

was set for December 15, but entered a written order denying the motion on November 24. As Murray had raised an ineffective assistance claim, conflict counsel had been appointed for the motion to withdraw. When counsel appeared for the hearing he was told the motion had been denied by order. Counsel filed a brief in support of the motion to withdraw and asked that the hearing be reset for January 12, 2009; the State filed a response to counsel's brief on January 9, 2009. Counsel received written notice that the motion had again been denied without a hearing. A second summary order denying the motion is dated January 12, 2009. Nothing in the record indicates a hearing was ever held. There is no hearing transcript, no docket entry reflecting a hearing, and no court minute regarding a hearing.

The record shows neither party waived this hearing. According to our Rules, Murray is entitled to a hearing on his Motion to Withdraw.¹ A writ of certiorari is treated as an appeal of right from a guilty plea, and this Court's procedural Rules governing the method of that appeal have the force of law.² This Court has held that a hearing on a motion to withdraw a guilty plea is a critical stage of a criminal prosecution.³ The Petition for Writ of Certiorari is granted, the Motion to Supplement Appeal Record and Brief in Support of Motion filed on June 30, 2009 is granted, and the case is remanded to the

¹ Rule 4.2, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2009), provides: "The trial court shall hold an evidentiary hearing and rule on the application within thirty (30) days from the date it was filed."

² 22 O.S.2001, § 1051.

³ *Randall v. State*, 1993 OK CR 47, 861 P.2d 314, 316.

District Court of Custer County for a hearing on Murray's motion to withdraw his pleas.

Decision

The Petition for Writ of Certiorari is **GRANTED** and the case is **REMANDED** to the District Court of Custer County for a hearing on Murray's Motion to Withdraw Pleas. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2010), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

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OPINION BY: CHAPEL, J.

C. JOHNSON, P.J.: CONCUR
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LUMPKIN, J.: CONCUR
LEWIS, J.: CONCUR

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NO RESPONSE REQUIRED