

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
APR 28 2014  
MICHAEL S. RUTHE  
CLERK

CLAYTON LOCKETT and CHARLES WARNER, )  
 )  
 Appellants, )  
 )  
 v. )  
 )  
 EDWARDS EVANS, in his official capacity as )  
 Interim Director of Corrections, and OKLAHOMA )  
 DEPARTMENT OF CORRECTIONS, )  
 )  
 Appellee. )

No. 112,741  
(cons. with 112,764)

FOR OFFICIAL  
PUBLICATION

TAYLOR, J., concurring in result:

¶1 I agree with the result reached by the Court today on the merits of this appeal in that each and every claim of the plaintiffs is denied. I must express my concern for the sixth time with this Court exercising jurisdiction in this criminal matter and not transferring all the issues to the Court of Criminal Appeals. I warned this Court in my previous dissents against crossing the Rubicon and now that crossing has caused a quagmire. Had this Court transferred all issues in this appeal to the Court of Criminal Appeals as I previously advocated, the matter would have been resolved without this Court ignoring precedent and the Court of Criminal Appeals' role in our judicial system.

¶2 The time-honored policy of this Court has been that there should be no conflict between the jurisdiction of this Court and the jurisdiction of the Court of Criminal Appeals whenever conflict is avoidable. "The makers of our Constitution

had this policy in mind and so indicated that this was their mind by using the term 'exclusive appellate jurisdiction in criminal cases' when they prescribed the jurisdiction to be given to the Criminal Court of Appeals." *Ex parte Meek*, 1933 OK 473, 8, 25 P.2d 54, 55.

¶3 We have long recognized that the grant of appellate jurisdiction to the Court of Criminal Appeals included matters relating to criminal law and to the construction of the criminal statutes of this state even upon constitutional questions, and generally we have refrained from exercising jurisdiction to address such issues. *Hinkle v. Kenny*, 1936 OK 582, 10, 62 P.2d 621, 622. We have also determined that the Declaratory Judgment Act created a civil proceeding and was not intended "to grant jurisdiction to district courts to grant declaratory judgments construing, or determining the validity of penal statutes in situations other than those wherein injunctive relief would have been appropriate prior to enactment of the statute." *Anderson v. Trimble*, 1974 OK 2, 15, 519 P.2d 1352, 1356.

¶4 The scarcity of conflict between this Court and the Court of Criminal Appeals "is a testament to both the clarity of jurisdictional boundaries between the two Courts and the constant willingness of the members of each Court to observe and comply with their jurisdictional restrictions." *Carder v. Court of Criminal Appeals*, 1978 OK 130, 1, 595 P.2d 416, 418. We should return to our time-honored policy.

¶5 I have previously urged that all issues in these cases be transferred to the Court of Criminal Appeals. Since the majority of this Court has declined to transfer

the cases and has retained these cases on this Court's docket, I feel compelled to concur in the result reached today.

¶6 I must also express my opinion that the plaintiffs' Eight Amendment and access to the courts claims are frivolous and not grounded in the law. It is my view that from the very beginning this so called "civil" litigation has been frivolous and a complete waste of time and resources of the Supreme Court of Oklahoma. The plaintiffs have no more right to the information they requested than if they were being executed in the electric chair, they would have no right to know whether OG&E or PSO were providing the electricity; if they were being hanged, they would have no right to know whether it be by cotton or nylon rope; or if they were being executed by firing squad, they would have no right to know whether it be by Winchester or Remington ammunition. I hope that this case ends any thought of future journeys down this path that has led this Court to this day. It is also my hope that this Court never again crosses the Rubicon.