

October 22, 2019

Patrick Joseph Terry
ODOC-97730-JHCC-Unit J
P.O. Box 548
Lexington OK 73051-0548

Scott S. Harris, Clerk
Supreme Court of the United States
1 1st Street NE
Washington D.C. 20543-0001

**REF: *Patrick Joseph Terry v Oklahoma*
No. 18-8801
Letter pursuant to Rule 15.6**

Dear Clerk of Court:

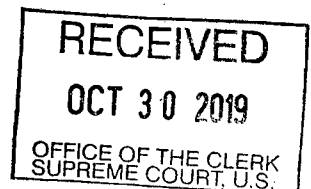
I am writing regarding the above referenced pursuant to Rule 15.6 to address new points raised in the *Response in Opposition* filed by Respondent on August 5, 2019. Because I am undergoing treatment for Cancer, and that my schedule is so hectic, and the fact that the entire Oklahoma Department of Corrections has been under a system 'lock-down' since September 15, 2019, I will briefly address points raised by Respondent that I believe need clarification.

a. Petitioner is an Indian and member of the Cherokee Nation.

Although the "State does not concede that Petitioner is an Indian for purposes of criminal jurisdiction" *Response* at 17, Petitioner asserts and shows that he is an "Indian" as defined under 18 U.S.C.A. 1152, which the state district court verified in the order of September 17, 2018. (See: *Petition*, App. A at 3) Attached here is documentation showing that Petitioner is a member of the Cherokee Nation and has a registered degree of Indian Blood. (See: **Appendix 1**)

b. The location of the search incident to arrest was at an address which lay in the heart of the boundary established under the *Treaty of February 23, 1867*, 13 Stat. 513 (1867) as being the Ottawa Indian Reservation.

Respondent faults Petitioner for failing to establish the exact location of the search incident to arrest (see: *Petition* at 23-25, n. 13; and see *Petition*, **Appendix D**).



1. Attached here is the Felony criminal Information Sheet for Ottawa County Oklahoma CF-2012-242 (**Appendix 2 and 2a**) filed July 13, 2012, alleging that the search occurred at 520 F Street SE, Miami, Oklahoma.
 2. At trial, the State amended the *Information* and charged that the search incident to arrest occurred at 510 E. Central, Miami, Oklahoma (*see: Trial Transcript I* excerpts pgs 55-56, June 10, 2013, **Appendix 3, 3a and 3b**).
 3. The State produced a *Property Assessment Information* from the Ottawa County Assessor (**Appendix 4 and 4a**) showing the address of the location of the search incident to arrest as 510 E. Central Avenue Miami, Oklahoma.
 4. This address is consistent with establishing that the location lay within the boundary established in the **1867 Act** as being in the Ottawa Indian Reservation, (**Appendix 5**, Google Map for 510 E. Central, Miami, Oklahoma) and is consistent with the geographical description of the Reservation land described in **Art.(s) 1, 2, 3 and 16** of the **1867 Act**. (*see: Petition* at 23-25, n. 13; and, *see: Petition Appendix D*)
- c. **This case warrants application of the doctrine discussed by this Court in *Wilson v Sellers*.**

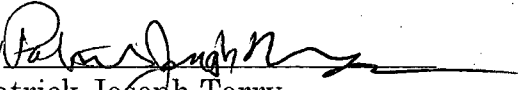
Respondent argues that the Oklahoma Court of Criminal Appeals decision under review (*Petition Appendix B*) does not rest primarily on federal law nor is interwoven with federal law". *Response* at 16 Petitioner concurs and asserts that the woefully inadequate state court decision denying relief failed to identify reasons for its decision on the merits, thus this Court should 'look through' the unexplained decision to the last related state-court decision that did provide a rationale, which, in this case, is the decision of September 17, 2018. (*Petition Appendix A*) *Wilson v Sellers*, __ U.S. __, __, 138 S.Ct. 1188, 1193 (2018)

- d. **Respondent concedes that the reservation has not been disestablished.**

The boundary established under the **1867 Act** has not been diminished or disestablished by any subsequent Act of Congress, which Respondent concedes in the *Response* at 18 (" In addition, even if the Ottawa reservation was not disestablished. . . "). Since Petitioner has established that he is an Indian, and made a *prima facie* showing that the search incident to arrest occurred in the Indian country established by the **1867 Act**, the writ must issue to the Court below.

The writ of ceritorari should be granted.

Respectfully submitted,

/s/ 
Patrick Joseph Terry
ODOC-97730-JHCC-Unit J
P.O. Box 548
Lexington OK 7305`1

PROOF OF SERVICE

I Patrick Joseph Terry do swear or declare on this date October 23 2011, as required by Supreme Court **Rule 29**, I have served the enclosed Letter pursuant to Rule 15.6 with Appendix by depositing an envelope containing the documents in the United States mail, properly addressed to the Respondent, with the first-class postage prepaid, to: Mithun Mansinghani, Solicitor General , Office of the Attorney General of Oklahoma, 313 NE 21st St., Oklahoma City, OK, 73015, the last known address or location.

I make such statement under the penalty of perjury.

/s/ 
Patrick Joseph Terry

Index to Appendices

- Appendix 1** Documentation showing that Petitioner is a member of the Cherokee Nation and has a registered degree of Indian Blood.
- Appendix 2, 2a** Felony Criminal Information Sheet for Ottawa County Oklahoma CF-2012-242, filed July 13, 2012, alleging that the search occurred at 520 F Street SE, Miami, Oklahoma.
- Appendix 3, 3a, and 3b** **Trial Transcript I** excerpts pgs 55-56, June 10, 2013, changing Court Record to reflect that the search incident to arrest was 510 E. Central, Miami, Oklahoma
- Appendix 4, 4a** *Property Assessment Information* from the Ottawa County Assessor showing the address of the location of the search incident to arrest as 510 E. Central Avenue Miami, Oklahoma.
- Appendix 5** **Google Map** of 510 E. Central, Miami, Oklahoma, showing location of the search incident to arrest address in proximity to the Neosho River as described in the **1867 Act**.



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
EASTERN OKLAHOMA REGIONAL OFC.

Certificate of Degree of Indian Blood

This is to certify that PATRICK JOSEPH TERRY

born 2/9/1956 is 1/32 degree Indian blood
of the CHEROKEE Tribe.

8/26/2011
Date

Linda O'Leary
Issuing Officer

PATRICK JOSEPH TERRY

216 N MURRAY ST
HELENA, OK 73741-1017

CHEROKEE NATION GWYJ DBP

C0324065 2/9/1956
CHEROKEE REGISTRY NUMBER DATE OF BIRTH

PATRICK JOSEPH TERRY
NAME

216 N MURRAY ST
ADDRESS

HELENA OK 73741
CITY STATE ZIP CODE

This card shows the above named person to
be a certified Citizen of the Cherokee
Nation 1/6/2011
DATE APPROVED

Linda O'Leary
TRIBAL REGISTRAR

Riv J. Baker
PRINCIPAL CHIEF

SIGNATURE OF THE TRIBAL CHIEF



Card Issued: 07-11-2017
Receipt Date: 07-16-2013
Birth Date: 02-09-1956
97730 OK DOC
TERRY
PATRICK

4
INMATE

IN THE DISTRICT COURT OF THE THIRTEENTH JUDICIAL DISTRICT OF
THE STATE OF OKLAHOMA SITTING IN AND FOR OTTAWA COUNTY

THE STATE OF OKLAHOMA,

Plaintiff,

vs.

Case No. CF-2012-242

PATRICK JOSEPH TERRY

ADDR: 520 F S.E.
Miami, OK 74354
DL:
SSN: 440-60-8903
DOB: 02/09/58

Defendant(s).

FILED
DISTRICT COURT
OTTAWA CO. OKLA.

JUL 13 2012

CASSIE KEY COURT CLERK

BY Jal

INFORMATION

FOR:

- COUNT 1: MANUFACTURING A CONTROLLED DANGEROUS SUBSTANCE (METHAMPHETAMINE) WITHIN 2000 FEET OF SCHOOL, AFTER FORMER CONVICTION OF TWO OR MORE FELONIES - 63 O.S. § 2-401(G), a FELONY
- COUNT 2: POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE (METHAMPHETAMINE AND MARIJUANA) WITHIN 1000FT OF SCHOOL AFTER FORMER CONVICTION OF TWO OR MORE FELONIES - 63 O.S. § 2-402(C), a FELONY
- COUNT 3: UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA - 63 O.S. § 2-405, a MISDEMEANOR

STATE OF OKLAHOMA, COUNTY OF OTTAWA:

I, Eddie Wyant, the undersigned District Attorney of said County, in the name and by the authority, and on behalf of the State of Oklahoma, give information that in said County of Ottawa and in the State of Oklahoma, PATRICK JOSEPH TERRY, did then and there unlawfully, willfully, knowingly and wrongfully commit the crime(s) of:

COUNT 1: MANUFACTURING A CONTROLLED DANGEROUS SUBSTANCE (METHAMPHETAMINE) WITHIN 2000 FEET OF SCHOOL, AFTER FORMER CONVICTION OF TWO OR MORE FELONIES - a FELONY, on or about the 12th day of July, 2012, by knowingly manufacture METHAMPHETAMINE which is defined as a controlled dangerous substance in Schedule II of the Controlled Dangerous Substances Act of Oklahoma, at 520 F Street S.E., city of Miami, which is located 998 feet from the NEO A&M College located at 220 I Street N.E., city of Miami.

COUNT 2: POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE (METHAMPHETAMINE AND MARIJUANA) WITHIN 1000 FEET OF SCHOOL AFTER FORMER CONVICTION OF TWO OR MORE FELONIES - a FELONY, on or about the 12th day of July, 2012, by unlawfully, willfully and feloniously possessing METHAMPHETAMINE, a controlled dangerous substance in schedule II of the Uniform Controlled Dangerous Substances Act and MARIJUANA a controlled dangerous substance in schedule IC of the Uniform Controlled Dangerous Substances Act located at 520 F Street S.E. city of Miami which is 998 feet of NEO A&M College located at 200 I N.E., city of Miami.

Petitioner's
Appendix 2

COUNT 3: UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA - a MISDEMEANOR, on or about the 12th day of July, 2012, by possessing syringes, scales, sniffing straws which is used by abusers of drugs classified as Controlled Dangerous Substances and without having any medical or other lawful need requiring possession of said paraphernalia.

EDDIE WYANT
DISTRICT ATTORNEY

By: *[Signature]*
Assistant District Attorney

WITNESSES ENDORSED FOR THE STATE OF OKLAHOMA

OKLAHOMA COUNTY COURT CLERK, 320 ROBERT S. KERR, ROOM 409, OKLAHOMA CITY, OK 73106
TULSA COUNTY COURT CLERK, TULSA, OK
CHEMIST (TAHLEQUAH), OSBI, 1995 AIRPORT PARKWAY, , TAHLEQUAH, OK
CHRIS MORRIS, DA OFFICE, MIAMI, DRUG TASK FORCE, , MIAMI, OK 74354
RON JOURNAGAN, OTTAWA COUNTY SHERIFF'S OFFICE, 28 B SOUTHEAST, MIAMI, OK 74354-
CLEVELAND COUNTY COURT CLERK, NORMAN, OK
ROCKY FERDIG, OTTAWA COUNTY SHERIFF'S OFFICE, MIAMI, OK 74354
CANADIAN COUNTY COURT CLERK, 301 NORTH CHOCTAW STREET, P.O. BOX 730, EL RENO, OK 73036

NOTICE OF OPEN FILE

THE PROSECUTION SHALL ALLOW INSPECTION, BY THE DEFENDANT'S ATTORNEY, OF THE FILE CONTAINING ALL LAW ENFORCEMENT REPORTS, KNOWN TO THE PROSECUTION PURSUANT OF TITLE 22 O.S. § 25B.

Law Enforcement Incident Number: CMS Case ID Number: 12-79213
Lead Law Enforcement Agency: OTTAWA COUNTY SHERIFF'S OFFICE

Petitioner's
Appendix 2a

IN THE DISTRICT COURT IN AND FOR OTTAWA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)

Plaintiff,)

-vs.-)

PATRICK JOSEPH TERRY,)

Defendant.)

) Case No. CF-2012-242

FILED
DISTRICT COURT
OTTAWA CO. OKLA.

SEP 06 2013

CASSIE KEY COURT CLERK

BY _____

TRANSCRIPT OF NON-JURY TRIAL PROCEEDINGS
HELD ON THE 10TH & 11TH DAYS OF JUNE, 2013,
BEFORE THE HONORABLE ROBERT G. HANEY
DISTRICT JUDGE
VOLUME I OF II

ORIGINAL

A P P E A R A N C E S

MR. KENNETH E. WRIGHT, III, ASSISTANT DISTRICT
ATTORNEY, OTTAWA COUNTY, MIAMI, OKLAHOMA, APPEARED ON
BEHALF OF THE STATE.

MR. KEITH McARTOR, ATTORNEY AT LAW, TULSA,
OKLAHOMA, APPEARED ON BEHALF OF THE DEFENDANT.

Petitioner's
Appendix 3

TRELINDA C. NEELEY, CSR, RPR
OFFICIAL COURT REPORTER
102 E. CENTRAL, STE 200
MIAMI, OKLAHOMA 74354

1 and the left photograph. Is that -- is that the -- is
2 that a photograph of Mr. Terry's apartment taken on
3 Central?

4 A. That is taken from Central looking directly at
5 the front of the building. The apartment would be back
6 behind on the left, the entrance door.

7 Q. But the picture to the right, this picture on the
8 third page is not a picture of that building at all, is
9 it?

10 A. No, it's not.

11 Q. And then -- and then the picture on the second
12 page is -- that's not a picture of Mr. Terry's apartment
13 either, is it?

14 A. No, sir. That is a photograph of the storage
15 building that's been added on to the building at some
16 point.

17 Q. So the picture on the second page, that's 510
18 East Central, isn't it?

19 A. Is that the second page you're looking at?

20 Q. Yes, sir. There's a picture here, and then
21 underneath it says 510 East Central. (indicating.) So
22 would that be correct?

23 A. Well, the building is laid out, there is a
24 building and then there's another building on the west
25 side of it that's not on there. I can show you on this

Petitioner's
Appendix 3a

1 photo.

2 Q. Well, I'm just trying to figure out, isn't it
3 fair to say that this building that we've got a picture of
4 on page 2, that the address of that building would be 510
5 East Central; isn't that correct?

6 A. That building is joined to both of the buildings.

7 Q. I'm getting you, but from this document, doesn't
8 it appear that the building on page 2, the address is 510
9 East Central?

10 A. Well, to me that would be all one building.
11 They're all adjoining.

12 Q. But isn't it true that Mr. Terry's address is 520
13 East Central?

14 A. I'm going by what this says, that the building is
15 510.

16 THE COURT: So what does that got to do with the
17 admission of the document?

18 MR. McARTOR: I think that it's not relevant
19 because I think that it is not a document having to do
20 with Mr. Terry's apartment. That's my objection.

21 THE COURT: Overruled. It'll be admitted.

22 REDIRECT EXAMINATION cont'd

23 BY MR. WRIGHT:

24 Q. Outside of Mr. Terry, did anyone else present on
25 that day object to the search of Mr. Terry's apartment?

Petitioner's
Appendix 3b

Date: 5/28/2013

Property Assessment Information

Linda Kelly, Ottawa County Assessor
Miami, Oklahoma 74354

Parcel Number 5120-00-002-001-0-000-00
Name WHALEY, MICHAEL D
Owner Number 186,930.00

School District Miami-23 Town
Deed Book/Page 902 / 218
Tax ID: 18,387

Legal Description

LTS 1-6, BLK 2

Tydings (ENVY SALON)



5120-00-002-001-0-000-00-1.jpg

Acres

Lots 6.000

Land Use UrbanCom

	Market	Assessed
Land	5,549	633
Improvements	71,626	8,165
Misc	0	0
Mfg Home	0	0
Total	77,175	8,798
Base Homestead		0
Additional Homestead		0
Disabled Veteran		0
Net Assessed		8,798

Mail Address

WHALEY, MICHAEL D
2018 BIRNAMWOOD DR

MIAMI, OK. 74354

Property Location

510 E CENTRAL
MIAMI

Coordinate Information

Description	Latitude	Longitude

Petitioner's
Appendix 4

Date: 5/28/2013

Property Assessment Information

Linda Kelly, Ottawa County Assessor

Miami, Oklahoma 74354

Parcel Number 5120-00-002-001-0-000-00

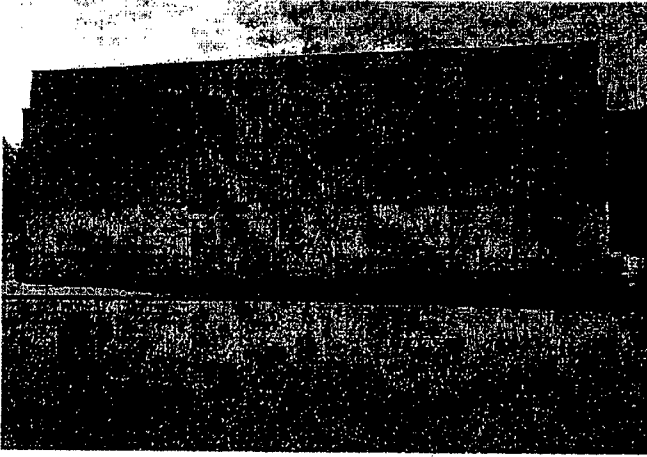
Name WHALEY, MICHAEL D

Owner Number 186,930.00

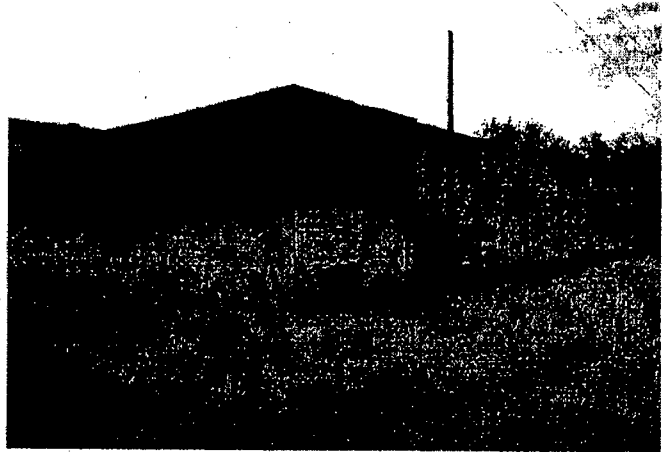
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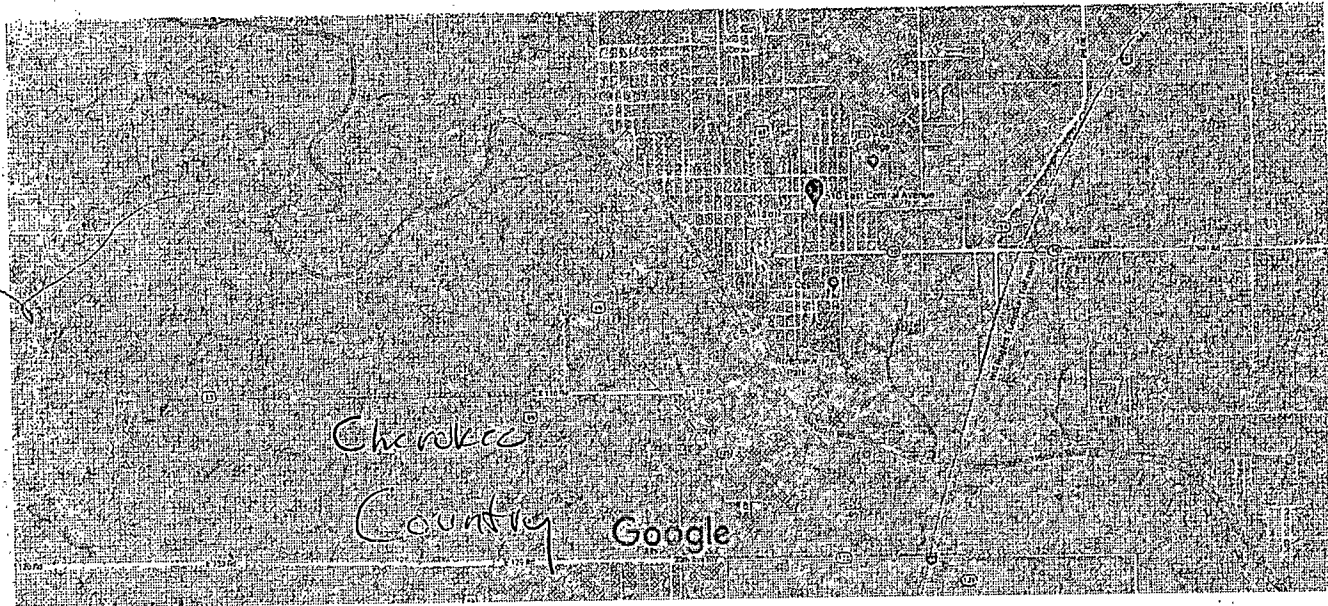
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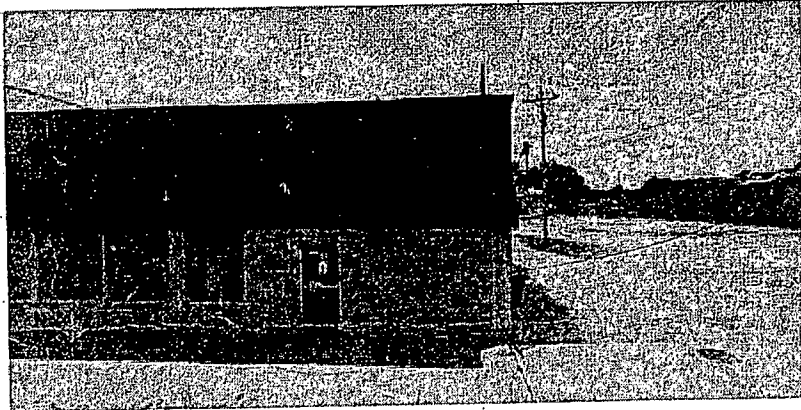
5120-00-002-001-0-000-00.jpg

**Petitioner's
Appendix 4a**

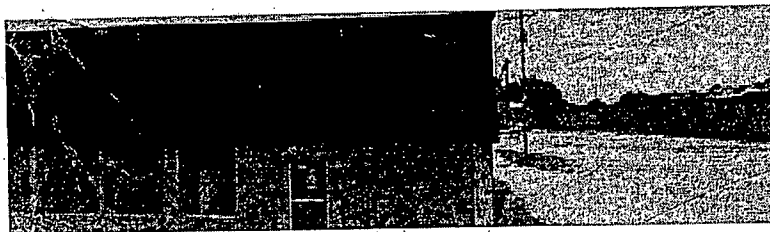
Google Maps 510 E Central Ave



Map data ©2018 Google 2000 ft



510 E Central Ave
Miami, OK 74354



Petitioner's
Appendix 5

October 22, 2019

Patrick Joseph Terry
ODOC-97730-JHCC-Unit J
P.O. Box 548
Lexington OK 73051-0548

Scott S. Harris, Clerk
Supreme Court of the United States
1 1st Street NE
Washington D.C. 20543-0001

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b. The location of the search incident to arrest was at an address which lay in the heart of the boundary established under the *Treaty of February 23, 1867*, 13 Stat. 513, Art 16 as being the Ottawa Indian Reservation.

Respondent faults Petitioner for failing to establish the exact location of the search incident to arrest (see: *Petition* at 23-25, n. 13; and see *Petition*, Appendix D).