

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 815

BY: DOUGLASS

AS INTRODUCED

AN ACT RELATING TO CRIMINAL PROCEDURE; AMENDING 22

O.S. 1991, SECTION 1089, WHICH RELATES TO CAPITAL  
CASES AND POST-CONVICTION RELIEF; MODIFYING  
REFERENCE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 1991, Section 1089, is  
amended to read as follows:

Section 1089. A. The application for post-conviction relief of  
a defendant who is under the sentence of death and whose death  
sentence has been reviewed by the Court of Criminal Appeals in  
accordance with the provisions of Section 701.13 of Title 21 of the  
Oklahoma Statutes, and affirmed, shall be expedited as provided in  
this section.

B. The Oklahoma Appellate Public Defender System shall  
represent all indigent defendants in capital cases seeking  
post-conviction relief upon appointment by the appropriate district  
court after a hearing determining the indigency of any such  
defendant.

C. 1. The application for post-conviction relief shall be  
filed in the district court which imposed the sentence within sixty  
(60) days:

- a. from the expiration date of the time for filing a petition for a writ of certiorari with the United States Supreme Court; or
- b. from the date that the United States Supreme Court denied the defendant's petition for writ of certiorari.

2. The state shall have fifteen (15) days thereafter within which to file a response to the application. The district court shall make its decision within forty-five (45) days from the date that the state filed its response.

3. If the district court determines that an evidentiary hearing should be held, that hearing shall be held within thirty (30) days from the date that the state filed its response, and the district court shall issue its ruling within forty-five (45) days from the date of the conclusion of the evidentiary hearing.

4. If the defendant's application for post-conviction relief is denied by the district court, a notice of intent to appeal and a designation of the record shall be filed by the defendant's counsel in district court within ten (10) days from the denial of the application. A copy of the notice of intent to appeal and the designation of the record shall be served on the court reporter, the district attorney, and the Attorney General, and shall be filed with the Court of Criminal Appeals. If an evidentiary hearing was held, the court reporter shall prepare and file all transcripts necessary for the appeal within sixty (60) days from the date the notice of intent to appeal and designation of record is filed. The brief-in-chief shall be filed within forty-five (45) days from the date the transcript is filed in the Court of Criminal Appeals or, if no evidentiary hearing was held, within forty-five (45) days from the date of the filing of the notice of appeal. The Attorney General shall have twenty (20) days thereafter to file a response brief. The court clerk shall file the records on appeal with the

Court of Criminal Appeals on or before the date the brief-in-chief is due. The Court of Criminal Appeals shall issue an opinion in the case within one hundred twenty (120) days of the filing of the response brief by the Attorney General.

D. All matters not specifically governed by the provisions of this section shall be subject to the provisions of the Post-Conviction Procedure Act, Section 1081 et seq. of this title. If the provisions of this act conflict with the provisions of the Post-Conviction Procedure Act, the provisions of this act shall govern.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-1438

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