



IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

FILED  
IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA *CU*

THE STATE OF OKLAHOMA  
Ex rel. E. SCOTT PRUITT,  
Attorney General, State of Oklahoma,

OCT 31 2012

Petitioner,

MICHAEL S. RICHIE  
CLERK

-vs-

*CF-2012-3841*  
No. ~~PR-2012-936~~

THE HONORABLE WILLIAM  
KELLOUGH, DISTRICT JUDGE,  
FOURTEENTH JUDICIAL DISTRICT,

DISTRICT COURT  
FILED  
NOV 02 2012

Respondent.

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

**ORDER DENYING RELIEF**

Petitioner filed with the Clerk of this Court a Petition for Writ of Prohibition, seeking relief in Tulsa County District Court Case No. CF-2012-3841. Petitioner seeks an order prohibiting enforcement of Respondent's order requiring the Court Reporters for the Thirteenth Multicounty Grand Jury to produce for the Windstream Corporation ("Defendant") a copy of transcripts of certain witnesses appearing before the Grand Jury.<sup>1</sup> Petitioner argues Respondent was without legal authority to enter an order authorizing the release of Multicounty Grand Jury Transcripts to the Defendant.<sup>2</sup> Petitioner also asserts Defendant's request must legally be presented to the Honorable Barbara G. Swinton, Presiding Judge of the Multicounty Grand Jury, for review and entering

<sup>1</sup> On August 23, 2012, the Presiding Judge of the Multicounty Grand Jury issued an Order Determining Venue, Sealing Indictment, Requiring of Indictment to County of Venue, and Authorizing District Court to Open for Purpose of Issuance of Warrant. The Indictment against Windstream was filed with the Court Clerk of Tulsa County on August 30, 2012.

<sup>2</sup> Defendant Windstream filed its application for release of grand jury transcripts with the District Court of Tulsa County on September 12, 2012.

of an Order.<sup>3</sup>

For a writ of prohibition to issue, Petitioner must establish (1) a court, officer or person has or is about to exercise judicial or quasi-judicial power; (2) the exercise of said power is unauthorized by law; and (3) the exercise of said power will result in injury for which there is no other adequate remedy. Rule 10.6(A), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2012).

Based on the particular facts of the record before this Court, we **FIND** Petitioner has not met its burden of proof.<sup>4</sup> As such, the petition for extraordinary relief is **DENIED**. Issuance of this Order concludes the proceedings before this Court. The Clerk of this Court is directed to transmit a copy of this Order to the Court Clerk of Tulsa County.

**IT IS SO ORDERED.**

**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 3<sup>rd</sup> day of October, 2012.

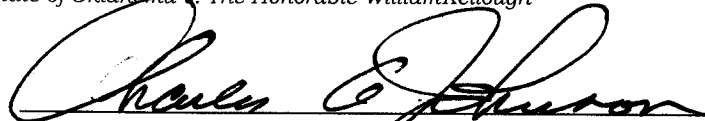
  
ARLENE JOHNSON, Presiding Judge


 - CIR only  
DAVID B. LEWIS, Vice Presiding Judge

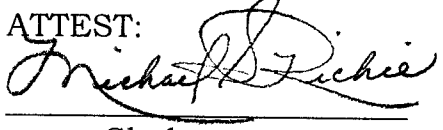
  
GARY L. LUMPKIN, Judge

<sup>3</sup> The eighteen month term of the Multicounty Grand Jury expired on August 21, 2012.

<sup>4</sup> The State has not established an injury for which there is no other adequate remedy.

  
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**CHARLES A. JOHNSON, Judge**

  
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**CLANCY SMITH, Judge**

ATTEST:  
  
\_\_\_\_\_

Clerk

OA