



ORIGINAL

FILED
SUPREME COURT
STATE OF OKLAHOMA

SEP 10 2021

JOHN D. HADDEN
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,)
)
 Petitioner,)
)
 v.) Case No. 119839
)
 ADAM LUCK, INDIVIDUALLY AS)
 A MEMBER OF THE PARDON AND)
 PAROLE BOARD,)
)
 &)
)
 KELLY DOYLE, INDIVIDUALLY)
 AS A MEMBER OF THE PARDON)
 AND PAROLE BOARD,)
)
 Respondents.)

Received:	9/10/21
Docketed:	
Indexed:	
COL/DAC:	
COA/TUL:	

RESPONDENT, ADAM LUCK, AS AN INDIVIDUAL MEMBER OF THE OKLAHOMA PARDON AND PAROLE BOARD, RESPONSE TO PETITIONER’S MOTION TO RECUSE AND/OR DISQUALIFY FROM PARTICIPATING IN ANY AND ALL PROCEEDINGS RELATED TO JULIUS JONES FOR ACTUAL BIAS, CONFLICT OF INTEREST, AND THE APPEARANCE OF IMPROPRIETY

COMES NOW, the Respondent, Adam Luck (“Mr. Luck”), as an individual member of the Oklahoma Pardon and Parole Board (“Board”), responds to Petitioner’s Motion to Recuse or Disqualify and respectfully requests this Honorable Court to deny Petitioner’s Motion as untimely, untrue, and meant to disrupt a statutory proceeding without merit. Moreover, Petitioner’s motion is simply a veiled attempt to circumvent the executive power of the Governor as specifically set forth in Oklahoma’s Constitution. Petitioner has made it abundantly clear from his past actions and current motion that Petitioner has beliefs and ideas regarding criminal justice policies that are in opposition to the work and ideas articulated by Mr. Luck. That, of course, is politics. It is not however

grounds to compel Mr. Luck or any other Board member to recuse himself from performing his appointed duties.

Finally, Petitioner has come to this Court seeking relief – the removal of Mr. Luck from participating in Julius Jones’ commutation proceeding – but has not set forth any recognized legal remedy which would allow such relief. Instead, Petitioner is asking this Court to provide for a remedy that simply does not exist under Oklahoma law.

Because of the lack of time and opportunity to fully address the arguments set forth in Petitioner’s motion, Mr. Luck incorporates by reference the Board’s and Respondent Doyle’s and Julius Jones’ responses to the Petitioner’s motion.

I. PETITIONER’S MOTION SEEKS TO CIRCUMVENT THE EXECUTIVE POWERS OF THE GOVERNOR AS SET FORTH IN ARTICLE VI, SECTION 10 OF THE OKLAHOMA CONSTITUTION

On February 26, 2019 Luck was appointed to the Board by Governor J. Kevin Stitt in accordance with the Governor’s executive power set forth in Article VI, Section 10 of the Oklahoma Constitution. The Legislature has also set forth certain eligibility requirements for Board members. Title 57, Section 332.1B provides:

A. To be eligible for appointment as a Pardon and Parole Board member, a person shall possess a bachelor’s degree from an accredited college or university and have at least five (5) years of experience in one or more of the following fields:

1. Criminal justice;
2. Parole;
3. Corrections;
4. Criminal law;
6. Law enforcement;

7. Mental health services;
8. Substance abuse services; or
9. Social work.

B. At least two members of the Pardon and Parole Board shall have five (5) years of training or experience in mental health services, substance abuse services or social work.

Clearly the Legislature intended that in using its executive power, the Governor is free to appoint not only individuals experienced in criminal law, law enforcement and corrections, but also mental health services, substance abuse services and social work. In fact, at least two of the members are required to have experience in mental health, substance abuse or social work. Thus, it is evident that each member of the Board is expected to bring with them certain backgrounds and experiences in the performance of their duties on the Board. In discussing the role of the Board, the Court of Criminal Appeals in *Ex Parte Hibbs*, 190 P.2d 156, 158-59 (Okla. Crim. 1948), stated: "This is a very fine provision of the law, and affords an opportunity to Petitioner and all others who are confined in the penal institutions of this state to present their cases to an imminently qualified board for proper consideration – a board which may not only consider "justice", to which the courts are limited, but may extend "mercy", as the facts in each individual may justify."

It is also important to note that the Board has no adjudicatory power to commute a sentence. The Board's only duty is "to make an impartial investigation and study of applicants for commutations, pardons or paroles, and by a majority vote make its recommendations to the Governor of all deemed worthy of clemency." Okla. Const. Art.

VI, Sec. 10. "Discharge of an inmate from serving a lawful sentence rests solely with the Governor." *Fields v. Driesel*, 941 P.2d 1000, 1005 (Okla. Crim. 1997).

In addressing arguments that Mr. Luck's participation in this process somehow violates Oklahoma law, it is important to keep the constitutional executive power of the Governor in mind. Governor Stitt's appointment of Mr. Luck was based on the criteria set forth in 57 O.S. § 332.1B which necessarily included an extensive review of Mr. Luck's background, work history, training and experience. At the time of his appointment, Mr. Luck was already serving as the chief executive officer of City Care and was already a board member of CEO. Mr. Luck had also been serving an appointed position on the State Board of Corrections. With full knowledge of these facts, Governor Stitt appointed Mr. Luck to serve on the Board.

Petitioner asserts that Luck's background and work experience now disqualifies him from participating in the Julius Jones commutation proceeding. Simply put, Petitioner did not like the executive appointment of the Governor because Mr. Luck does not conform to Petitioner's own predisposed ideas and beliefs. However, Petitioner is not the Governor and his own desires as to who should be appointed to serve on the Board (someone who shares his own ideas and beliefs) cannot override those of the Governor's selection. Although Prater's argument is based on allegations of partiality and conflict of interest, it is actually a thinly veiled political disagreement which can never support the recusal or disqualification of an executive appointment.

II. PETITIONER'S UNTIMELY FILING IS A LITIGATION STRATEGY MEANT TO DISADVANTAGE LUCK AND DISRUPT THE CONSTITUTIONAL PARDON AND PAROLE PROCESS WITHOUT JUSTIFICATION

Mr. Luck requests the Court take notice of the timing of Petitioner's request as an apparent litigation strategy meant to disadvantage Mr. Luck. Petitioner's attempts to disqualify Respondent have been at issue since June 2020 when Petitioner, by and through the Oklahoma District Attorney's Council ("DAC"), filed an open records request with the Board requesting communications from all board members regarding topics including but not limited to "Julius Jones", "Death penalty", "Clemency", "District Attorney", and curiously "God" and "Jesus". (Mr. Luck's Ex. 1)

Only a month later in July of 2020 individually elected district attorneys began filing a series of boilerplate recusal requests (Mr. Luck's Ex. 2) that mirrored the accusations in Petitioner's pleading at issue. This was clearly a coordinated effort on the part of Petitioner and his colleagues to begin subverting the Governor's Board appointees and ultimately influence the case of Julius Jones.

Later, Petitioner filed a civil lawsuit that ultimately led to the action today. The accusations in this lawsuit were presented by the former Oklahoma Attorney General to a criminal grand jury which led to an investigation by the Oklahoma State Bureau of Investigation. Mr. Luck participated in requested interviews for said investigation months ago.

The commutation hearing of Julius Jones was set by the Board in July. At that time, Petitioner was provided notice of the commutation hearing. Rather than pursuing its motion to recuse or disqualify at that time, Petitioner waited until September 3, 2021,

immediately prior to the long holiday weekend, before presenting its motion, which included, a demand for a response by September 8, 2021 at noon. The response of Mr. Luck and the Board was determined in accordance with the Board's long-standing published policies and procedures (Policy 123). The response provided was not to Petitioner's liking so he filed the motion subject to this response on September 8, 2021 and an over 500 page supporting appendix on September 9, 2021 compelling the Court to issue an Order for responsive pleadings and oral argument due only one day later on September 10, 2021. The timing on Petitioner's filings is clearly an attempt to disrupt the September 13, 2021 commutation hearing and not due to any type of newly discovered information or any other legal justification for such a hasty last minute effort.

Petitioner has exhausted untold taxpayer resources in an attempt to influence the composition of a neutral and impartial board in which he and the DAC do not have the Constitutional authority to control. The timing of his latest effort is contemptuous and unnecessary. Petitioner's efforts have failed to achieve his desired result for over a year and his last-minute effort should be rejected.

III. THE STANDARDS CITED BY PETITIONER ARE NOT APPLICABLE

The Board is not subject to the same standards as adjudicatory boards. Petitioner asserts that members of the Board shall be held to the same conflict of interest standard as an "adjudicatory" board; however, "the same strict requirements applicable to adjudicators do not apply" to administrative boards that are not acting in an adjudicatory capacity. *Johnson v. Board of Governors of Registered Dentists of State of Okl.*, 1996 OK 41, 913 P.2d 1339, 1349. Petitioner fully admits this rule of law by stating "[t]his rule [of disqualification]

applies equally to administrative boards acting in an adjudicatory capacity. *See, Pet. 's App. to Assume Orig. Jurisdiction at 6* (citing to *Johnson*, 913 P.2d 1339, 1348). This Court's past holdings clearly show that the Parole Board is not an adjudicatory body. *See Shabazz v. Keating*, 1999 OK 26, 977 P.2d 1089, 1094 (“*Because no trial-type procedure governs a parole consideration . . . “ (emphasis original)*); *Phillips v. Williams*, 1980 OK 25, 608 P.2d 1131, 1134 (*finding that the Parole Board's recommendations are advisory only and not binding, therefore no liberty interest at issue*). Further evidencing the Board's lack of adjudicatory capacity, the Board has been explicitly exempt from application of Article II of the Oklahoma Administrative Procedures Act. 75 O.S. § 250.4(B). For these reasons, the standards to which Petitioner is requesting be upheld are not the correct standards to be applied to Mr. Luck.

Petitioner cites early and often to the conflict of interest standard “appearance of impropriety”. As Petitioner is aware, this standard is statutorily inapplicable until November 1, 2021. *See, Okla. House Bill 2773* (57 O.S. 332.15 (B) (2021)).

Petitioner even attempts to apply the standards of jury selection in his argument referencing the Criminal Procedure code. He argues that a member may be disqualified for subjective reasons to include the state of mind of a member. This argument misses the mark first for the reason that the Board, unlike a jury, does not make final decisions. They only make recommendations for commutation to the Governor and the Governor ultimately decides to agree or disagree with them. Second, and apparently to the dismay of the Petitioner, the impartial system designed by the Oklahoma Constitution does not allow a participant in the system, prosecuting attorneys, to have the power of preemptory strikes

of board members they do not agree with. The neutrality of the Board should be recognized and Petitioner's attempts to apply incorrect standards rejected.

IV. PETITIONER'S ATTEMPT TO DRAW A LINK BETWEEN MR. LUCK'S FULL-TIME EMPLOYMENT AS CEO OF A NON-PROFIT ORGANIZATION FOCUSED ON HOUSING HOMELESS INDIVIDUALS AND HIS DUTIES ON THE BOARD LACK SUBSTANCE

The Oklahoma Constitution, in creating the Board, required individuals appointed to have experience in the areas of criminal justice, parole, probation, corrections, criminal law, law enforcement, mental health services, substance abuse services, or social work. Respondent clearly meets this requirement. A thorough search of the eligibility requirements was performed as was a search of Petitioner's motion and Mr. Luck was unable to locate a provision or citation that prohibits that experience being gained through a rehabilitation, non-profit, or non-prosecutorial employer. In fact, Board membership includes a retired probation officer and former multi-term elected district attorney. By Petitioner's argued logic surely these board members demonstrate a lack of perceived impartiality requiring disqualification. One could easily argue their financial well-being is dependent on the existing criminal justice system and the success of participants like the Petitioner. However, these Board members are not pursued for disqualification by Petitioner, nor should they be.

V. PETITIONERS ALLEGATIONS OF A CONFLICT OF INTEREST FAIL TO CONNECT AN INTEREST BETWEEN A CERTAIN BOARD RESULT AND MR. LUCK'S PERSONAL GAIN

Petitioner's assertion that Mr. Luck benefits financially from the release of more "incarcerates" is faulty logic and completely unsupported factually. Petitioner has not and cannot establish any direct financial correlation between paroling prisoners and financial gain. This argument is tenuous and unsupportable because it is simply not true. City Care is funded in part by grants from the federal government (Housing and Urban Development). These grant monies were in place prior to Mr. Luck's employment with City Care and are completely unrelated to post-incarceration services. City Care's state funding has also been in place since before Mr. Luck's employment and only relates to City Care's "Whiz Kids" program. Thus, City Care's services to the homeless and children's mentoring programs have no financial connection to inmates being released on parole. Further, this section of Petitioner's argument fails to even mention Julius Jones or argue why Mr. Luck serves to financially benefit from his commutation. Mr. Luck is the CEO of a non-profit organization that provides homeless services, housing, and children's mentoring. Petitioner's argument seems to revolve around the concept that if Mr. Luck can create more homelessness through his position on the Board, then the non-profit he leads will become more successful. Of course, this argument is antithetical to the mission of non-profit organizations and espouses an overly cynical view of any organization that may provide post-incarceration services.

Petitioner argues that "following the money is always a great place to find motives" and then attempts to argue Mr. Luck's receipt of a salary as leader of City Care and unpaid

board position on the Center for Economic Opportunities ("CEO") creates a motive to pervert the appointed position he has with the Board. Petitioner then spends several pages loosely tying numbers together stating that City Care received "1.6 million from government sources", CEO, a national organization, received "1.2 million in 2019" from a contract with the State of Oklahoma, and that the salary increases of these organizations are "astronomical compared to the rest of society". In using Petitioner's own logic, it should be noted by this Court that over 50% of Petitioner's office budget is collected by his office from offenders. In fiscal year 2018, the total budget of the District Attorney's Council was \$85,500,867.00. Over 50% of this amount is collected by prosecutors from offenders, 9% collected by the Courts, and 41% appropriated by the Legislature. Petitioner's elected office, District 7, is the largest prosecution office in the State and has a budget that is driven largely by collections from offenders they prosecute, that far exceeds the budget of City Care. Petitioner attempts to loosely tie Mr. Luck's financial viability to individuals released from incarceration whereas Petitioner's budget is directly tied to the volume of individuals he prosecutes. Petitioner's assertions that Mr. Luck has a financial incentive to vote a certain way in his position on the Board should be rejected and Petitioner's own financial agenda should be questioned.

VI. ATTACKS ON MR. LUCK'S "PERSONAL POLITICAL AGENDA" SHOULD BE DISCARDED

Petitioner introduces several articles and social media posts authored by Mr. Luck that are supportive of certain efforts broadly lumped into criminal justice reform. It is clear Petitioner, along with his peers at DAC, are strongly opposed to the concept of reforming the criminal justice system in any way. As previously pointed out, their financial viability

along with their career ambitions are strongly tied to keeping the system funded. Mr. Luck's position on the Board is appointed by the Governor of Oklahoma and regulated by the Oklahoma Constitution. Although Petitioner keeps referring to case law intended for juries that requires "cold neutrality" and alleges Mr. Luck does not demonstrate the ability to be neutral, Petitioner fails to cite any examples of votes or other actions by Mr. Luck in serving on the Board that violate his duty of impartiality. Certainly, there is no requirement that Board members cannot have opinions.

Petitioner goes on to cite Mr. Luck's social media posts and alleges Mr. Luck is somehow biased because he is active in encouraging the public to be aware of the role of the Board and when hearings are occurring. Mr. Luck provides regular updates to the public as allowed under board rules and arguably sets the standard for transparency often not found in government. This argument is disappointing as it fails to provide context to any of the alleged violations of board rules. Further, this argument by Petitioner seems to lodge on a personal offense taken by Petitioner in referencing a message Mr. Luck received from a "frequent flyer" disparaging DA Prater. The term frequent flyer is not a reference to flight status, but a derogatory term used by prosecutors to describe persons with a criminal history. Petitioner does not allege that Mr. Luck engaged with this "frequent flyer"; only that he received a message from them.

Petitioner goes on to later argue that the standard by which impartiality should be judged is that of a "reasonable person" and attempts to argue that a prosecutor is a "reasonable person" meeting this standard. This is disingenuous as our justice system is an adversarial one and prosecutors are certainly bias as the system is designed for them to

be. Even the well-respected former Senator from South Carolina and career prosecutor, Trey Gowdy, has said the criminal justice system is not an equal pursuit of the truth by prosecution, law enforcement, and defense attorneys. Petitioner attempts to argue that these “reasonable” prosecutor’s requests that Mr. Luck recuse himself should have been viewed as reasonable requests and granted. Ignoring that the requests were almost identical and clearly ‘cut and paste’ from a DAC template they were also an attempt to influence the Board process outside of the statutorily allowed involvement prosecutors have. Prosecutors are allowed to submit comments on every inmate appearing before the Board and those comments are reviewed by Board members along with comments in support of parties from on the other side of our adversarial system. The system is designed to weigh both sides and that is exactly what Mr. Luck does in his role on the Board.

VII. PETITIONER’S ARGUMENT THAT IF THE COMMUTATION HEARING HAPPENS ON SEPTEMBER 13, 2021 IRREPARABLE HARM WILL BE SUFFERED BY THE STATE IS FALSE AND PRESUMPTIOUS

Petitioner again attempts to discredit and subvert the Board process by arguing before this Court that the State of Oklahoma will suffer irreparable harm if the Mr. Luck participates in the commutation hearing of Julius Jones on September 13, 2021. First, Petitioner assumes he knows how any member of the Board will vote after hearing the presentation of the parties for and against commutation. Prosecutors, law enforcement, and victims all have the right to and already have protested the application for commutation. Their voice is soundly included in the intentionally neutral process. Second, Petitioner fails to acknowledge there are five voting members on the Board and only seeks to disqualify the two he doesn’t seem to agree with regarding macro criminal justice issues.

There are no allegations made that the Mr. Luck has indicated they will vote in any way for or against commutation. Finally, Petitioner fails to mention that the Board vote is only a recommendation and should the board vote to commute Julius Jones the final decision is made by the Governor. Therefore, unless the Petitioner already knows how the Board will vote and what the Governor will decide; Petitioner's argument of irreparable harm is simply an argument against a potential outcome he doesn't support and that is not the way our Constitution designed the Board process.

Mr. Luck respectfully requests this Court deny the motion to recuse and disqualify Mr. Luck from participating the in the Board hearing regarding Julius Jones and find the Petitioner failed to meet his required burden of proof.



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Attorneys for Respondent, Adam Luck

CERTIFICATE OF SERVICE

This will certify that on the 10th day of September, 2021 a true and correct copy of the foregoing was mailed via first class mail, postage prepaid, to the following:

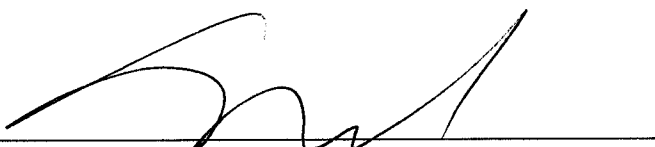
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Norman, Oklahoma 73070

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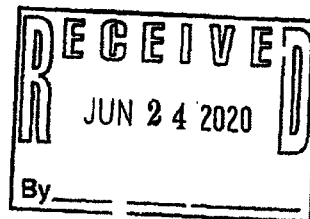
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DISTRICT
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June 22, 2020

Mr. Adam Luck
Member
Oklahoma Pardon and Parole Board
2915 N. Classen, Suite 405
Oklahoma City, OK 73106

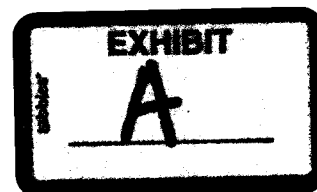


Dear Mr. Luck:

Pursuant to the provisions of the Oklahoma Open Records Act, 51 O.S. §§24A.1 – 24A.30, the Oklahoma District Attorneys Association is hereby requesting the following records be made available for inspection, and I reserve the right to request copies of any or all such documents:

Records of all emails, social media posts and text messages made by or received by you, pertaining to your work as a member of the Oklahoma Pardon & Parole Board, sent to or from your private or public email address, between February 26, 2019, and June 22, 2020, that concern or reference any of the following persons, organizations or words:

Barbarian
"Big number sentence"
Cage
CEO
"City Care"
Clemency
Cloyd
Commutation
Commute
"Conflict of interest"
Corrections
Criminal Justice Reform
Department of Corrections
Death penalty
District Attorney
DA
D.A.
DAC
D.A.C.
Draconian
Ethics
Excessive
Failure to Protect
God
Incarceration
Incarceration Rate
Injustice
Jail
Jesus
Judge
Julius
Julius Jones
Juries
Jury
Kris

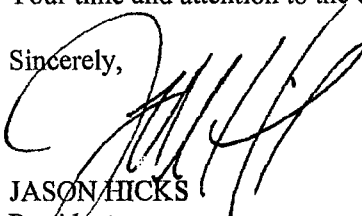


"Kris Steele"
Larry Lawton
Lawton
Laura Austin Thomas
Laura Thomas
Life Without The Possibility of Parole
LWOP
Ministry
Narrative
ODAA
O.D.A.A.
Oklahoma District Attorneys Association
Pardon
Parole
Policy
Protest
Prosecutor
Prison
Release
"Right on Crime"
Steele
TEEM
Tondalao Hall
Toni Hall
Unjust

If these records are available in electronic/digital format, I would respectfully request they be provided in that format. If hard copies of the requested records must be made, please advise what the cost of reproduction will be prior to commencing the copying process. We submit there should be no search fee charged as, pursuant to 51 O.S. §24A.5 (4), these records are sought "to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants."

Your time and attention to the expedient provision of these records is greatly appreciated.

Sincerely,



JASON HICKS
President
Oklahoma District Attorneys Association

cc: Mr. Steven Bickley
Ms. Kelly Doyle
Mr. Robert Gilliland, Chairman
The Honorable C. Allan McCall
Mr. Larry Morris

Jennifer Pando

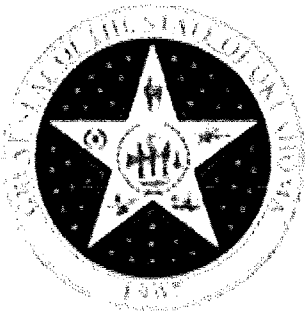
From: Thomas, Laura <Laura.Thomas@dac.state.ok.us>
Sent: Monday, July 6, 2020 1:09 PM
To: Daprotest; PPB BoardCommunications
Subject: [EXTERNAL] request to recuse Doyle & Luck - Shirley Cloyd
Attachments: PPB letter to luck from district 9.pdf; PPB letter to doyle from district 9.pdf

Please distribute the attached recusal request to the Chairman and board members particularly Luck and Doyle. Thank you. This applies to the following:

- Shirley Cloyd, inmate 416862
- John D. Fortney, inmate 581744
- Daniel N. Looney, inmate 397478
- Larissa Clark, inmate 278720 - *Inactive*
- Derrick Ryan Gray, inmate 436619 - *9-2020*

You have already received our written objection on Cloyd and we will also be appearing. You will receive under separate email the written objections on the others by 5 p.m. this day. We will be appearing on Cloyd, Gray and Looney.

Thank you.



**LAURA AUSTIN THOMAS
DISTRICT ATTORNEY
PAYNE & LOGAN COUNTIES**

Ninth Prosecutorial District
Office | 405-372-4883
Fax | 405-372-4590





**LAURA AUSTIN THOMAS
DISTRICT ATTORNEY**

July 6, 2020

Mr. Adam Luck
Pardon and Parole Board Member
2915 Classen Blvd., Suite 405
Oklahoma City, OK 73106

Dear Mr. Luck:

As District Attorney for the 9th District of the State of Oklahoma, I write to request that you recuse from consideration of the following cases currently scheduled for review by the Oklahoma Pardon and Parole Board: Shirley Cloyd, inmate # 416862, John D. Fortney, inmate # 581744, Daniel N. Looney, inmate # 397478, Larissa Joy Clark, a/k/a Singelton, inmate # 278720 and Derreck Ryan Gray, inmate # 436619. The laws and regulations of Oklahoma provide clear guidance regarding the conduct expected by the members of the Oklahoma Pardon and Parole Board. From the time you were appointed to the board, you have actively and publicly exhibited a bias which has demonstrated a lack of partiality and conflict of interest. This activism is contrary to your constitutional and ethical duties as a Pardon and Parole Board member, and is the basis for my request for your recusal.

Impartiality is a fundamental and legal obligation for a Pardon and Parole Member. The Oklahoma Constitution, the Oklahoma Ethics Rules, and even the Values listed on the home page of the Pardon and Parole Board website, mandate impartiality.

CONSTITUTION

"It shall be the duty of the Board to make an impartial investigation and study of applicants for commutations, pardons or paroles, and by a majority vote make its recommendations to the Governor of all persons deemed worthy of clemency." OKLA. CONST. VI, § 10

"All public officers, before entering upon the duties of their offices, shall take and subscribe to the following oath or affirmation: "I,, do solemnly swear (or affirm) that I will support, obey, and defend the Constitution of the United States, and the Constitution of the State of Oklahoma, and that I will not, knowingly, receive, directly or indirectly, any money or other valuable thing, for the performance or nonperformance of any act or duty pertaining to my office, other than the compensation allowed by law; I further swear (or affirm) that I will faithfully discharge my duties as to the best of my ability." OKLA. CONST. XV, § 1

OKLAHOMA ETHICS RULE 4.4

Except as permitted by law or these Rules, a state officer or employee shall not use his or her State office (1) for his or her own private gain, (2) for the endorsement of any product, service or enterprise, (3) for the private gain of a family member or persons with whom the state officer or employee is affiliated in a nongovernmental capacity, including nonprofit organizations of

which the state officer or employee is an officer or member, or (4) for the private gain of persons with whom the state officer or employee seeks employment or business relations. These prohibitions shall not apply to any act or endorsement if the act or endorsement is customary for the state officer or employee's contract of employment or if otherwise permitted or authorized by the Constitution or statutes or by these Rules. A state officer or employee may promote or solicit funds for civic, community or charitable organizations, including those promoting businesses or industries, or civic, community or charitable fundraising events provided the state officer or state employee receives nothing for doing so except the costs associated with the promotion or event paid for from funds of a charitable organization. No individual or other entity may pay for, or reimburse the charitable organization for, any such costs and gratuities; provided, however, nothing shall prevent individuals or other entities from making customary donations or paying sponsorship fees to the charitable organization.

OKLAHOMA ETHICS RULE 4.7

"In the event a state officer "determines circumstances would cause a reasonable person with knowledge of all the relevant facts to question his or her impartiality in the matter; the state officer or employee shall not participate in the matter unless he or she is required to do so by law or permitted to so by these Rules." 74 O.S. § Rule 4.7

VALUES (as listed on the website of the Pardon and Parole Board's home page)

The Pardon and Parole Board strongly believes and is committed to the ethical, unbiased, and professional performance of duties and will continually strive for excellence and fairness by making decisions that maintain a delicate balance between public safety, victim's rights, and the successful re-integration of the offender.

On your website, www.adamluck.us, you provide a bio of yourself which includes your role as a member of the Pardon and Parole Board as well as a national board member for Center for Employment Opportunities. On this website you have included four videos, a Tedx Talk from April 6, 2019, entitled, "Create Change: From Apathy to Activation," an article entitled, "The Way Down: Adam Luck's Familial Advocacy," a link with your photo entitled, "The Case for Sentencing Reform" which includes your Op-Ed advocating for SQ805, and a City Care video entitled, "The Odyssey Project." Activation is an important concept to you as evidenced by your Tedx Talk. During this presentation, you told the audience how you came to be activated to become involved in changing the criminal justice system and described activation as a more powerful form of activism where you work to create change within the hearts and minds of the community. In the video, you indicated you would spend the rest of your life working on criminal justice reform and further stated that "...(w)e are either actively working to end these cycles of injustice, and marginalization and oppression or we are participating in their perpetuation. There simply is no middle ground." You also posted your April 6, 2019, Tedx Talk to your Facebook page and concluded " If these systems of injustice, marginalization, and oppression are going to change in our lifetime it will be because more people have come under the weight of these issues, find themselves in the solution, and leverage whatever talent, network, or resources they have towards ending them."

Furthering a personal agenda by using your position as a Pardon and Parole Board member disregards the constitutional and ethical duties of your position. For example, in an article published in August 1, 2019, you discuss this mission with the author. Published in *Nations Media*, the article titled "The Way Down: Adam Luck's Familial Advocacy," states you have "chosen a few key ways to engage" in order to accomplish your goals of reform: One, by using your governor-appointed role on the Pardon and Parole Board as a way "to change outcomes for those imprisoned in Oklahoma;" and secondly, by "spreading awareness" based on the principle, that "If more Oklahomans know about the condition of our criminal justice system, then presumably more people will act to reform it when the time comes to vote for new

city and state officials.” It is apparent that you publicly promote your personal views and are using your position as a Pardon and Parole Board member to promote that agenda.

In your opinion article published in the *The Oklahoman* on November 17, 2019, you reveal that your “professed values” take precedence when advocating for the release of prisoners. In addition, your opinion letter in the *Oklahoman*, titled *The case for sentencing reform*, urged public support for the ballot initiative and is a clear violation of Oklahoma Ethics Rule 2.9, which states that “No state officer or employee shall engage in activities designed to influence the results of an election for state office or a state question during hours in which the state officer or employee is in official work status or at any time while wearing a uniform or wearing identification that identifies that person as a state officer or employee. This prohibition shall not apply to elected state officers.” 74 O.S. § Rule 2.9 (emphasis added).

In the article, you openly identify yourself as a member of the Pardon and Parole Board and the newspaper credits the editorial to you as “a member of the Oklahoma Pardon and Parole Board and CEO of City Care.” Once again, you blur the lines between your personal views and your public duties by using your position as a Pardon and Parole Board member as a basis for your expertise on the prison population, and to enhance your credibility to influence the public in support of the ballot initiative. Your own words speak for themselves on this matter, you openly urged Oklahomans to vote for the initiative. You subsequently placed this Op-Ed on your social media accounts, where it remains as of the writing of this letter, (Facebook and Twitter) as well as your own website (www.adamluck.us). All three identify your role as a member of the Pardon and Parole Board.

Again at a presentation to the OK Business Ethics Consortium on March 4, 2020, titled “What I Learned About Justice and Mercy by Serving on the State Board of Corrections Parole Board,” you exploit your position as a Pardon and Parole Board member by boasting about the steep rise in parole grant rates since your appointment, and even questioning, what should be defined as a “crime” in Oklahoma. Obviously, you are entitled to your opinions; however, making appearances where you are promoted as Pardon and Parole member and the constant use of the term “we” when referring to Board decisions, significantly blurs the lines between your personal views and that of the Pardon and Parole Board as a whole.

Your inability to act as an impartial board member is further evidenced by your willingness to make a decision based upon one side before even hearing from the State or the victims. For instance On July 10, 2019 you posted on your Twitter account that you would be considering the case of Tondalo Hall the next week. You indicated that her commutation had been denied in both 2015 and 2018 and stated, “there are many facts surrounding her sentencing, but in the end the outcome of her case surfaces important questions of justice and how we view survivors of domestic violence.” Imbedded within your tweet was an article in the Washington Post from September 5, 2015 which outlines Ms. Hall’s version of events, indicating that you had spent time researching the issues outside the context of the information presented to the parole board and suggesting you had a predetermined position. In 2014, you were interviewed for an article in BuzzFeed entitled, “Enabling Child Abuse and Why Oklahoma Imprisons So Many Women”. You were quoted as saying “Laws like that are keeping people in prison when they may actually be simply in need of help.” You indicated that the enabling child abuse law is “definitely something that can fit into the reform that takes place.” The article included a story about Tondalo Hall. In 2018, prior to your appointment to the parole board, while serving on the Board for the Department of Corrections, you advocated for a plan to exclude from the child abuse statutes, “failure to protect” conduct and what you referred to as “situational neglect” and pushed for the creation of a separate penalty with a 5 year maximum sentence. You have stated that, “We must now find a

good reason to keep someone in prison, rather than searching for a good reason to let them out. Instead of asking them "Why should you get out prison? We're asking ourselves, "Why should we keep them in?" This position indicates a predisposition towards release and ignores the work of the prosecutors, defense attorneys, victims, witnesses, judges, juries, appeal courts all who actually spent months and years investigating their crimes and prosecuting their crimes. You keep them in because that was the mandate of the people who had the mandate to handle these crimes.

It is also important to note the Oklahoma Attorney General's position on conflicts of interest:

"When addressing questions with respect to a possible conflict of interest, it appears that a standard which may be derived from the authorities is that public policy is contravened whenever a public official of a state entity places himself in a position which is inconsistent with his public function or which interferes with his unbiased performance of his duties or has a tendency to induce him to violate such duty regardless of whether it can be shown that the public actually suffered any detriment. 1982 OK AG 16, citing *United States v. Mississippi Valley Generating*, 364 U.S. 520, 81 S.Ct. 294, 5 L.Ed.2d 268 (1961); *Youngblood v. Consolidated School District No. 3, Payne County*, 104 Okl. 235, 230 P. 910 (1924); *Stigall v. City of Taft, Cal.*, 375 P.2d 289 (1962). 12 Okl. Op.A.G. 355, Attorney General Opinion 80-212.

It is clear that a conflict of interest exists and that you should immediately recuse from consideration of the listed inmates.

Furthermore, while not fully discussed herein, there are numerous other examples demonstrating your lack of impartiality on social media platforms on specific case types, sentences of offenders and even applicants that have or will potentially appear before the board.

As discussed, impartiality is constitutionally mandated in the performance of the duties of a Pardon and Parole Board member and avoiding conflicts of interest is one way to accomplish this goal. Pursuant to 74 O.S. § Rule 4.4, a state officer or employee shall not use his or her State office for private gain; the endorsement of any product, service, or enterprise; for the private gain of a family member; or for the private gain of persons with whom the state officer seeks employment or business relations. These restrictions include nonprofit organizations of which the state officer is an officer or member. Your status as a member of the Board of Directors for the Center for Employment Opportunities (CEO) creates an obvious conflict of interest as parolees are often referred to CEO for jobs.

In conclusion, while we are all encouraged to have and are entitled to our own beliefs, the personal agendas of a governmental official cannot override the constitutional duties required of his or her appointed position. This request for recusal is not an attempt to disparage your personal views, but is made to ensure that all parties in the justice system are heard and can be afforded an impartial review by the Pardon and Parole Board. You have publicly advocated for the reduction of Oklahoma's prison population and have promoted your mission. Unfortunately, your mission has been a one-sided advocacy for inmates, without providing the victims of crimes and the suffering they have endured any voice in your rhetoric for reform. Such activism clearly does not impartially maintain "the delicate balance between public safety, victim's rights, and the successful re-integration of the offender" espoused by the values of the board. Pursuant to Ethics Rule 4.7, there is no doubt that any "reasonable person," who has

read or heard your opinions on criminal justice reform or has knowledge of your Board position with CEO, would question your ability to provide an impartial review. This position requires that you recuse from the listed matters. Bottom line, if you wish to campaign for a cause or a change in our state laws that is your personal prerogative, but it is not your professional prerogative to promote your cause when such actions conflict with the constitutional duties of your position on the Pardon and Parole Board. It is my hope that you can recognize your ethical and legal duties to the citizens of Oklahoma and will make the decision to voluntarily withdraw your consideration in the listed cases.

Respectfully,

A handwritten signature in cursive script that reads "Laura Austin Thomas". The signature is written in black ink and is positioned above the typed name.

Laura Austin Thomas
District Attorney
District 9
Payne & Logan County



OFFICE OF THE
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RICKY A. McPHEARSON
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Washita County
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Cordell, OK 73632
580-832-3144

July 6, 2020

Mr. Robert Gilliland, Chairman
Oklahoma Pardon and Parole Board
2915 Classen Blvd., Suite 405
Oklahoma City, OK 73106

Dear Chairman Gilliland:

Please find enclosed herewith my request for the recusal of Oklahoma Pardon and Parole Board members Adam Luck and Kelly Doyle. If you have questions, or comments, about my request, please feel free to contact me at my office.

Best Regards,

Angela C. Marsee
District Attorney
Second Prosecutorial District



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July 6, 2020

Mr. Adam Luck
Pardon and Parole Board Member
2915 Classen Blvd., Suite 405
Oklahoma City, OK 73106

Dear Mr. Luck:

As District Attorney for the Second Prosecutorial District of the State of Oklahoma, I write to request that you recuse from consideration of the following cases currently scheduled for review by the Oklahoma Pardon and Parole Board:

1. Roderick Q. Barker #641251
2. Brandi D. Roper #638927
3. Jonathan D. Addison #714832
4. Christopher Garrison #612994
5. Dylan Perry #476567.

The laws and regulations of Oklahoma provide clear guidance regarding the conduct expected by the members of the Oklahoma Pardon and Parole Board. From the time you were appointed to the board, you have actively and publicly exhibited a bias which has demonstrated a lack of impartiality and conflict of interest. This activism is contrary to your constitutional and ethical duties as a Pardon and Parole Board member, and is the basis for my request for your recusal.

Impartiality is a fundamental and legal obligation for a Pardon and Parole Member. The Oklahoma Constitution, the Oklahoma Ethics Rules, and even the Values listed on the home page of the Pardon and Parole Board website, mandate impartiality.

CONSTITUTION

"It shall be the duty of the Board to make an impartial investigation and study of applicants for commutations, pardons or paroles, and by a majority vote make its recommendations to the Governor of all persons deemed worthy of clemency." OKLA. CONST. VI, § 10

"All public officers, before entering upon the duties of their offices, shall take and subscribe to the following oath or affirmation: "I,, do solemnly swear (or affirm) that I will support, obey, and defend the Constitution of the United States, and the Constitution of the State of Oklahoma, and that I will not, knowingly, receive, directly or indirectly, any money or other valuable thing, for the performance or nonperformance of any act or duty pertaining to my office, other than the compensation allowed by law; I further swear (or affirm) that I will faithfully discharge my duties as to the best of my ability." OKLA. CONST. XV, § 1



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OKLAHOMA ETHICS RULE 4.4

Except as permitted by law or these Rules, a state officer or employee shall not use his or her State office (1) for his or her own private gain, (2) for the endorsement of any product, service or enterprise, (3) for the private gain of a family member or persons with whom the state officer or employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the state officer or employee is an officer or member, or (4) for the private gain of persons with whom the state officer or employee seeks employment or business relations.

These prohibitions shall not apply to any act or endorsement if the act or endorsement is customary for the state officer or employee's contract of employment or if otherwise permitted or authorized by the Constitution or statutes or by these Rules. A state officer or employee may promote or solicit funds for civic, community or charitable organizations, including those promoting businesses or industries, or civic, community or charitable fundraising events provided the state officer or state employee receives nothing for doing so except the costs associated with the promotion or event paid for from funds of a charitable organization. No individual or other entity may pay for, or reimburse the charitable organization for, any such costs and gratuities; provided, however, nothing shall prevent individuals or other entities from making customary donations or paying sponsorship fees to the charitable organization.

OKLAHOMA ETHICS RULE 4.7

"In the event a state officer "determines circumstances would cause a reasonable person with knowledge of all the relevant facts to question his or her impartiality in the matter; the state officer or employee shall not participate in the matter unless he or she is required to do so by law or permitted to so by these Rules." 74 O.S. § Rule 4.7

VALUES (as listed on the website of the Pardon and Parole Board's home page)

The Pardon and Parole Board strongly believes and is committed to the ethical, unbiased, and professional performance of duties and will continually strive for excellence and fairness by making decisions that maintain a delicate balance between public safety, victim's rights, and the successful re-integration of the offender.

On your website, www.adamluck.us, you provide a bio of yourself which includes your role as a member of the Pardon and Parole Board as well as a national board member for Center for Employment Opportunities. On this website you have included four videos, a Tedx Talk from April 6, 2019, entitled, "Create Change: From Apathy to Activation," an article entitled, "The Way Down: Adam Luck's Familial Advocacy," a link with your photo entitled, "The Case for Sentencing Reform" which includes your Op-Ed advocating for SQ805, and a City Care video entitled, "The Odyssey Project." Activation is an important concept to you as evidenced by your Tedx Talk. During this presentation, you told the audience how you came to be activated to become involved in changing the criminal justice system and described activation as a more powerful form of activism where you work to create change within the hearts and minds of the community. In the video, you indicated you would spend the rest of your life working on criminal justice



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reform and further stated that "... (w)e are either actively working to end these cycles of injustice, and marginalization and oppression or we are participating in their perpetuation. There simply is no middle ground." You also posted your April 6, 2019, Tedx Talk to your Facebook page and concluded "If these systems of injustice, marginalization, and oppression are going to change in our lifetime it will be because more people have come under the weight of these issues, find themselves in the solution, and leverage whatever talent, network, or resources they have towards ending them."

Furthering a personal agenda by using your position as a Pardon and Parole Board member disregards the constitutional and ethical duties of your position. For example, in an article published on August 1, 2019, you discuss this mission with the author.

Published in *Nations Media*, the article titled "The Way Down: Adam Luck's Familial Advocacy," states you have "chosen a few key ways to engage" in order to accomplish your goals of reform: One, by using your governor-appointed role on the Pardon and Parole Board as a way "to change outcomes for those imprisoned in Oklahoma;" and secondly, by "spreading awareness" based on the principle, that "If more Oklahomans know about the condition of our criminal justice system, then presumably more people will act to reform it when the time comes to vote for new city and state officials." It is apparent that you publicly promote your personal views and are using your position as a Pardon and Parole Board member to promote that agenda.

In your opinion article published in the *The Oklahoman* on November 17, 2019, you reveal that your "professed values" take precedence when advocating for the release of prisoners. In addition, your opinion letter in the *Oklahoman*, titled *The case for sentencing reform*, urged public support for the ballot initiative and is a clear violation of Oklahoma Ethics Rule 2.9, which states:

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Again at a presentation to the OK Business Ethics Consortium on March 4, 2020, titled "What I Learned About Justice and Mercy by Serving on the State Board of Corrections Parole Board," you exploit your position as a Pardon and Parole Board member by boasting about the steep rise in parole grant rates since your appointment, and even questioning, what should be defined as a "crime" in Oklahoma. Obviously, you are entitled to your opinions; however, making appearances where you are promoted as a Pardon and Parole member and the constant use of the term "we" when referring to Board decisions, significantly blurs the lines between your personal views and that of the Pardon and Parole Board as a whole.

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In conclusion, while we are all encouraged to have and are entitled to our own beliefs, the personal agendas of a governmental official cannot override the constitutional duties required of his or her appointed position. This request for recusal is not an attempt to disparage your personal views, but is made to ensure that all parties in the justice system are heard and can be afforded an impartial review by the Pardon and Parole Board. You have publicly advocated for the



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reduction of Oklahoma's prison population and have promoted your mission. Unfortunately, your mission has been a one-sided advocacy for inmates, without providing the victims of crimes and the suffering they have endured any voice in your rhetoric for reform. Such activism clearly does not impartially maintain "the delicate balance between public safety, victim's rights, and the successful re-integration of the offender" espoused by the values of the board. Pursuant to Ethics Rule 4.7, there is no doubt that any "reasonable person," who has read or heard your opinions on criminal justice reform or has knowledge of your Board position with CEO, would question your ability to provide an impartial review. This position requires that you recuse from the listed matters. Bottom line, if you wish to campaign for a cause or a change in our state laws that is your personal prerogative, but it is not your professional prerogative to promote your cause when such actions conflict with the constitutional duties of your position on the Pardon and Parole Board.

It is my hope that you can recognize your ethical and legal duties to the citizens of Oklahoma and will make the decision to voluntarily withdraw your consideration in the listed cases.

Respectfully,

A handwritten signature in cursive script that reads "Angela C. Marsee".

Angela C. Marsee
District Attorney,
Second Prosecutorial District

cc: Steve Bickley, Executive Director, Oklahoma Pardon and Parole Board
Mr. Robert Gilliland, Chairman, Oklahoma Pardon and Parole Board
Mr. Larry Morris, Member, Oklahoma Pardon and Parole Board
Honorable C. Allen McCall, Member, Oklahoma Pardon and Parole Board



JASON M. HICKS
DISTRICT ATTORNEY
SIXTH DISTRICT
STATE OF OKLAHOMA

July 6, 2020

Mr. Adam Luck
Pardon and Parole Board Member
2915 Classen Blvd., Suite 405
Oklahoma City, OK 73106

Dear Mr. Luck:

As District Attorney for the Sixth Prosecutorial District of the State of Oklahoma, I write to request that you recuse from consideration of the following cases currently scheduled for review by the Oklahoma Pardon and Parole Board:

1. Damond D. Dailey, DOC#854555
2. Montana J. Beaver, DOC#857357
3. Isidro N. Ponce-Leos, DOC#782814
4. Brian E. Bowlin, DOC#759846
5. Jayden T. Morse, DOC#836696
6. Judice T. Flute, DOC#702722
7. Robert D. Martin, DOC#758212
8. Jahmar T. Sullivan, DOC#469895
9. Jerry F. Gerken, DOC#456416
10. Robert P. Damico, DOC#449830
11. Trent J. Gosnell, DOC#702192.

The laws and regulations of Oklahoma provide clear guidance regarding the conduct expected by the members of the Oklahoma Pardon and Parole Board. From the time you were appointed to the board, you have actively and publicly exhibited a bias which has demonstrated a lack of partiality and conflict of interest. This activism is contrary to your constitutional and ethical duties as a Pardon and Parole Board member, and is the basis for my request for your recusal.

Impartiality is a fundamental and legal obligation for a Pardon and Parole Member. The Oklahoma Constitution, the Oklahoma Ethics Rules, and even the Values listed on the home page of the Pardon and Parole Board website, mandate impartiality.

CONSTITUTION

"It shall be the duty of the Board to make an impartial investigation and study of applicants for commutations, pardons or paroles, and by a majority vote make its recommendations to the Governor of all persons deemed worthy of clemency." OKLA. CONST. VI, § 10

"All public officers, before entering upon the duties of their offices, shall take and subscribe to the following oath or affirmation: "I,, do solemnly swear (or affirm) that I will support, obey,

CADDO COUNTY COURTHOUSE	110 S.W. 2nd Street, Suite 108	Anadarko, Oklahoma 73005	(405) 247-3372	Fax: (405) 247-2592
GRADY COUNTY D.A. COMPLEX	217 North 3rd Street	Chickasha, Oklahoma 73018	(405) 224-4770	Fax: (405) 224-8279
JEFFERSON COUNTY COURTHOUSE	220 N. Main, Room. 201	Waurika, Oklahoma 73573	(580) 228-2707	Fax: (580) 228-3242
STEPHENS COUNTY COURTHOUSE	101 S. 11th, Room 303	Duncan, Oklahoma 73533	(580) 255-8726	Fax: (580) 255-1889

and defend the Constitution of the United States, and the Constitution of the State of Oklahoma, and that I will not, knowingly, receive, directly or indirectly, any money or other valuable thing, for the performance or nonperformance of any act or duty pertaining to my office, other than the compensation allowed by law; I further swear (or affirm) that I will faithfully discharge my duties as to the best of my ability." OKLA. CONST. XV, § 1

OKLAHOMA ETHICS RULE 4.4

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VALUES (as listed on the website of the Pardon and Parole Board's home page)

The Pardon and Parole Board strongly believes and is committed to the ethical, unbiased, and professional performance of duties and will continually strive for excellence and fairness by making decisions that maintain a delicate balance between public safety, victim's rights, and the successful re-integration of the offender.

On your website, www.adamluck.us, you provide a bio of yourself which includes your role as a member of the Pardon and Parole Board as well as a national board member for Center for Employment Opportunities. On this website you have included four videos, a Tedx Talk from April 6, 2019, entitled, "Create Change: From Apathy to Activation," an article entitled, "The Way Down: Adam Luck's Familial Advocacy," a link with your photo entitled, "The Case for Sentencing Reform" which includes your Op-Ed advocating for SQ805, and a City Care video entitled, "The Odyssey Project." Activation is an important concept to you as evidenced by your Tedx Talk. During this presentation, you told the audience how you came to be activated to become involved in changing the criminal justice system and described activation as a more powerful form of activism where you work to create change within the hearts and minds of the community. In the video, you indicated you would spend the rest of your life working on criminal justice reform and further stated that "... (w)e are either actively working to end these cycles of injustice, and marginalization and oppression or we are participating in their perpetuation. There simply is no middle ground." You also posted your April 6, 2019, Tedx Talk to your Facebook page and concluded "If these systems of injustice, marginalization, and oppression are going to change in our lifetime

it will be because more people have come under the weight of these issues, find themselves in the solution, and leverage whatever talent, network, or resources they have towards ending them.”

Furthering a personal agenda by using your position as a Pardon and Parole Board member disregards the constitutional and ethical duties of your position. For example, in an article published on August 1, 2019, you discuss this mission with the author. Published in *Nations Media*, the article titled “The Way Down: Adam Luck’s Familial Advocacy,” states you have “chosen a few key ways to engage” in order to accomplish your goals of reform: One, by using your governor-appointed role on the Pardon and Parole Board as a way “to change outcomes for those imprisoned in Oklahoma;” and secondly, by “spreading awareness” based on the principle, that “If more Oklahomans know about the condition of our criminal justice system, then presumably more people will act to reform it when the time comes to vote for new city and state officials.” It is apparent that you publicly promote your personal views and are using your position as a Pardon and Parole Board member to promote that agenda.

In your opinion article published in the *The Oklahoman* on November 17, 2019, you reveal that your “professed values” take precedence when advocating for the release of prisoners. In addition, your opinion letter in the *Oklahoman*, titled *The case for sentencing reform*, urged public support for the ballot initiative and is a clear violation of Oklahoma Ethics Rule 2.9, which states:

No state officer or employee shall engage in activities designed to influence the results of an election for state office or a state question during hours in which the state officer or employee is in official work status or at any time while wearing a uniform or wearing identification that identifies that person as a state officer or employee. This prohibition shall not apply to elected state officers.
74 O.S. § Rule 2.9 (emphasis added).

In the article, you openly identify yourself as a member of the Pardon and Parole Board and the newspaper credits the editorial to you as “a member of the Oklahoma Pardon and Parole Board and CEO of City Care.” Once again, you blur the lines between your personal views and your public duties by using your position as a Pardon and Parole Board member as a basis for your expertise on the prison population, and to enhance your credibility to influence the public in support of the ballot initiative. Your own words speak for themselves on this matter, by openly urging Oklahomans to vote for the initiative. You subsequently placed this Op-Ed on your social media accounts, where it remains as of the writing of this letter, (Facebook and Twitter) as well as your own website (www.adamluck.us). All three identify your role as a member of the Pardon and Parole Board.

Again at a presentation to the OK Business Ethics Consortium on March 4, 2020, titled “What I Learned About Justice and Mercy by Serving on the State Board of Corrections Parole Board,” you exploit your position as a Pardon and Parole Board member by boasting about the steep rise in parole grant rates since your appointment, and even questioning, what should be defined as a “crime” in Oklahoma. Obviously, you are entitled to your opinions; however, making appearances where you are promoted as a Pardon and Parole member and the constant use of the term “we” when referring to Board decisions, significantly blurs the lines between your personal views and that of the Pardon and Parole Board as a whole.

It is also important to note the Oklahoma Attorney General’s position on conflicts of interest:

When addressing questions with respect to a possible conflict of interest, it appears that a standard which may be derived from the authorities is that public policy is contravened whenever a public official of a state entity places himself in a position which is inconsistent with his public function or which interferes with his unbiased performance of his duties or has a tendency to induce him to violate such duty regardless of whether it can be shown that the public actually suffered any detriment. 1982 OK AG 16, citing *United States v. Mississippi Valley Generating*, 364 U.S. 520, 81 S.Ct. 294; 5 L.Ed.2d 268 (1961); *Youngblood v. Consolidated School District No. 3, Payne*

County, 104 Okl. 235, 230 P. 910 (1924); *Stigall v. City of Taft*, Cal., 375 P.2d 289 (1962). 12 Okl. Op.A.G. 355, Attorney General Opinion 80-212.

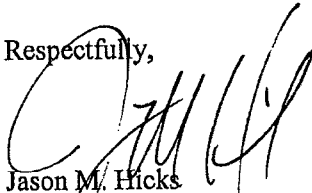
It is clear that a conflict of interest exists and that you should immediately recuse from consideration of the listed inmates.

Furthermore, while not fully discussed herein, there are numerous other examples demonstrating your lack of impartiality on social media platforms on specific case types, sentences of offenders and even applicants that have or will potentially appear before the board.

As discussed, impartiality is constitutionally mandated in the performance of the duties of a Pardon and Parole Board member and avoiding conflicts of interest is one way to accomplish this goal. Pursuant to 74 O.S. § Rule 4.4, a state officer or employee shall not use his or her State office for private gain; the endorsement of any product, service, or enterprise; for the private gain of a family member; or for the private gain of persons with whom the state officer seeks employment or business relations. These restrictions include nonprofit organizations of which the state officer is an officer or member. Your status as a member of the Board of Directors for the Center for Employment Opportunities (CEO) creates an obvious conflict of interest as parolees are often referred to CEO for jobs.

In conclusion, while we are all encouraged to have and are entitled to our own beliefs, the personal agendas of a governmental official cannot override the constitutional duties required of his or her appointed position. This request for recusal is not an attempt to disparage your personal views, but is made to ensure that all parties in the justice system are heard and can be afforded an impartial review by the Pardon and Parole Board. You have publicly advocated for the reduction of Oklahoma's prison population and have promoted your mission. Unfortunately, your mission has been a one-sided advocacy for inmates, without providing the victims of crimes and the suffering they have endured any voice in your rhetoric for reform. Such activism clearly does not impartially maintain "the delicate balance between public safety, victim's rights, and the successful re-integration of the offender" espoused by the values of the board. Pursuant to Ethics Rule 4.7, there is no doubt that any "reasonable person," who has read or heard your opinions on criminal justice reform or has knowledge of your Board position with CEO, would question your ability to provide an impartial review. This position requires that you recuse from the listed matters. Bottom line, if you wish to campaign for a cause or a change in our state laws that is your personal prerogative, but it is not your professional prerogative to promote your cause when such actions conflict with the constitutional duties of your position on the Pardon and Parole Board. It is my hope that you can recognize your ethical and legal duties to the citizens of Oklahoma and will make the decision to voluntarily withdraw your consideration in the listed cases.

Respectfully,


Jason M. Hicks
District Attorney,
Sixth Prosecutorial District

cc: Steve Bickley, Executive Director, Oklahoma Pardon and Parole Board
Mr. Robert Gilliland, Chairman, Oklahoma Pardon and Parole Board
Mr. Larry Morris, Member, Oklahoma Pardon and Parole Board
Honorable C. Allen McCall, Member, Oklahoma Pardon and Parole Board