



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

THE STATE OF OKLAHOMA, )  
 Plaintiff, )  
 vs. )  
 WINDSTREAM CORPORATION, )  
 Defendant. )  
 THE STATE OF OKLAHOMA, )  
 Plaintiff, )  
 vs. )  
 JAMES DAVID SISNEY, )  
 Defendant. )

Case No. CF-12-3841

The Honorable William Kellough

**DISTRICT COURT  
FILED**

OCT 17 2012

Case No. CF-12-3842

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA. TULSA COUNTY

The Honorable William Kellough

**MOTION TO CONSOLIDATE CASES FOR PRELIMINARY HEARING AND TRIAL**

COMES NOW the Plaintiff, State of Oklahoma, by and through E. Scott Pruitt, Attorney General of Oklahoma, and Charles S. Rogers, Assistant Attorney General, and respectfully makes this *Motion to Consolidate Cases for Preliminary Examination and Trial* in the above-styled and -numbered cases.

1. Each of the above-styled and -numbered cases was brought by an *Indictment* found by the Thirteenth Oklahoma Multicounty Grand Jury and were filed in this Court on the same date.
2. The matters alleged in said cases are factually identical and proof in said cases will be by the same witnesses and exhibits.
3. The Defendants could have been charged in a single *Indictment* but for the requirements of law prohibiting the contents of an *Indictment* not to be publically disclosed prior to the named defendant being taken into custody.

4. Joinder of the cases for Preliminary Examination and Jury Trial will not unfairly prejudice the Defendants in said cases, will avoid unnecessary wear and tear on witnesses, will conserve judicial resources and is in the interest of Justice.

### ARGUMENT

The Statutes permit two or more defendants to be joined in a single Indictment when it is alleged they participated in the same act or transaction, or in the same series of acts or transactions constituting an offense or offenses:

Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately, provided that all of the defendants charged together in the same indictment or information are alleged to have participated in all of the same acts or transactions charged.<sup>1</sup>

It is respectfully submitted that comparison of the acts charged in the *Indictments* filed in these cases could have legally been originally joined in a single *Indictment*, but for other legal requirements pertaining to cases brought by *Indictments*.<sup>2</sup>

The Statutes also permit the joinder of *Indictments*:

The court may order two or more indictments or informations or both to be tried together if the offenses and the defendants, if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution was under such single indictment or information.<sup>3</sup>

**WHEREFORE**, premises considered and good and legal cause shown, the State of Oklahoma prays this Honorable Court to *Consolidate* the above-styled and -numbered cases for Preliminary Examination and Jury Trial.

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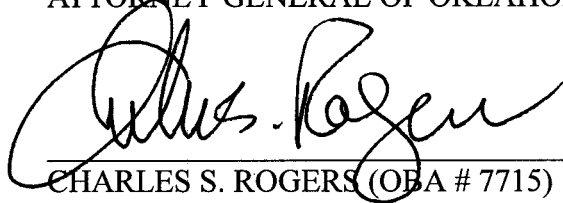
<sup>1</sup> 22 O.S. 2012, § 436.

<sup>2</sup> It is unlawful to reveal the contents of an *Indictment* until the defendant is brought into custody, 22 O.S. 2012, § 385, *see also* 21 O.S. 2012, § 582.

<sup>3</sup> 22 O.S. 2012, § 438.

Respectfully submitted,

E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA

A handwritten signature in cursive script, appearing to read "Charles S. Rogers". The signature is written in black ink and is positioned above a horizontal line.

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ATTORNEYS FOR PLAINTIFF

## CERTIFICATE OF SERVICE

I, Charles S. Rogers, Assistant Attorney General, do hereby certify that a true, exact and complete copy of the foregoing motion was transmitted by facsimile and a paper copy mailed by regular United States Mail, First Class postage prepaid, to the following attorneys for defendants at the address given this 17 day of October, 2012:

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and

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An additional copy was delivered this date to the chambers of the Honorable William Kellough, District Judge, Fourteenth Judicial District, Tulsa County Courthouse, Room 408, Tulsa, OK 74103

  
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