

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 # 270147  
for District 7, Oklahoma County, ) Inmate Julius Jones  
Movant, )

**STATE'S MOTION TO RECUSE AND/OR DISQUALIFY OKLAHOMA  
PARDON AND PAROLE BOARD MEMBER ADAM LUCK 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 moves Adam Luck (Luck), as an individual member of the Oklahoma Pardon and Parole Board (Board), to recuse himself and/or disqualify himself from participating in 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 members of the Board have 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 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”, and [t]he Board[] 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).

Additionally, 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 Board’s own policy adopts these statutes in Rule 102, which provides that the Board’s “[d]uties, code of conduct and responsibilities will be consistent with Federal and State laws as well as guidelines and regulations adopted by the Office of Personnel Management”. Rule 104 requires employees to “avoid actual breaches of ethics as well as the perception of unethical behavior”.

These laws and rules make it abundantly clear 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

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<sup>1</sup> Oxford Dictionary.

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 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).

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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.

“[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 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) (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.”) (emphasis added)

### ***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)) (emphasis added). 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[.]* (emphasis added) *Id.*

**IV. LUCK HAS A CLEAR CONFLICT OF INTEREST BETWEEN HIS DUTIES AT THE BOARD AND PRIVATE INTERESTS.**

The State submits that Luck has a clear financial conflict of interest in two ways: 1) between his duties to the citizens and the Board and his duties to his private employers, the Center for Employment Opportunities (CEO) and City Care, and 2) his duties at the Board and his private political agenda.

**STATE RULES ON FINANCIAL CONFLICT OF INTEREST**

The Oklahoma Ethics Commission has promulgated rules to help guide State employees, like Luck, through the potential conflicts that might arise between government employment and private employment. Rules 4, 4.1, 4.2, 4.3 and 4.4 deal 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, another Board member Kelly Doyle (Doyle), is clearly a vendor to the State of Oklahoma, and Doyle is clearly CEO’s “vendor agent”. This relationship will be discussed in further 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 Luck) 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 CEO FINANCES AND GOALS

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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.

Following the money is always a great place to find motives. Luck is employed in the private sector by City Care, a non-profit. City Care “provides “homeless services, supportive housing, and a program for kids called “Whiz Kids”. In general, City Care is designed to assist the homeless – including returning incarcerates - to have both a temporary and a more permanent place to live. City Care relies almost exclusively on government support for these services<sup>5</sup>. . City Care has contracts with the State of Oklahoma, and in 2019, City Care received over \$1.6 million in “contributions” from Government sources<sup>6</sup>. Of that amount over one-third went towards wages and salaries<sup>7</sup>. Luck is the Chief Executive Officer of City Care, and presumably derives the majority of his income from City Care.

Luck is also on the national Board for the Center for Employment Opportunities (“CEO”). This makes Luck a supervisor of sorts of another Board member, Doyle, who is the regional Director for CEO. It is unclear if Luck receives a salary for any services he provides to CEO, but Luck’s position on the Board of CEO would necessarily require him to maintain loyalty to CEO in their endeavors. CEO is claimed to be a “non-profit” organization that “exclusively” serves people “who have recently returned home from incarceration”<sup>8</sup>. CEO is based in New York but has offices in several states, including Oklahoma.

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<sup>5</sup> App. 27: City Care Financials.

<sup>6</sup> App. 27: City Care Financials.

<sup>7</sup> App. 27: City Care Financials, p. 6-a.

<sup>8</sup> App. 1: Snapshot of CEO’s local webpage.

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>9</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>10</sup>. However, Doyle is still, in fact, employed by CEO as an Executive Director<sup>11</sup>. As a member of the National Board for CEO, this wasn't done without Luck's approval and support. It is clearly an attempt by CEO to distance themselves from Board member Doyle in the public eye, but maintaining a close bond in private.

Non-profits, like CEO, depend on "contributions" to remain viable. As a National Board member for CEO, Luck must be tuned into the money-making efforts of CEO. Luck also must be a decision maker when it comes to services offered by CEO, how those services will be offered, and to whom the services are offered. CEO is clearly all about money, despite the claim that they are devoted to assisting the poor returning incarcerate.

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>12</sup>. In 2019, CEO received \$58,742,560.00 in "contributions"<sup>13</sup>. In eight years, CEO's "contributions" increased over 300%.

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<sup>9</sup> App. 7: Affidavit of Darren Gordon.

<sup>10</sup> App. 7: Affidavit of Darren Gordon.

<sup>11</sup> Id.

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

<sup>13</sup> App. 2: ProPublica Tax Filings for CEO for 2011-2020.



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>14</sup>. This is an increase of 4800%, just in funding just from the State of Oklahoma.

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>15</sup>. This is over a 100% increase in salary in a span of eight (8) years, and an average raise of 12% per year. As a member of the Board, Luck must be involved in the decision making related to salaries paid to the executives of this "non-profit".

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>16</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

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<sup>14</sup> App. 7: Affidavit of Darren Gordon.

<sup>15</sup> App. 2: ProPublica Tax Filings for CEO for 2011-2020.

<sup>16</sup> App. 3: ProPublica Tax Filings for CEO for 2014-2020, with salaries of Executives.

a gain of approximately 30%, or an estimated average of 3.2% per year<sup>17</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 in the following amounts: for 2018-2019: \$1,509,350.00<sup>18</sup>; for 2019-2020: \$1,553,850.00; for 2020-2021: \$1,612,902.00; and for 2021-2022: \$1,661,561.00. 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>19</sup>. It is impossible to believe that Luck is not aware of the financial arrangements of CEO locally since he is a national board member.

CEO also enjoys a contract with the Oklahoma Department of Transportation to provide “litter abatement...vegetation control, bridge preservation” using “state funding”<sup>20</sup> and utilizing CEO staff to do the work that inmates formerly did<sup>21</sup>. The amount of this contract is unknown at this time, but it uses CEO enrollees (released inmates) to do the work that Department of Corrections inmates did while they were incarcerated.

Yet another non-profit group that plays into the narrative is a group called “Oklahomans for Criminal Justice Reform” (“OCJR”). OCJR is a group designed to decriminalize certain crimes, reduce the punishments for most if not all crimes, and to decrease the number of people in prison. Kris Steele is the Executive Director of OCJR,

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<sup>17</sup> App. 4: U.S. Bureau of Labor Statistics for January 2011 to 2021.

<sup>18</sup> App. 6: Contract between State of Oklahoma and CEO dated 7-01-2018 to 6-30-2019.

<sup>19</sup> Id.

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

<sup>21</sup> App. 5: Transcript of Doyle making a public speech to a group of social workers in August, 2019, p. 5-6.

and is also on the Board at OCJR. OCJR refers clients to City Care and to CEO, and quotes Luck as a scholarly source in their literature about sentencing reform<sup>22</sup>. Kris Steele, on behalf of OCJR, wrote a letter in support of Jones to the Board, and to the Governor<sup>23</sup>.

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>24</sup>. OCJR's website lists CEO as a coalition member, and also directs the reader to City Care and CEO's website as a service provider<sup>25</sup>.

Essentially, OCJR 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. This association creates an incredibly incestuous relationship among a handful of self-appointed, self-promoting activists with a clear purpose of clearing out the prisons, by whatever means necessary.

Kris Steele, and the OCJR, has assisted numerous inmates to apply for release, and has received special treatment from the Board<sup>26</sup>. In 2018, Steele's group set up a "supplemental" docket that was especially for clients of OCJR. One member of the Board

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<sup>22</sup> App. 11: OCJR webpage documents.

<sup>23</sup> App. 33: 10-12-2019 from OCJR re: asking for consideration for Jones.

<sup>24</sup> App. 11: Webpages from "Oklahomans for Criminal Justice Reform".

<sup>25</sup> App. 11: OCJR Webpage documents.

<sup>26</sup> App. 14: Email of 7-27-2018 between Allen McCall and DeLynn Fudge, Director.

– 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>27</sup>.

It is against this backdrop of “following the money” and the connections between these organizations that one source of Luck’s conflict of interest must be judged. The more people coming into CEO and/or City Care, the more “contributions’ CEO and City Care are able to procure. The more money coming into CEO, the higher the salary of the executives, like Doyle. Each month, Luck gets to weigh in on, and vote, to release or not release a large number of inmates<sup>28</sup>. In March, 2021, alone, Luck voted on the release of 474 applicants for commutation. Once released, a percentage of these inmates go to work for CEO. The State has requested figures related to the number of inmates who are enrolled at CEO and City Care after release, but has not received a response.

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>29</sup>. He was released in 2019 with Luck on the Board, and immediately went to work for CEO, *after being referred to CEO by his Parole Officer*<sup>30</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

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<sup>27</sup> Id.

<sup>28</sup> App. 5: Transcript of Doyle making a public speech to a group of social workers in August, 2019, p. 12.

<sup>29</sup> Id.

<sup>30</sup> App. 8: Article by Archiebald Browne, dated 9-25-2019.

received at the Department of Corrections on March 1, 2018, and discharged on August 16, 2019, with Luck on the Board. Sky Easley then went to work for CEO<sup>31</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>32</sup>. These are just a few examples of CEO receiving inmates from the Board that Luck sits on.

The State has submitted open records requests to obtain the names of all of the inmates that Luck 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 Luck in his official capacity as a Board member. To find otherwise flies in the face of logic and reason. That is because it is fundamental that an employee or agent must act in good faith and in the interest of [his] employer or principal. *Martin v. Johnson*, 975 P.2d 134, ¶ 32, (citing *Butcher v. McGinn*, 1985 OK 58, 706 P.2d 889. It is because of this duty of loyalty owed by Luck to CEO that makes his participation in any decision making related to inmate release – a conflict. CEO benefits financially from each inmate they service, and a percentage of those released by Luck go to CEO on release. Therefore, Luck's vote to release increases CEO's ability to raise "contributions".

Would a reasonable person find an appearance of impropriety in this arrangement? In determining whether or not there is an appearance of impropriety in Luck's dual service

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<sup>31</sup> App. 8: Article by Archiebald Browne, dated 9-25-2019.

<sup>32</sup> App. 9: 1-14-2019 article by Bonnie Campo, "Oklahoma's First Lady Welcomes Commuted Workers to Centennial House".

to CEO and the Board, the words of a private citizen ring true. Citizen Jessica Eliza wrote into CEO questioning the financial motives of CEO in voting to release inmates, and the parole decisions being made. Even this citizen (presumably a reasonable person) recognized that CEO “get[s] money for the parolees”<sup>33</sup>.

Two possibilities exist. One, that Luck is too naïve to understand the nature of his conflict, or two, that Luck understands the conflict but has a personal political agenda he is seeking to carry out by “leveraging” his position on the Board to release as many inmates as possible. Luck encourages people to “leverage” their position(s) to create the outcome they seek. Merriam Webster Dictionary defines “leverage” as “to use for gain, exploit”. Luck is clearly leveraging his position for personal gain.

***V. LUCK HAS DISPLAYED ACTUAL BIAS AND BIAS CAN BE IMPLIED FROM HIS WORDS AND ACTIONS, AND HE HAS CREATED AN APPEARANCE OF IMPROPRIETY THAT CONTAMINATES THE ACTIONS OF THE ENTIRE BOARD.***

The 2019-2020 Officer’s and Employees Guide instructs the state employee that they are “expected to show impartiality when discharging their duties”<sup>34</sup>. Rule 4.7 – which binds Luck - deals with, *inter alia*, issues that call into question a state employee’s ability to remain impartial when circumstances would cause a reasonable person with knowledge of the facts to question the employee’s impartiality<sup>35</sup>.

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<sup>33</sup> App. 21: Post by Jessica Eliza on CEO website.

<sup>34</sup> App. 10: 2019-20 Officers and Employees Guide, p.6.

<sup>35</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.

It is unclear if Luck receives a salary from CEO but he clearly has a motive to funnel clients to CEO that lies beyond his Board duties. The commission comments are very instructive in determining when a relationship between state officer and private employment is a conflict.

## LUCK'S PERSONAL POLITICAL AGENDA

A. Luck's writings and statements to the press are a clear indication of his political agenda. Luck has had a clear personal agenda relating to incarceration for a long time for various reasons outline below.

In 2014, Luck authored a paper titled "Criminal Justice Reform in Oklahoma: Analysis of the Justice Reinvestment Initiative and Recommendations for Steps Forward"<sup>36</sup>. The Justice Reinvestment Initiative was handled in the legislature by Kris Steele, who was also a part of the working group for "justice reinvestment"<sup>37</sup>. This is where Luck's relationship with Kris Steele seems to have started, and it has resulted with Kris Steele in the background of the movement to get Jones released no matter what the truth is. The question arises as to why Kris Steele would be so interested in Jones' release.

In 2016, Luck was touted as the "Oklahoma's Accidental Criminal Justice Czar" based on the report listed in the previous paragraph, and Luck supposedly became the "de facto criminal justice czar", and the State Director of Right on Crime group, a non-profit geared towards, *inter alia*, reducing prison populations<sup>38</sup>.

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<sup>36</sup> App. 39: Luck's paper titled "Criminal Justice Reform in Oklahoma: Analysis of the Justice Reinvestment Initiative and Recommendations for Steps Forward".

<sup>37</sup> Id. at p. 40

<sup>38</sup> App. 40: Article "Oklahoma's Accidental Criminal Justice Czar"

In 2016, Luck wrote another article titled “Oklahoma Prison Reform a Must in 2016” and clearly designed to shock the electorate into de-criminalizing some behaviors and reducing the sentencing ranges for others<sup>39</sup>. Luck tells the reader that if you steal over \$500 in merchandise in Oklahoma, you will likely face a prison sentence<sup>40</sup>. Nothing is further from the truth, and Luck should have known that, if he is the expert that he claims to be, and interestingly Luck cites no reference material to support this outlandish claim. In fact, very few criminals go to prison for theft on a first offense.

In the same article, Luck claims that a “felony drug possession” will result “in a mandatory two years in prison”<sup>41</sup>. Again, no citation to material to support this claim. Again, entirely false, and Luck should know that it is false. It is clearly designed to sensationalize the issue and over-emotionalize it for the general public.

In a paper authored by Luck in 2017 titled “Criminal Justice Reform in Oklahoma – Next Steps”, Luck stated that new legislation “eliminated mandatory minimum sentences for drug possession”<sup>42</sup>. Again, false in that there were never mandatory minimum sentences for drug possession. The law set out a range of punishment for drug possession, but an offender was never required to serve a minimum sentence. The offender was always able to receive a deferred or suspended sentence, and Luck should have known this when

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<sup>39</sup> App. 28: Luck’s article “Oklahoma Prison Reforms a Must in 2016”.

<sup>40</sup> App. 28: Luck’s article “Oklahoma Prison Reforms a Must in 2016”.

<sup>41</sup> Ibid.

<sup>42</sup> App. 41: Luck article “Criminal Justice Reform in Oklahoma – Next Steps”.



he wrote this article. Luck then tells the reader that the work of criminal justice reform is not finished because the “issue of incarceration” must be addressed<sup>43</sup>.

In November 2019, after his appointment to the Board, Luck authored an article titled “Point of View: The Case for Sentencing Reform in Oklahoma”<sup>44</sup>. In this article Luck identified himself as a member of the Pardon and Parole Board, and describes how his experience causes him to vote for a state ballot initiative to “end sentence enhancements for non-violent offenses”<sup>45</sup>. Luck tells the reader that his experience at the Board only demonstrates the need for more work and the *urgency* required to complete that work. Luck indicated he supported the measure as he would *any* measure that “lowers the number of our community members in prison”<sup>46</sup>.

In August, 2019, Luck cried as he talked about the “incarceration system”<sup>47</sup>. In this article Luck discusses Isaiah 61, and its applicability to his current role at the Board. Isaiah 61(1) says “[t]he Spirit of the Lord GOD is upon me; because the LORD hath anointed me to preach good tidings unto the meek; he hath sent me to bind up the brokenhearted, to *proclaim liberty to the captives, and the opening of the prison to them that are bound*”.

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<sup>43</sup> App. 41: Luck article “Criminal Justice Reform in Oklahoma – Next Steps”.

<sup>44</sup> App. 42: Luck article “Point of View: The Case for Sentencing Reform in Oklahoma”.

<sup>45</sup> Id.

<sup>46</sup> Id.

<sup>47</sup> App. 43: August 2019 article titled “The Way Down: Adam Lucks Familial Advocacy”.

Luck then tells the author that although he used to read this passage metaphorically, *he now reads the passage literally*, and this passage “informs the work he does everyday”<sup>48</sup>. Luck then re-iterates that his goal is to “get more people”... “out of a cell”<sup>49</sup>.

These statements by Luck are indicative of his stance on the Board, i.e. everybody starts out in a position of entitlement to release. This makes anybody objecting to the release of an inmate, starting out from behind. Luck is not allowed the luxury of pursuing his personal agenda on a Board that requires impartiality, fairness, to both side of the issues.

B. Luck’s Social Media postings are indicative of his personal agenda. Since Luck has taken his seat on the Board, he has engaged in a social media carnival, related to his duties on the Board<sup>50</sup>.

-On 3-08-19 Luck received a message from a man complaining about an inmates sentence. Luck asked the man about the status of the case, and then asked the man to “message” him. The only conclusion to be drawn? Luck was going to check into the case on the man’s behalf<sup>51</sup>.

-on 3-08-2019, Marq Lewis sent a message to Luck saying he wanted to have a working relationship with Luck “for assistance in the many cases that [Lewis] has. Luck’s

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<sup>48</sup> App. 43: August 2019 article titled “The Way Down: Adam Lucks Familial Advocacy”.

<sup>49</sup> App. 43: August 2019 article titled “The Way Down: Adam Lucks Familial Advocacy”.

<sup>50</sup> App. 45: 2019 Social Media Posts; App. 46: 2020 Social Media Posts.

<sup>51</sup> App. 45: 2019 Social Media Posts.

response? Send me a DM and let's get together for coffee<sup>52</sup>. The conclusion to be drawn? Luck intended to help this man with "cases".

-on 3-09-2019, Benjamin sent a message to Luck asking about "non-violent marijuana-related crimes". Luck responded that "there was a group looking into this, and depending on what happens at the legislature, "we" will be looking into this population further"<sup>53</sup>.

-on 3-13-2019, Luck congratulates himself and brags to his audience about a woman who received 25 years on "trafficking with intent to distribute"<sup>54</sup>.

-on 3-13-2019, Luck writes "the early trauma we see ..is simply shocking and hard to imagine", in reference to an inmate<sup>55</sup>.

-on 7-10-2019, Luck writes about Tondalo Hall "who was sentenced in 2004 to 30 years for "permitting". Luck then follows up with a self-congratulatory message about Ms. Hall passing to stage 2<sup>56</sup>.

-on 8-08-2019, Luck receives a message about himself "working in criminal justice reform for years now – "setting the captives free and letting the rest of Isaiah 61 inform his work". Luck responds "Thanks for sharing the expression that ....I have been disciplined in". (this is the Bible verse that is quoted above by Luck when he indicates to the press that he takes the words literally about "setting the captives free"<sup>57</sup>.

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<sup>52</sup> App. 45: 2019 Social Media Posts.

<sup>53</sup> App. 45: 2019 Social Media Posts.

<sup>54</sup> App. 45: 2019 Social Media Posts.

<sup>55</sup> App. 45: 2019 Social Media Posts.

<sup>56</sup> App. 45: 2019 Social Media Posts.

<sup>57</sup> App. 45: 2019 Social Media Posts.

-on 9-19-2019, Luck has a string of emails which culminate in another self-congratulatory pat on the back for his work in “commuting 15 life sentences, one Life without Parole sentence, and 485 years off of 64 individual sentences”. Luck informs the reader that “legal services” were received from a unique partnership, including Fwdus, and OKJusticeReform<sup>58</sup>. (these entities are mentioned above).

In the same string of self-congratulatory remarks, Luck commends some law students who “fight for justice” for these inmates. No mention of justice as it relates to the pain of victims because for Luck, it is all about the inmates

-On 10-17-2019, Luck receives a message from Kim Kardashian West, in which West asks the Board to give careful consideration to Jones’ Petition. Luck responds by saying “Julius Jones’ case is receiving national attention this week because he has applied for a commutation as a final legal recourse before execution”. Luck re-posts Kim Kardashian West’s message of support for Jones. Then Luck tells the reader that commutation is the “final recourse before execution”. This is patently false, and clearly is designed to create in the reader a sense of urgency on Jones’ behalf. Commutation IS NOT the last recourse before execution.

-on 11-01-2019, Luck messages about what a historic day it was as the Board continues to work to address the issues tied to having the highest incarceration rate in the world”<sup>59</sup>.

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<sup>58</sup> App. 45: 2019 Social Media Posts.

<sup>59</sup> App. 45: 2019 Social Media Posts

-on 11-04-2019, Luck describes “quite a feeling to hear the individuals incarcerated here cheer as those commuted walk through the gates to freedom”<sup>60</sup>.

-on 11-08-2019, Luck post a photograph of Tondalo Hall with large graphics, thanking everybody for helping the Board to “correct this injustice”<sup>61</sup>.

-on 1-16-2020, Luck brags about the increased approval rate for release for the Board<sup>62</sup>.

-on 2-28-2020, Luck writes that he could listen to the stories of two women in prison<sup>63</sup>.

-on 5-31-2020, Luck writes “Posting is not protesting. Protesting is protesting”, and “we are either actively working to end these systems of injustice and oppression or we are participating in perpetuating them”<sup>64</sup>.

-on 6-09-2020, Luck receives a communication from “stella” claiming Julius Jones is innocent”. Luck also receives another message asking about Julius Jones. Luck answers by telling the reader that the Board has asked for a clarification about death row inmates<sup>65</sup>.

-on 7-31-2020, Luck writes about the District Attorneys requesting open records and filing recusals. Luck mentions that he has been advised not to comment any further, but that he still has a significant amount of work to do, and he will do it<sup>66</sup>.

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<sup>60</sup> App. 45: 2019 Social Media Posts.

<sup>61</sup> App. 45: 2019 Social Media Posts.

<sup>62</sup> App. 46: Luck’s 2020 Social Media Posts.

<sup>63</sup> App. 46: Luck’s 2020 Social Media Posts

<sup>64</sup> App. 46: Luck’s 2020 Social Media Posts.

<sup>65</sup> App. 46: Luck’s 2020 Social Media Posts.

<sup>66</sup> App. 46: Luck’s 2020 Social Media Posts.

These are just a few of the many posts by Luck wherein he boasts about the number of people he has released and how wonderful it feels to do so. What is glaringly absent from any of these posts by Luck is any mention of the victims who have suffered, or the circumstances of the crimes these people committed, or the objections of the prosecutors. Luck's only take away from his Board position is that he has released inmates and he is so proud of himself for doing so.

Pair what comes out of Luck's own mouth with his association with the "non-profits" listed below, all geared towards prisoner release, and no reasonable person could find him impartial.

#### CONTINUED EFFORTS PRIVATELY AND PUBLICLY TO REDUCE INMATE POPULATION

Luck is connected to four separate organizations: City Care, CEO, OCJR, and The Education and Employment Ministry ("TEEM").

City Care receives State funds to provide services, at least in part, to inmates returning to society<sup>67</sup>. City Care contracts with the State of Oklahoma to provide SNAP benefits to their clients.

Luck is also on the Board of Trustees for CEO, which is designed exclusively to providing services to returning inmates and is funded by State tax dollars<sup>68</sup>. As such, Luck owes a duty of loyalty to this group. As a member of the Board of Trustees for CEO, presumably he assists in setting salaries. CEO has a policy agenda geared toward

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<sup>67</sup> App. 1: Snapshot of CEO webpage.

<sup>68</sup> App. 6: CEO contract with the State.

expanding access to SNAP benefits for those returning from incarceration<sup>69</sup>. CEO also has a contract with the State to provide SNAP services to inmates and this contract “contributes” over \$6 Million to CEO for the years of 2018-2022<sup>70</sup>.

OCJR is a another group with a stated goal of advocacy for “criminal justice reform” by “reducing the State’s dependence on incarceration” and providing “alternatives to incarceration”<sup>71</sup>. Kris Steele is a member of the Board at OCJR, and is also the Executive Director of OCJR<sup>72</sup>. OCJR is also found under the moniker of “okjusticereform” when searching the internet for information about OCJR. Neither OCJR, nor “okjusticereform” have financial information on their websites, but some information is available about how OCJR /okjusticereform is funded. OCJR received \$250,000.00 from the ACLU in 2016<sup>73</sup>, received \$508,980.00 from “fwdus Education Fund Inc” in 2018<sup>74</sup>, and \$450,000.00 from fwdus Education Fund Inc. in 2019<sup>75</sup>. fwdus Education Fund Inc. is yet another non-profit with a claimed purpose of educating people about “criminal justice policy and reform”<sup>76</sup>, essentially to reduce criminal penalties and incarceration rates.

OCJR lists City Care and CEO on their website as “resources” for inmates when they are released<sup>77</sup>.

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<sup>69</sup> App. 32: CEO webpage re: Policy Agenda

<sup>70</sup> App. 6: CEO contract with the State of Oklahoma.

<sup>71</sup> App. 11: OCJR Webpage materials.

<sup>72</sup> App. 11: OCJR webpage snapshot.

<sup>73</sup> App. 36: ACLU Tax Return 2016.

<sup>74</sup> App. 35: Schedule 1: fwdus Educational Fund Inc. for 2018.

<sup>75</sup> App. 37: Schedule 1: Partial for fwdus Educational Fund Inc. 2019.

<sup>76</sup> App. 34: Schedule 1: fwdus Educational Fund Inc. for 2019.

<sup>77</sup> App. 11: OCJR Resource Information.

Kris Steele is also the Executive Director of TEEM, another non-profit designed to “help underprivileged secure gainful employment and using “community services targeting criminogenic needs”<sup>78</sup>. TEEM received over \$2.5 million in contributions in 2018, including “contributions” from local community sentencing, and \$107,305.00 from OCJR<sup>79</sup>.

Luck is enmeshed with all four of these organizations, either directly or indirectly. In June 2019, Board Member Allen McCall received an email from DeLynn Fudge, who was at the time the Executive Director of the Board<sup>80</sup>. Ms. Fudge was informing the Board that the “Criminal Justice Reform Project” (OCJR of which Kris Steele is Executive Director) had submitted 23 commutation requests too late to make it onto the regular docket and which would require a supplemental docket<sup>81</sup>. Ms. Fudge also informed the Board members that setting this Supplemental docket required 10 days notice<sup>82</sup>. Board Member Allen McCall (McCall) objected to this group being given special treatment, because McCall didn’t find any authority “to clean out the prison system by creating special dockets for special groups of people”<sup>83</sup>.

In September, 2019, the Governor received a letter from District Attorney Greg Mashburn, expressing concerns by himself and other District Attorney’s about the Board’s

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<sup>78</sup> App. 29: TEEM webpage.

<sup>79</sup> App. 30: TEEM Tax returns.

<sup>80</sup> App. 14: Email Chain between DeLynn Fudge and Allen McCall.

<sup>81</sup> App. 14: Email Chain between DeLynn Fudge and Allen McCall.

<sup>82</sup> Id.

<sup>83</sup> Id.



position on commutations<sup>84</sup>. The Governor, through his counsel Mark Burget, made contact with the Board through Chairman Gilliland. Chairman Gilliland then asked Judge McCall to weigh in on the issue. Judge McCall indicated “some on our board have an agenda to “put the DA’s and Judges in their place”<sup>85</sup>, and “a few on our Board see commutation as an opportunity to make a political statement by assisting inmates in getting a better deal that they received in [] court”<sup>86</sup>.

In November, 2019, Judge McCall indicated that he believed Kris Steele (Teem Director and member of the Oklahomans for Criminal Justice Reform) had “improperly discussed “this case” with at least two board members<sup>87</sup>”. Allen McCall is a retired judge who has handled thousands of cases. Allen McCall has been trained in the law and knows a disqualifiable interest when he sees it, and he had a great deal of concern about the appearance of impropriety and the conflicts facing these two Board members.

#### LUCK HAS FAILED TO FOLLOW BOARD POLICY REGARDING JONES’ CASE

Board Policy 123 provides that “*if a Board member is contacted via letter, text, email, or in person by...an “interested person who may be in support of or protesting an inmate’s ... commutation, the Board member shall direct such person to the administrative office of the Pardon and Parole Board or the website for instructions on how to request, protest or provide support”*<sup>88</sup>. The same section of this rule also requires

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<sup>84</sup> App. 15: September, 2019 email chain.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> App. 17: November, 2019, email from Judge McCall to Chairman Gilliland.

<sup>88</sup> App. 48: Administrative Rules of Pardon and Parole Board.

that a Board member “redirect the interested party to the administrative office in order to avoid an actual or perceived conflict of interest”.

Luck has wholly failed to comply with this rule, and his failure to do so, based on this rule, creates a presumption of an “actual or perceived conflict of interest”. Luck has received the following communications from people and failed to *direct such person to the administrative office of the Pardon and Parole Board*:

-on 3-08-2019, Luck received a message from a person asking about his own personal situation @ Liberty Drew84, and Luck sent the persona message “I just sent you a DM”<sup>89</sup>. Luck engaged in personal contact with an interested person about a particular inmate, did not re-direct the person the Board’s website<sup>90</sup>. Luck clearly was going to “help” the person, a violation of his duty to the Board to be impartial.

-In March, 2019, Luck receives a message from Chris Powell asking about Donald Lee Robertson, and was complaining about the time Robertson was doing<sup>91</sup>. Luck responded “Do you know the current status of his case? Feel free to message me”<sup>92</sup>.

-June 2019, Luck received a message from a woman asking about a specific inmate. Luck asks when the person is up for parole, and then discovers it is a federal inmate. Luck did not re-direct the person messaging to the Board’s website<sup>93</sup>.

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<sup>89</sup> App. 49: Social media message dated 3-08-2019.

<sup>90</sup> App. 49: Social media message dated 3-08-2019 to Luck.

<sup>91</sup> App. 45: 2019 Social Media postings for Luck.

<sup>92</sup> Id.

<sup>93</sup> App. 57: Message from Jessica Bishop

-On 10-08-2019, Luck sent out a message telling the reader that the Board had approved the first stage application of some inmate, and that another vote was scheduled later the same day<sup>94</sup>. A woman replied telling Luck that she personally knew the inmates and she deserved to be released. Another person suggested that they let the inmate out today and “pay her”<sup>95</sup>. Luck did not re-direct either of these persons to the Board’s website for further information.

-on 10-17-2019 Luck received a message from Kim Kardashian West asking for clemency for Jones<sup>96</sup>. In the message was a link to @justice4julius<sup>97</sup>. Luck failed to re-direct this woman to the Board’s website as required by the Board rules. In this chain, Luck responds to the woman that Jones filed for a commutation as the “final legal recourse” for Jones prior to execution<sup>98</sup>. This is a lie, and likely intended to create a sense of urgency for the readers to get “activated”.

On the same day, Luck gets a message from a frequent flyer Terri McCarthy, who disparages DA Prater, asks why the DA won’t release files ( a claim made by Jones in his application)<sup>99</sup>; and then gets another message from CeCe Jones-Davis who Ms. Davis attaches a banner on behalf of Jones<sup>100</sup>. Luck does not re-direct either of these two women to the Board’s website as required by the Board’s rules.

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<sup>94</sup> App. 50: Message chain dated 10-08-2019.

<sup>95</sup> App. 50: Message Chain dated 10-08-2019.

<sup>96</sup> App. 45: 2019 Social Media Posts.

<sup>97</sup> App. 51: Message chain dated 11-01-2019.

<sup>98</sup> App. 45: 2019 Social media posts.

<sup>99</sup> App. 51: Social Media post by Terri McCarthy and CeCe Jones

<sup>100</sup> Id.

-On this same day, Luck gets another message from somebody speaking on behalf of “Ashley Garrison”<sup>101</sup>. Luck does not re-direct the person messaging to the Board’s website.

-On 11-23-2019, Luck receives a message from an interested person about inmate Daniel Holtzclaw<sup>102</sup>. Luck does not re-direct the person messaging to the Board’s website.

-On 8-26-2020, Luck gets a message from another person discussing Jones’ application for commutation<sup>103</sup>. Luck does not re-direct the person messaging to the Board’s website.

-On 5-31-2020, Luck posts his “we re either actively working to end these systems of injustice and oppression or we are participating in perpetuating them” message. Thereafter three separate messages come in speaking on behalf of Jones<sup>104</sup>. Luck does not re-direct any of the persons messaging to the Board’s website.

-On 7-31-2020, Luck posts a message that he has been advised to not comment further<sup>105</sup>.

-In July, 2021, Luck receives messages from two separate persons on behalf of Jones<sup>106</sup>. Luck does not re-direct either of the persons messaging to the Board’s website.

These messages create an appearance of impropriety on Luck’s part based on Rule 123 which provides that a Board member should “redirect the interested party to the

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<sup>101</sup> App. 51: Social Media Post about Daniel Holtzclaw.

<sup>102</sup> App. 53: Message dated 11-23-2019.

<sup>103</sup> App. 52: Message from 8-26-2020.

<sup>104</sup> App. 54: Messages from 5-31-2020.

<sup>105</sup> App. 55: Messages from July 2020.

<sup>106</sup> App. 56: July 2021, messages.

administrative office in order to avoid an actual or perceived conflict of interest”. The messages specific to Jones create a clear conflict of interest on Jones’ specific case. The others are offered to show a pattern of behavior on the part of Luck to disregard the Board rules in his quest to reduce the prison population. Luck has asked people personally message him, no doubt so that he can personally help them to get through the process. This is advocacy, not impartiality. When the person he has had contact about comes before the Board, does Luck disclose the contact? No. Does Luck start out in a position of favor to the inmate? Absolutely.

Luck’s behavior epitomizes bias and prejudice. No reasonable person, much less a prosecutor or a victim, could feel that Luck has the ability to remain “cold[ly] neutral[]” like “the disinterest of a total stranger”. *Coates v. Fallin*, 316 P.3d 924, F. 4, 2013 OK 108. Luck has said as much, and he clearly does not understand the nature of a conflict of interest, or he does understand and is leveraging his position at the Board to create the results he wishes and the results Kris Steele wishes. Luck has made many speeches asking people to “leverage” their positions to create change.

Further, multiple District Attorneys have moved to have Luck disqualified for his bias and lack of impartiality. District Attorney Laura Thomas has moved to have Luck disqualified for bias, and didn’t receive so much as an acknowledgement that the Board had received it<sup>107</sup>. Jason Hicks moved to disqualify Luck for lack of impartiality<sup>108</sup>, and received no response. Angela Marsee, Weatherford District Attorney, also asked Luck to

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<sup>107</sup> App. 58: Thomas request for disqualification.

<sup>108</sup> App. 47: Affidavit of Jason Hicks; Disqualification request by Jason Hicks.

disqualify<sup>109</sup>. She received no response. Brian Hermanson, District Attorney for Ponca City, has moved to disqualify Luck with no response.

Luck's bias and prejudice has been clear from the day he took his seat on the Board. Presumably all of these prosecutors are "reasonable" people, and motions to disqualify members of the Board are very, very rare, if they have occurred at all. While Luck is entitled to his own personal agenda and to "activate" himself to help people who have been incarcerated, he is not entitled to do so from a position on the Board. Luck's constant posts about how wonderful he is for releasing inmates is fine if he were not a member of the Board that decides on the inmate's release.

Additionally, the complete absence of any posts that discuss the nature of the crimes, the violence visited upon the victims, the suffering of the victims, or even a shred of apathy for the victims, SPEAKS VOLUMES. Luck doesn't care, and he is proud to say so.

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<sup>109</sup> App. 59: Marsee's request for disqualification.

CONCLUSION

For the reasons outlined herein, the State respectfully requests Luck to disqualify himself, and to notify the State as soon as possible of his decision related to this disqualification request.

Respectfully submitted,

DAVID W. PRATER  
DISTRICT ATTORNEY



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DISTRICT ATTORNEY  
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(405) 713-1600

**CERTIFICATE OF MAILING**

I certify that on the 3rd 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

