

IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA  
OCT 19 1999  
JAMES W. PATTERSON  
CLERK

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

WILL AMMONS, IV., )  
 )  
Petitioner, )  
v. )  
 )  
STATE OF OKLAHOMA, )  
 )  
Respondent. )

NOT FOR PUBLICATION

Case No. C-99-556

OPINION GRANTING PETITION FOR WRIT OF CERTIORARI

CHAPEL, JUDGE:

On February 8, 1999, Petitioner Will Ammons, IV pleaded *nolo contendere* to the charge of First Degree Arson in violation of 21 O.S.1991, § 1401, Case No. CF-98-6373, in the District Court of Tulsa County. On March 29, 1999, the Honorable B.R. Beasley sentenced Ammons to five (5) years imprisonment and a \$500.00 fine. On April 8, 1999, Ammons filed a Motion to Withdraw guilty plea. The trial court held a hearing on the motion and overruled Ammons's application to withdraw his plea on April 9, 1999. From this denial, Ammons appeals.

Ammons raises the following proposition of error in support of his petition for Writ of Certiorari:

- I. The defendant was represented by counsel with a conflict of interest at the motion to withdraw plea hearing.

After thorough review of the entire record before us on appeal including the original record, transcripts, and brief of the Petitioner, we grant the Petition for a Writ of Certiorari in so far as we remand this matter to the district court for a proper hearing on the motion to withdraw guilty plea. Specifically, we agree

under Proposition I that Petitioner was represented at the hearing on the motion to withdraw his plea by an attorney with an actual conflict of interest, in violation of the Sixth Amendment's guarantee of effective assistance of counsel.<sup>1</sup>

### **Decision**

The Petition for a Writ of Certiorari is **GRANTED** and cause **REMANDED** to the District Court for a new hearing on the motion to withdraw plea in a manner consistent with this Opinion.

#### **ATTORNEYS AT TRIAL**

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TIM SUESS  
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TULSA, OKLAHOMA 74103  
ATTORNEY FOR THE STATE

#### **OPINION BY: CHAPEL, J.**

STRUBHAR, P.J.:        CONCUR  
LUMPKIN, V.P.J.:     CONCUR  
JOHNSON, J.:         CONCUR  
LILE, J.:              CONCUR

#### **ATTORNEYS ON APPEAL**

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<sup>1</sup> *Carey v. State*, 902 P.2d 1116, 1118 (Okla.Cr.1995); *Randall v. State*, 861 P.2d 314, 316 (Okla.Cr.1993).