

JULIUS JONES, DOC NO. 270147, SEPTEMBER 13, 2021 COMMUTATION DOCKET

**BEFORE THE PARDON AND PAROLE BOARD  
STATE OF OKLAHOMA**

STATE OF OKLAHOMA, by and )  
through David Prater, District Attorney ) Commutation Docket #  
for District 7, Oklahoma County, ) Inmate Julius Jones  
Movant, )

STATE'S MOTION TO RECUSE AND/OR DISQUALIFY OKLAHOMA  
PARDON AND PAROLE BOARD MEMBER KELLY DOYLE FROM  
PARTICIPATING IN ANY AND ALL PROCEEDINGS RELATED TO  
JULIUS JONES FOR ACTUAL BIAS, IMPLIED BIAS,  
CONFLICT OF INTEREST, AND THE APPEARANCE OF IMPROPRIETY

COMES NOW the State of Oklahoma, by and through David Prater, Oklahoma County District Attorney ("State"), and respectfully requests that Oklahoma Pardon and Parole Board (hereinafter "Board") Member Kelly Doyle (hereinafter "Doyle") recuse herself from participating any and all proceedings related to Julius Jones for the reasons outlined herein.

In support of this request, the State submits the following:

***I. THE CONSTITUTIONAL AND STATUTORY DUTY OF A BOARD MEMBER DEMANDS IMPARTIALITY.***

The Board has a duty to carry out their duties in an impartial manner. This duty of impartiality is found in multiple places. Art. VI, § 10 of the Oklahoma Constitution requires that Board members approach their duties and make "impartial investigation and study of applicants for commutation".

Title 57 O.S.Supp, Section § 332.2 (H) further provides that “applications for commutation shall be given impartial “review” as required by Article VI, Section 10”. The Board's must exercise its discretion as the public interest requires. *Phillips v. Williams*, 608 P.2d 1131,1135, 1980 OK 25 (citing *Shirley v. Chesnut*, 603 F.2d 805 (10<sup>th</sup> Cir. 1979) with approval).

74 O.S.App.1, Rule 4.7 provides that a state officer or employee should disqualify herself or himself when circumstances would cause a reasonable person to doubt his or her impartiality. The law is abundantly clear that that members of the Board must approach their duties as a Board member in a fair and impartial manner, without prejudice to any person or party.

## ***II. CONFLICT OF INTEREST, IMPARTIALITY, AND BIAS.***

Colloquially “impartial” means “ treating all rivals or disputants equally; fair and just”<sup>1</sup>. Oklahoma law provides that impartial means “every litigant is entitled to nothing less than ...cold neutrality...” and defines that neutrality as “the disinterest of a total stranger”. *Coates v. Fallin*, 316 P.3d 924, F. 4, 2013 OK 108 (cited in dissent) (citing *State ex rel. Bennett v. Childers*, 1940 OK 389, ¶¶ 6-7).

Impartiality is also defined as “one who is not biased in favor of one party more than another; who is indifferent, unprejudiced, disinterested; as an impartial judge or arbitrator. *Tegeler v. State*, 1913 OK CR 87, 130 P. 1164.

*Actual bias* may be found by either an express admission, or by proof of specific

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<sup>1</sup> Oxford Dictionary.

facts ...which show ...that bias is presumed.” *Baca v. Sullivan*, 821 F.2d 1480, 1483 (10th Cir.1987); *see also Staley v. Bridgestone/Firestone, Inc.*, 106 F.3d 1504, 1514 (10th Cir.1997); *Vasey v. Martin Marietta Corp.*, 29 F.3d 1460, 1467 (10th Cir.1994); *Burton v. Johnson*, 948 F.2d 1150, 1159 n. 10 (10th Cir.1991). A [member may be disqualified] for more subjective reasons which fall under the label of actual bias, *i.e.*, “the existence of a state of mind on the part of the [member] in reference to the case, or to either party, which ... in the exercise of a sound discretion, [makes him or her unable] to try the issue impartially, without prejudice to the ... rights of the party [objecting]”<sup>2</sup>. *Underwood v. State*, 252 P.3d 221, N. 21, 2011 OK CR 12 (citing 22 O.S. 2011 § 659). While allegations of actual bias usually involve a perceived prejudice against one party or another, ...bias [can also come in the form of “...*i.e.*, some personal interest in influencing the outcome of the [proceeding] that jeopardizes the guarantee to an impartial body of fact-finders. *See e.g. Dyer v. Calderon*, 151 F.3d 970 (9th Cir.1998).

“[T]he concept of *implied* or presumed bias arises from ‘situations in which the circumstances point so sharply to bias in a particular [member] that even h[er] own denials must be discounted.’ “ *Id.* (quoting *United States v. Nell*, 526 F.2d 1223, 1229 n. 8 (5th Cir.1976)).

A *conflict of interest* may also disqualify a Board member. A conflict of interest occurs when an individual's personal interests – family, friendships, financial, or social

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<sup>2</sup> This definition is found in the Criminal Procedure code relating to jurors, but there is no reason to believe that any court would utilize any other meaning as it relates to a Board acting in an adjudicatory manner.

factors – could compromise his or her judgment, decisions, or actions in the workplace. Conflicts of interest are outlined in the State Ethics Rules.

Under Supreme Court precedents the[se] objective standards require recusal when “the probability of actual bias on the part of the judge *or decisionmaker* is too high to be constitutionally tolerable.” *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 129 S.Ct. 2252, 2257 (2009) (citing *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S.Ct. 1456 (1975) (emphasis added). The question asked is whether, “under a realistic appraisal of psychological tendencies and human weakness,” the interest “poses such a risk of actual bias or prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented.” *Id.*, at 47

### **III. THE REQUIREMENT TO DISQUALITY EXTENDS TO BOARD MEMBERS, AND IT IS AN OBJECTIVE STANDARD.**

This rule [of disqualification] applies equally to administrative boards acting in an adjudicatory capacity. *Johnson v. Board of Governors of Registered Dentists of State of Oklahoma*, 913 P.2d 1339, 1348, 1996 OK 41 (citing *Gibson v. Berryhill*, 411 U.S. 564, 579, 93 S.Ct. 1689, 1698, 36 L.Ed.2d 488 (1973)).

Further, the standard is an objective one and is not dependent on the [members] belief. *Id.* (citing *Merritt v. Hunter*, 575 P.2d 623, 624 (Okla.1978)). When circumstances and conditions surrounding [hearings] are of such a nature that they *might reasonably cast doubt and question as to the impartiality of any judgment* the [member] may pronounce, said [member] should certify his or her disqualification. *Long v. City of Piedmont*, 359 P.3d

189, 191, 2015 OK CIV APP 85 (emphasis added). In making a decision to disqualify, a Board member must be sensitive to the appearances of possible impropriety[.] *Id.*

***IV. DOYLE'S CONFLICT OF INTEREST BETWEEN HER DUTIES AT THE BOARD AND HER PRIVATE INTERESTS.***

The State submits that Doyle has clear conflicts of interest in two separate and distinct areas. First, Doyle has a financial conflict of interest between her duties at her private employment, the Center for Employment Opportunities (“CEO”) and her duties to the Board. Second, Doyle has a conflict between her personal political agenda, and her duties at the Board. Both are disqualifiable conflicts.

**FINANCIAL CONFLICT OF INTEREST**

The Oklahoma Ethics Commission has promulgated rules to help guide State employees, like Doyle, through the potential conflicts that might arise between government employment and private employment. Rule 4, 4.1, 4.2, 4.3 and 4.4 deals with financial Conflicts of Interest.

*Rule 4.1* outlines the purpose of Rule 4, which is to “establish rules of ethical conduct for state officers and employees by prohibiting conflicts between their public duties and private economic interests”. *Rule 4.2* defines a “vendor” as any seller or prospective seller of ...”services to the State”, and defines a “vendor agent” as a representative of the vendor. Under these definitions, and based on the facts outlined below, CEO is clearly a vendor to the State of Oklahoma, and Doyle is clearly CEO’s “vendor agent”. This conflict will be discussed in more detail below.

Rule 4.4 further provides that a state officer shall not use his or her office for his or her “private gain”, or for the “endorsement of any product, service or enterprise”. Rule 4.4 also prohibits using one’s office for the private gain of “non-profit organizations in which the ...officer is employ[ed]”. Rule 4.4 also prohibits a state employee from using his or her office for the private gain of persons with whom the state employee seeks to have “business relations”. Rule 4 does not define “private gain”, but “gain” is defined by Merriam Webster Dictionary as “resources acquired; profit made; or an increase in amount, magnitude or degree”. Private is self-explanatory.

The 2019-2020 “Officers and Employees Guide” published by the Oklahoma Ethics Commission summarizes this rule noting that it prohibits a state employee (like Doyle) from using his or her office for private gain, or for the gain of a non-profit that the employee is a member of<sup>3</sup>. Generally these prohibitions are designed to prevent a state employee from benefitting from his or her position or from using the position to show favoritism to others<sup>4</sup>. (citing rules 4.2 and 4.4).

#### FINANCIAL CONFLICT BETWEEN BOARD DUTIES AND PRIVATE EMPLOYMENT

Doyle is employed in the private sector by the CEO and carries the title of Executive Director. Board Chairman Adam Luck is on the Board at CEO<sup>5</sup>, thus making him Doyle’s supervisor in both her public and private employment. CEO is claimed to be a “non-profit” organization that “exclusively” serves people “who have recently returned home from

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<sup>3</sup> App. 10: 2019-20 Officers and Employees Guide, p.4.

<sup>4</sup> App. 10: 2019-20 Officers and Employees Guide, p. 5.

<sup>5</sup> Ap. 20: Board membership roster for CEO.

incarceration”<sup>6</sup>. CEO is based in New York but has offices in several states, including Oklahoma.

Prior to her appointment to the Board, Doyle’s photograph was prominently and proudly displayed on CEO’s website as the Executive Director of this region<sup>7</sup>. Since Doyle’s appointment to the Board, her photograph has been removed and she is not mentioned on the CEO’s local website, or their national website, in any manner as being employed by CEO<sup>8</sup>. However, Doyle is still, in fact, employed by CEO as an Executive Director<sup>9</sup>. In fact, Doyle has admitted that she met with the Governor’s staff in January 2019, so that she “could talk about [CEO’s] program and [the] ambition to have a statewide program”<sup>10</sup>. Doyle was hawking CEO’s wares.

Even a quick glance at CEO’s financial data shows that this “non-profit” is a money tree, and this is especially so for the executive/management staff of CEO. In 2011, CEO received \$18,591,653.00 in “contributions”<sup>11</sup>. In 2019, CEO received \$58,742,560.00 in “contributions”<sup>12</sup>. In eight years, CEO’s “contributions” increased over 300%.

In Oklahoma alone CEO’s “contributions” from a single government contract has gone from \$25,000.00 for 2015-16 to \$1.2 million in 2019<sup>13</sup>. This is an increase of 480%, just in funding just from the State of Oklahoma.

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<sup>6</sup> App. 1: Snapshot of CEO’s local webpage.

<sup>7</sup> App. 7: Affidavit of Darren Gordon.

<sup>8</sup> App. 7: Affidavit of Darren Gordon.

<sup>9</sup> Id.

<sup>10</sup> App. 5: Transcript of Doyle making a public speech to a group of social workers in August, 2019.

<sup>11</sup> App. 2: ProPublica Tax Filings for CEO for 2011-2020.

<sup>12</sup> App. 2: ProPublica Tax Filings for CEO for 2011-2020.

<sup>13</sup> App. 7: Affidavit of Darren Gordon.

It is not just CEO as an organization that profits from these “contributions” made to CEO. Executives for CEO have also benefited from this money tree. As “contributions” increase, salaries greatly increase. Samuel Schaeffer, the CEO National Executive Director made \$173,078.00 in 2014, and in 2019 made a whopping \$351,266.00 from this “non-profit” organization designed to help those poor returning from incarceration<sup>14</sup>. This is over a 100% increase in salary in a span of eight (8) years, and an average raise of 12% per year.

In the same time period, Executive Directors like Doyle, went from a salary of \$101,656.00 in 2014 to \$191,133.00 in 2019<sup>15</sup>. This is an estimated 88% increase in salary in a span of five (5) years, and an estimated average of 17% increase per year. Clearly, when CEO makes more money, its management staff makes more money, and the increase in salaries for management is astronomical compared to the rest of society.

No public or private employee has seen such a huge gain in income. On average, from January 2011 to January 2021, the average earnings for the privately employed was a gain of approximately 30%, or an estimated average of 3.2% per year<sup>16</sup>. CEO clearly raises the pay of its management staff commensurate with the “contributions” received.

CEO currently receives “contributions” from the State of Oklahoma under one contract alone to provide SNAP services in the following amounts: for 2018-2019: \$1,509,350.00; for 2019-2020: \$1,553,850.00; for 2020-2021: \$1,612,902.00; and for

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<sup>14</sup> App. 2: ProPublica Tax Filings for CEO for 2011-2020.

<sup>15</sup> App. 3: ProPublica Tax Filings for CEO for 2014-2020, with salaries of Executives.

<sup>16</sup> App. 4: U.S. Bureau of Labor Statistics for January 2011 to 2021.



2021-2022: \$1,661,561.00<sup>17</sup>. This is a total of approximately \$6.33 million in contracts that CEO has with the State. Doyle is the contact person for the CEO contract<sup>18</sup>.

CEO also enjoys a contract with the Oklahoma Department of Transportation to provide “litter abatement...vegetation control, bridge preservation” using “state funding”<sup>19</sup> and utilizing CEO staff to do the work that inmates formerly did<sup>20</sup>. The amount of this contract is unknown at this time, but it uses CEO enrollees to do the work that inmates did while incarcerated.

It is against this backdrop of “following the money” that Doyle’s conflict of interest must be judged. The more people coming into CEO, the more “contributions’ CEO is able to procure. The more money coming into CEO, the higher the salary of the executives, like Doyle.

Each month, Doyle gets to weigh in on, and vote, to release or not release a large number of inmates. In March, 2021, alone, Doyle voted on the release of 474 applicants for commutation. Once released, a percentage of these inmates go to work for CEO.

Take for example, Milton Williams. Milton Williams was convicted of Possession with Intent to Distribute out of Logan County and received a sentence of 30 years in 2002<sup>21</sup>.

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<sup>17</sup> App. 6: Contract between State of Oklahoma and CEO dated 7-01-2018 to 6-30-2019.

<sup>18</sup> Id.

<sup>19</sup> App. 5: Transcript of Doyle making a public speech to a group of social workers in August, 2019, p. 6.

<sup>20</sup> App. 5: Transcript of Doyle making a public speech to a group of social workers in August, 2019, p. 5-6.

<sup>21</sup> Id.

He was released in 2019 with Doyle on the Board, and immediately went to work for CEO, *after being referred to CEO by his Parole Officer*<sup>22</sup>.

Another example is Sky Easley. Sky Easley received a 5 year sentence of incarceration for the violent offense of Domestic Assault and Battery. Sky Easley was received at the Department of Corrections on March 1, 2018, and discharged on August 16, 2019, with Doyle on the Board. Sky Easley then went to work for CEO<sup>23</sup>.

In November, 2019, after the Board's self-proclaimed "historic" commutation of inmates, CEO had released inmates working on the Governor's yard<sup>24</sup>. These are just a few examples of CEO receiving inmates from the Board that Doyle sits on.

The State has submitted open records requests to obtain the names of inmates that Doyle voted to release that were funneled to CEO, but thus far nothing has been produced.

CEO benefits a great deal from the votes made by Doyle in her capacity as a Board member. Doyle's private employment colors her judgement when voting to parole, commute or release any inmate. To find otherwise flies in the face of logic and reason.

In determining whether or not there is an appearance of impropriety in Doyle's service to her private employer and the Board, the words of a private citizen ring true. Citizen Jessica Eliza wrote into CEO questioning the financial motives of CEO and the parole decisions made. Even this citizen recognized that CEO "get[s] money for the parolees<sup>25</sup>. It is impossible that Doyle doesn't recognize this conflict – she chooses to

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<sup>22</sup> App. 8: Article by Archiebald Browne, dated 9-25-2019.

<sup>23</sup> App. 8: Article by Archiebald Browne, dated 9-25-2019.

<sup>24</sup> App. 9: 1-14-2019 article by Bonnie Campo, "Oklahoma's First Lady welcomes Commuted Workers to Centennial House".

<sup>25</sup> App. 21: Post by Jessica Eliza on CEO website.

ignore it because she is able to maintain her private employment with CEO and funnel clients to CEO via her employment at the Board. Doyle is also able to accomplish her personal political goals on the Board.

#### OTHER CONFLICTS BETWEEN BOARD DUTIES AND PRIVATE EMPLOYMENT

The 2019-2020 Officer's and Employees Guide instructs the state employee that they are "expected to show impartiality when discharging their duties"<sup>26</sup>. Rule 4.7 – which binds Doyle - deals with issues that call into question a state employee's ability to remain impartial when financial motives might cause the State employee to be biased. This rule requires a state employee to withdraw from participating in a matter when, *inter alia*, the matter is likely to have a direct and predictable effect on the material financial interests of the employee; *or* when circumstances would cause a reasonable person with knowledge of the facts to question the employee's impartiality<sup>27</sup>.

Rule 4.7 defines a "direct and predictable effect" as a "close causal link between any decision or action to be taken in the matter, and an "expected effect on the material financial interests" of the employee. "Material financial interest" is defined as, *inter alia*, an interest that arises as a result of the employee's work for a business entity at any time during the preceding year; *or* any source of income to the employee from employment outside the Board in an amount of \$20,000.00 or more.

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<sup>26</sup> App. 10: 2019-20 Officers and Employees Guide, p.6.

<sup>27</sup> Commission comments to Rule 4.7 provides that the employee should not participate in any way and do nothing to influence the ultimate decision.

In the instant matter, Doyle votes to release inmates, who then receive services from her primary employer, CEO, who in turn get more “contributions”, and in turn Doyle likely receives a raise. It is all about the money.

The State incorporates by reference herein, all of the facts and arguments laid out in the section above and below.

DOYLE’S CONFLICT BETWEEN HER PERSONAL POLITICAL  
AGENDA, HER DISLIKE OF PROSECUTORS AND VICTIMS,  
AND HER DUTIES AT THE BOARD

The State does not contest the absolute right of Doyle to have a personal political agenda, or to dislike whomsoever she chooses. The State does contest Doyle’s right to use her office to further her personal political agenda, or to mistreat prosecutors and victims.

DOYLE’S PERSONAL POLITICAL AGENDA

Over the last several years, Doyle has made her personal political agenda and that of CEO very public. With no training, education or experience in criminal justice, in her hubris Doyle fancies herself as an expert in the field. Doyle is on the Governor’s task force, Restore, which is looking at policies impacting “parole decision-making” and “re-entry services”<sup>28</sup>. Of course, CEO provides those re-entry services so CEO will profit from any recommendation by this “task force”.

Doyle hopes to have her voice heard regarding the lowering of the time served in 85% crimes because it is critical to do so if “we” want to “impact the incarceration rates in

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<sup>28</sup> App. 5: Transcript of Doyle making a public speech to a group of social workers in August, 2019, p. 7.

Oklahoma”<sup>29</sup>. Doyle insists something must be done about the 85% crimes<sup>30</sup>.

Doyle sought out the position on the Parole Board<sup>31</sup>. Doyle describes herself as going online and applying for the position<sup>32</sup>. It “was kind of a joke”, Doyle says, because “why would they pick someone like me...who is an advocate for decreasing the number of people we have in prison”<sup>33</sup>. Doyle called City Council members to have them “lift up” her name<sup>34</sup>. Doyle “worked it a little bit” and thought “what can I say to get myself on this Board?”<sup>35</sup>. Doyle fancied herself “sneak[ing] in the back door”<sup>36</sup>.

Doyle told the interviewers when she applied for the Board position that “[Oklahoma] has too many people in prison” and that [Oklahoma] needs to be paroling folks”<sup>37</sup>. Doyle described herself as “able to make [her] case”<sup>38</sup>.

Doyle believes that the Governor is serious about criminal justice reform(reducing incarceration rates) and they still have “quite a road” ahead of them in this regard, but they “have a real opportunity to do some things” at the Board in the coming year<sup>39</sup>.

Doyle described the Governor as wanting “more people applying for parole”, and wanting “more paroles granted”<sup>40</sup>. Doyle describes the “new” Board as “very much

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<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> App. 5: Transcript of Doyle making a public speech to a group of social workers in August, 2019, p. 2.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id. @ p. 3.

<sup>36</sup> Id.

<sup>37</sup> Id.

<sup>38</sup> Id.

<sup>39</sup> Id. at pp. 3-4.

<sup>40</sup> Id, at p. 4

looking, not for reasons to keep people – to keep people in, but looking for reasons to let them go”<sup>41</sup>.

Doyle goes on to say that incarceration rates can’t go down if the Board is only focusing on non-violent female offenders, and the Board will need to look at people with violent convictions”<sup>42</sup>. Doyle then indicates her hope that the rates of release will “slowly get better”<sup>43</sup>. Doyle describes the Board as “very much eager” to recommend pardons<sup>44</sup>. Doyle describes herself as being “appalled” at some of the sentences<sup>45</sup>. Doyle describes some of the groups that “she is dedicated to” are working to make sure that violent offenders are considered for parole<sup>46</sup>. Doyle mentions that Oklahoma will not “get out of the number one slot” if the board only looks at “non-violent drug offenders”<sup>47</sup>. Doyle admits to being concerned about “felony murder’ because the law is “misguided”<sup>48</sup>. All of this to say that Doyle has an agenda dedicated to getting inmates out of prison and will do so at any cost. Doyle has pre-determined that release is a given.

Then Doyle describes “a group of folks” who knew about commutations and saw that as a potential way to get some folks out”<sup>49</sup>. This group turned out to be the Oklahomans for Criminal Justice Reform, which will be discussed below. Doyle says now

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<sup>41</sup> Id. @ p. 9.

<sup>42</sup> Id, @ p 9.

<sup>43</sup> Id.

<sup>44</sup> Id. @ p. 11.

<sup>45</sup> Id. @ p. 14.

<sup>46</sup> Id. p. 15.

<sup>47</sup> Id, p. 18.

<sup>48</sup> Id. p. 30-31.

<sup>49</sup> Id. p. 12.

“everybody is applying for a commutation<sup>50</sup>. Doyle describes the commutation process as one that has no verification in the first stage, an investigation by Board employees with a report that tells the Board if the applying inmate has been truthful<sup>51</sup>. This is false. The investigator does not weigh in on the veracity of the information found in the application.

Doyle then describes commutations involving “new evidence” and self-describes the Board as not feeling like it is their place, not being prepared to look at new evidence, and those issues belong in the courts<sup>52</sup>. Doyle states that when new evidence is a claim, ‘it’s a slippery slope’...and [the Board] is not trying to retry cases, and things like that are for the Court of Criminal Appeals<sup>53</sup>. Clearly Doyle has changed her mind to accommodate her attempt to release Jones. Doyle then tells us her vote for Jones’ commutation. Doyle states that for those convicted of murder at an age “very close to being a juvenile” and you’ve been in prison for 20 years, then you should go home<sup>54</sup>. This statement by Doyle implicates the Jones’ case directly. The State will not get a fair hearing from Doyle on the Jones’ application.

Additionally, Doyle authored an article in 2019 patting herself on the back for her “monumental and historic” step towards cleaning out Oklahoma prisons<sup>55</sup>. Doyle complains in this article that Oklahoma uses “extreme prison sentences”, and she is

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<sup>50</sup> Id.

<sup>51</sup> Id.

<sup>52</sup> Id, @ p. 14.

<sup>53</sup> Id. @ p. 36-36.

<sup>54</sup> Id. p. 34.

<sup>55</sup> App. 12: Kelly Doyle: Let’s continue criminal justice reform momentum with sentencing reform.

disturbed by the “length of sentences” in Oklahoma<sup>56</sup>. This article by Doyle mentions her position on the Board and advocates for the reader to vote for the ballot referendum to prohibit sentence enhancements. Doyle encourages Oklahoma voters to advance reform that will “reduce the prison population”<sup>57</sup>. Doyle has also congratulated herself in a post that the “negative trend” in parole has been reversed and the Board increased its parole recommendations by “225%”<sup>58</sup>. This speaks volumes about Doyle’s ability to be impartial in commutation decisions.

Additionally, CEO, Doyle’s private employer is also an activist agency. CEO is a member of the “Oklahomans for Criminal Justice Reform” (“OCJR”) which is touted as a coalition of ...”advocates ...[and] non-profits” who work to “end Oklahoma’s over-reliance on incarceration”<sup>59</sup>. Essentially, the organization is formulated to figure out ways to get inmates released from prison, and to reduce the sentencing ranges for a multitude of crimes. OCJR, and its coalition, exert a great deal of influence over the criminal justice system in Oklahoma, despite the fact that not one of the members of the Board and the Executive team has ever actually worked in the criminal justice system.

OCJR’s website lists CEO as a coalition member, and also directs the reader to CEO’s website as a service provider. Kris Steele is the Executive Director of OCJR.

Kris Steele, and the OCJR, has assisted numerous inmates to apply for release, and has received special treatment from the Board<sup>60</sup>. In 2018, Steele’s group set up a

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<sup>56</sup> Id.

<sup>57</sup> Id.

<sup>58</sup> App. 13: Kelly Doyle post of 8-26-2020.

<sup>59</sup> App. 11: Webpages from “Oklahomans for Criminal Justice Reform”.

<sup>60</sup> App. 14: Email of 7-27-2018 between Allen McCall and DeLynn Fudge, Director.



“supplemental” docket that was specially for clients of OCJR. One member of the Board – a retired judge who is familiar with conflicts and the appearance of impropriety - objected to this special docket for Kris Steele’s inmates, and the OCJR’s attempts to “push through a large group” of applications<sup>61</sup>.

In 2019, District Attorney Greg Mashburn wrote to the Governor complaining about the Boards behavior regarding commutations<sup>62</sup>. The Governor’s counsel sent the letter to the Board Chairman, Robert Gilliland. Board member Allen McCall was asked to formulate a response to the letter. Board member Allen McCall recognized the “agenda” of some of the Board members to “put the DA’s and Judges in their place”, and to “reconfigure any sentence”<sup>63</sup>. Board member Allen McCall stated that “a few on our Board see commutation as an opportunity to make a political statement by assisting inmates in getting a better deal”, and that the commutation process is being used “to promote a political agenda”

In July of 2019, Steven Bickley, who was the Director at the time, under the guise of “training” tried to push Doyle’s “worksheet outlining her decision logic for case-deciding”<sup>64</sup>. Board member Allen McCall objected to using “training” to push a political agenda<sup>65</sup>. Board member Allen McCall noted that the Board “currently” has a member with an obvious conflict of interest, and the same member trying to push a political

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<sup>61</sup> Id.

<sup>62</sup> App. 15: 9-04-2019 email chain.

<sup>63</sup> App. 15: 9-04-2019 email chain.

<sup>64</sup> App. 16: 7-12-2019 email chain.

<sup>65</sup> Id.

agenda<sup>66</sup>. Board member Allen McCall also protested the involvement of Kris Steele in this particular case in an email to Chairman Gilliland. In the email, board member Allen McCall protests that “victims will be victimized by Steele’s endless quest for publicity”, and believes that Steele has “improperly discussed this case with at least two of the Board members and already has two votes” to release him<sup>67</sup>.

Another indication of the political agenda of Doyle and the Governor acting in conjunction with one another is an email chain between Board member Adam Luck, Doyle and the Governor’s office in November, 2019. The email chain begins with an email from Adam Luck (“Luck”). On 10-28-2019, Luck asks Jeffrey Cartmell, a member of the Governor’s staff to schedule regular meetings to discuss the differences between the Board’s recommendations and how the Governor decided in order for them to “continue working towards being on the same page”<sup>68</sup>. The message is forwarded to the Governor’s counsel and then Doyle is added into the conversation because she would like to “discuss the gap that may exist between the board’s recommendations and the governor’s decisions” so they can be aligned”<sup>69</sup>.

Doyle then responds that it would be “super” helpful to get together to chat about the “line” on trafficking. Doyle notes that she “hates” moving people through if “we” aren’t aligned.

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<sup>66</sup> Id,

<sup>67</sup> App. 17: Email from Allen McCall to Gilliland re: commutations.

<sup>68</sup> App. 18: Email chain in October, 2019 re: Being on the same page.

<sup>69</sup> Id.

In July 2020, the Tulsa World wrote that Board member Allen McCall accused Mark Burgett of interfering in Board matters”, and that the Governor’s appointees “regularly” boasted of meeting with the Governor to discuss Board business<sup>70</sup>.

In May, 2020, Board member Allen McCall sent an email to Board Chairman regarding a motion to disqualify Doyle from voting on inmates’ release<sup>71</sup>. In this email, Board member Allen McCall mentions that Doyle has disrespected the Board with her “continual childlike histrionics” when she and her “handlers” don’t get their way<sup>72</sup>.

Board member Allen McCall points out an instance at the first meeting when Adam Luck and Doyle were present, Adam Luck tried to recommend CEO services to an inmate<sup>73</sup>. Board member Allen McCall then posits that Doyle has a clear conflict of interest between her private employment and her private political beliefs, and her duties at the Board<sup>74</sup>. This Board member is a retired judge, trained in the law, and decades of judicial experience under his belt, and he believes that a clear conflict exists.

This much is clear...Doyle’s mind is made up. Doyle cannot be impartial in any way based on her own personal political agenda, an agenda that she is forcing down the throats of the citizens of Oklahoma in her naïve smugness. It is of note that on all occasions when Doyle speaks about her accomplishments at the Board, it is in relation to releasing inmates. Not a word about the objections of the victims, or the prosecutors. That is because

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<sup>70</sup> App. 19: 7-14-2020 Article “Disarray at state Pardon and Parole board surfaces at meeting”.

<sup>71</sup> App. 23: email chain between Allen McCall and Robert Gilliland in May, 2020.

<sup>72</sup> Id.

<sup>73</sup> Id.

<sup>74</sup> Id.

Doyle doesn't even feign interest in the objections to release. Those opinions are simply beneath her.

#### DOYLE'S OPENLY DISDAINFUL ATTITUDE TOWARDS PROSECUTORS

Since her appointment to the Board, Doyle's impartiality has been called into question by numerous prosecutors for his behavior, demeanor, and actions.

In July, 2020, a young prosecutor named Jacobi Whatley ("Whatley") appeared before the Board. Whatley appeared via telephone due to the pandemic. From the beginning of her presentation, Doyle was hostile<sup>75</sup>. Doyle chastised Whatley for taking up too much time, and stated that Whatley was using time that would take away from other protesters<sup>76</sup>. Another Board member corrected Doyle and said that wasn't true. During part of her protest, Doyle interrupted Whatley and challenged Whatley's use of a LSI, claiming it was improper to do so, and Doyle insisted that Whatley didn't know how to use an LSI<sup>77</sup>. Doyle's tone was combative and unprofessional, and Doyle huffed and sighed while Whatley was presenting her objections<sup>78</sup>. At one point, Doyle overtalked Whatley and said "so you just want to have the offender to serve the entirety of their sentence for no reason"<sup>79</sup>. When Whatley finished her objections, she stayed on the line unbeknownst to Doyle. Whatley heard Doyle complaining that she (Whatley) had taken up too much time and using time from people who had "real" protests, that Whatley

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<sup>75</sup> App. 22: Affidavit of Jacobi Whatley.

<sup>76</sup> Id.

<sup>77</sup> Id.

<sup>78</sup> Id.

<sup>79</sup> Id.

didn't know how to read an LSI and didn't have mental health training<sup>80</sup>. Doyle continued to make snide comments about Whatley<sup>81</sup>.

Another prosecutor who felt Doyle's scorn is District Attorney Laura Thomas ("Thomas"). Thomas appeared before the Board to protest the release of an inmate from her jurisdiction, Doyle interrupted her and stated "is there any sentence a DA thinks is excessive?"<sup>82</sup>. Doyle's tone was rude, dismissive, and condescending<sup>83</sup> (apparently based on Doyle's vast experience in the criminal courts of Oklahoma as compared to Thomas' vast experience in the criminal courts of Oklahoma). When Thomas tried to answer questions to the Board, Doyle would turn her head and look away.

Doyle has expressed her opinions of prosecutors as barbarians and draconian<sup>84</sup> (again, apparently based on her vast experience in the criminal courts). Doyle has expressed her opinion that District Attorneys should not be permitted to speak and when they do, their right to do so should be seriously curtailed<sup>85</sup>. Doyle has also been seen rolling her eyes when prosecutors are objecting<sup>86</sup>, surely in the most professional manner in which one can roll their eyes while performing an impartial duty.

Thomas moved to disqualify Doyle and Adam Luck (whose disqualification will be discussed in a separate motion). The Board didn't even grace Thomas with the courtesy of a response. A challenge to an assigned [tribunal] for want of impartiality presents an

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<sup>80</sup> Id.

<sup>81</sup> Id.

<sup>82</sup> App. 24: Affidavit of Laura Thomas, District Attorney for Logan and Payne Counties.

<sup>83</sup> Id.

<sup>84</sup> Id.

<sup>85</sup> Id.

<sup>86</sup> Id.

issue of constitutional dimension which must be resolved and the ruling memorialized of record after a meaningful evidentiary hearing. *Clark v. Board of Educ. Of Independent School District No. 89 of Oklahoma County*, 32 P.3d 851, 2001 OK 56. A quest for recusal may not be ignored, nor is a [tribunal] free to proceed with the case until the challenge stands overruled of record following a judicial inquiry into the issue. *Id.* Want of a record ruling upon this critical issue subjects the moving party to a [hearing] before a [tribunal] whose challenged impartiality goes untested. *Id.* at ¶ 8.

This failure to respond is not isolated to Thomas' requests to disqualify. Multiple District Attorney's have moved to have Doyle (and Luck) disqualified with no response from the Board<sup>87</sup>.

Doyle has also submitted documents to the Board that call for District Attorneys and victims to be shut out of the process before the Board, which is clearly indicative of Doyle's personal agenda to release inmates without the bother of protests. In October 2020, Doyle sent an email to Tom Bates, Executive Director of the Board, and to Kyle Counts, Board Counsel with an article attached for them to read<sup>88</sup>.

Doyle mentions that who the Board interviews is discretionary, and that "we need to do more to reduce discretion". In fact, Doyle doesn't want to reduce discretion. *She lives on unbridled discretion in her hubristic attempt to control the process so that she*

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<sup>87</sup> District Attorney Angela Marsee and District Attorney Jason Hicks have also moved to disqualify Doyle for the reasons outlined herein with no response from the Board.

<sup>88</sup> App 25: 10-26-2020 email from Doyle to Tom Bates and Kyle Counts.

*can accomplish her ultimate goal – release of as many inmates as she can possibly release.*

The article submitted by Doyle was written by an employee of the Prison Policy Institute, which is a left wing liberal get out of jail group who want to “educate” the general public about the harm of putting criminals in prison. The article tries to convince the reader that parole systems that allow prosecutors and victims to object to the parole of an inmate is failing and outdated<sup>89</sup>. The article gives a failing mark if prosecutors are allowed to speak in opposition to the parole of an inmate.<sup>90</sup> It also gives failing marks if the victims of a violent offender are allowed to speak in opposition of the inmates’ release<sup>91</sup>. The theory behind prohibiting prosecutors and victims from speaking suggests that these parties have old news<sup>92</sup>.

This is clearly how Doyle feels about the process. Allowing prosecutors and victims to appear and object is old and unnecessary for Doyle. This means that these *“draconian and barbarian” prosecutors* and victims are not receiving an impartial decision from Doyle, and she should be removed from considering this case.

## CONCLUSION

Hubris is a dangerous cocktail of overconfidence, overambition, arrogance and [excessive] pride fueled by power.... *Eugene Sadler-Smith, Professor of Organizational*

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<sup>89</sup> App. 25: 10-26-2020 email from Doyle to Tom Bates and Kyle Counts.

<sup>90</sup> Id. @ p. 4

<sup>91</sup> Id.

<sup>92</sup> Id.

*Behavior, University of Surrey.* When found alongside contempt for the advice and criticism of others, hubris causes leaders to significantly overreach themselves, making risky and reckless decisions with harmful, sometimes catastrophic consequences for themselves, their organizations, institutions, and even for society. *Id.*

Doyle's hubristic approach to her position on the Board will cause the public, the courts, or the legislature, or all, to take some action to limit the discretion of the Board in ways that are antithetical to the goals she is trying so hard to reach by using her position on the Board.

The State does not seek favor nor does it seek advantage. The State seeks a Board member who approaches his or her job at the Board with an open mind, without pre-conceived goals that impact their decisions to release or to not release an inmate, and one who isn't caught up in the Hollywood hype and the loud crowds who clamor for Jones' release without having any real knowledge of the facts of Paul Howell's murder.

For the reasons outlined herein, the State respectfully requests Doyle to disqualify herself, and if she declines to do so, the Chairman should do so.

Respectfully submitted,

DAVID W. PRATER  
DISTRICT ATTORNEY



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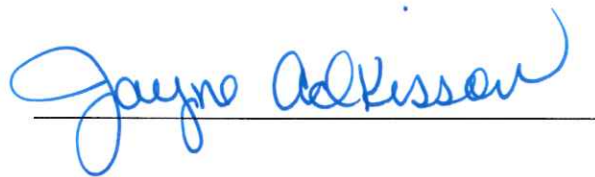
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Oklahoma City, Oklahoma 73102  
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**CERTIFICATE OF MAILING**

I certify that on the 3<sup>rd</sup> day of September, 2021, a true and correct copy of the above and foregoing instrument was hand delivered to the following:

Tom Bates, Executive Director on Behalf of the Board Members  
c/o Pardon and Parole Board  
2915 N Classen Blvd #405  
Oklahoma City, OK 73106

  
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