STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE BILL 3254 By: Jordan

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 1083, which relates to the Post-Conviction Procedure Act; providing separate time limitation for answering certain post-conviction relief claims; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1083, is amended to read as follows:

Section 1083. ~~(a)~~ A. Within thirty (30) days after the docketing of the application, or within any further time the court may fix, the state shall respond by answer or by motion which may be supported by affidavits. When an applicant asserts a claim of ineffective assistance of counsel, the state shall have ninety (90) days after the docketing of the application to respond by answer or by motion. In considering the application, the court shall take account of substance, regardless of defects of form. If the application is not accompanied by the record of the proceedings challenged therein, the respondent shall file with its answer the

record or portions thereof that are material to the questions raised in the application; or such records may be ordered by the court. The court may also allow depositions and affidavits for good cause shown.

~~(b)~~ B. When a court is satisfied, on the basis of the application, the answer or motion of respondent, and the record, that the applicant is not entitled to post-conviction relief and no purpose would be served by any further proceedings, it may order the application dismissed or grant leave to file an amended application. Disposition on the pleadings and record is not proper if there exists a material issue of fact. The judge assigned to the case should not dispose of it on the basis of information within his personal knowledge not made a part of the record.

~~(c)~~ C. The court may grant a motion by either party for summary disposition of the application when it appears from the response and pleadings that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. An order disposing of an application without a hearing shall state the court's findings and conclusions regarding the issues presented.

SECTION 2. This act shall become effective November 1, 2014.

54-2-9369 GRS 12/31/13