion for Evidentiary Hearing on December 13, 2024, under 22 O.S. § 1084;

A Motion for Summary Judgment on March 3, 2025, based on the State's statutory non-compliance.

On [Date of Ruling], the District Court denied both motions, stating only that they were "not proper in the case at bar," without addressing the facts, claims, or statutory authority.

---

## PROPOSITIONS OF ERROR

PROPOSITION I: The District Court Erred in Failing to Enforce 22 O.S. § 1089(D)(1)

Title 22 O.S. § 1089(D)(1) mandates that the State respond to a post-conviction application within 90 days unless an extension is granted by the court. In the present case, the State filed no response, and made no request for leave to file out of time.

Petitioner's motion for summary judgment was based on this clear statutory violation. The district court failed to apply the law and gave no explanation for disregarding this mandatory timeline. This omission

constitutes reversible error.

---

## PROPOSITION II: The Denial of an Evidentiary Hearing Violates 22 O.S. § 1084

Under 22 O.S. § 1084, an evidentiary hearing is required when material issues of fact exist that cannot be resolved by the record alone. Petitioner submitted newly discovered evidence and raised claims—including prosecutorial suppression of exculpatory mental health information—that required factual resolution.

The district court summarily denied the hearing without addressing the underlying evidence or claims. This deprived Petitioner of a fair post-conviction process

and warrants reversal.

---

## PROPOSITION III: The District Court Abused Its Discretion by Denying Relief Without Addressing the Merits

The court's brief statement that the motions were "not proper" offers no legal reasoning, no application of statutory standards, and no consideration of the constitutional claims raised. This vague denial deprives the Petitioner of meaningful review and violates his rights to due process and access to post-conviction relief under both state and federal law.

In *Walker v. State*, 1997 OK CR 3, this Court

held that ineffective assistance of appellate counsel can be grounds for post-conviction relief where counsel's performance deprived the Petitioner of a fair opportunity to present meritorious issues. That is exactly what occurred here.

---

## CONCLUSION

Petitioner respectfully urges this Honorable Court to:

1. Reverse the district court's denial of post-conviction relief;
2. Remand the matter for an evidentiary hearing under 22 O.S. § 1084;

3. Alternatively, grant relief outright due to the State's failure to respond under 22 O.S. § 1089(D)(1);

4. And grant any further relief deemed just and proper.

Respectfully submitted,

[space for signature]

[Your Full Name]

[Your DOC #]

[Facility Name]

[Facility Address]

[City, State ZIP]

Pro Se Petitioner



# Cert of service

## CERTIFICATE OF SERVICE

I, [Your Full Name], hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2025, I mailed a true and correct copy of the foregoing Petition in Error and Brief in Support, postage prepaid, to the following:

Clerk of the Court of Criminal Appeals  
Oklahoma Judicial Center  
2100 N. Lincoln Blvd., Suite 4  
Oklahoma City, OK 73105

Honorable [Judge's Full Name]  
[District Court Address]  
[City, State ZIP]

[District Attorney's Full Name]  
District Attorney, [County] County

[DA Office Address]

[City, State ZIP]

Respectfully submitted,

[space for signature]

[Your Full Name]

[Your DOC #]

[Facility Name]

[Facility Address]

[City, State ZIP]

Pro Se Petitioner