

**IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA**

OCT 9 2003

JEFFREY ELLIS BARNETT, )  
)  
Petitioner, )  
)  
vs. )  
)  
STATE OF OKLAHOMA, )  
)  
Respondent. )

MICHAEL S. RICHIE  
CLERK

**NOT FOR PUBLICATION**

Case No. C 2002-1543

**SUMMARY OPINION GRANTING PETITION  
FOR WRIT OF CERTIORARI**

**LILE, VICE PRESIDING JUDGE:**

Jeffrey Ellis Barnett entered his plea of guilty to second-degree rape in violation of Title 21 O.S.2001, § 1111, in case no. CF-2001-121 in McClain County. The Honorable Noah Ewing, Associate District Judge, sentenced Petitioner to ten years imprisonment with five years suspended in accordance with a negotiated plea agreement. Petitioner filed his pro se petition for a new trial, which the court treated as a motion to withdraw plea of guilty. The trial court denied the motion and Petitioner has perfected his appeal by writ of certiorari.

Petitioner raises the following proposition of error in support of his appeal:

Petitioner was deprived of his Sixth Amendment right to assistance of counsel in pursuing his motion to withdraw his guilty plea.

After thorough consideration of the entire record before us on appeal including the original record, available transcripts, and Petitioner's brief, we

**GRANT** the Petition for Certiorari. In reaching our decision we find that Petitioner's case is remarkably similar to the case of *Carey v. State*, 1995 OK CR 55, 902 P.2d 1116. The result must be the same.

**DECISION**

Petitioner's Petition for Writ of Certiorari is **GRANTED** and the case is **REMANDED** to the trial court for a hearing on the motion to withdraw plea with Petitioner represented by different counsel.

**APPEARANCES AT TRIAL**

LARRY BONNELL  
120 NORTH 2<sup>ND</sup> STREET  
PURCELL, OK 73080  
ATTORNEY FOR DEFENDANT

GREG DIXON  
ASSISTANT DISTRICT ATTORNEY  
McCLAIN COUNTY  
121 NORTH 2<sup>ND</sup> STREET  
PURCELL, OK 73080  
ATTORNEY FOR STATE

**OPINION BY: LILE, V.P.J.**

**JOHNSON, P.J.: CONCURS**  
**LUMPKIN, J.: CONCURS**  
**CHAPEL, J.: CONCURS**  
**STRUBHAR, J.: CONCURS**

RA

**APPEARANCES ON APPEAL**

LEE ANN JONES PETERS  
APPELLATE DEFENSE COUNSEL  
INDIGENT DEFENSE SYSTEM  
P.O. BOX 926  
NORMAN, OK 73070  
ATTORNEY FOR PETITIONER

NO RESPONSE NEEDED