

CERTIFICATE OF SERVICE

This is to certify that on this 11th day of January, 1996, a true and correct copy of the above and foregoing instrument was mailed, postage pre-paid, to the office of Miles C. Zimmerman, Lincoln County District Attorney, P.O. Box 126, Chandler, Oklahoma 74834, and to the office of Barney K. Barnett, Lincoln County Assistant District Attorney, P.O. Box 126, Chandler, Oklahoma 74834.

James T. Rowan
James T. Rowan

IN THE DISTRICT COURT OF LINCOLN COUNTY

STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
-vs-)
)
JOSHUA D. STUMP,)
)
Defendant.)

Case No. CF-95-104

FILED
JAN 21 8:55 AM
Lincoln Dist. Ct. Clk. Lincoln Co. Okla.
By [Signature] Deputy

**MOTION TO ENDORSE
ALL "JAIL HOUSE" INFORMANTS AND SNITCHES**

The Defendant, Joshua D. Stump, moves the Court to order the State to produce the names and present addresses of any and all witnesses presently or previously incarcerated in the Lincoln County Jail or under the custody of the Oklahoma Department of Corrections who will testify for the State against Defendant.

In support of this Motion, the Defendant would show the Court that any such witness could testify in the State's case in chief, and hence, should be endorsed on the Information filed in this case. Moreover, failure to grant this motion will deny the Defendant his rights to confrontation, an effective lawyer, exculpatory evidence, due process and equal protection of the law, a fundamentally fair trial, and may result in excessive punishment.

Authorities:
22 O.S. § 303
Art. II, §§ 7, 19 & 20, Okla. Const.
6th, 8th, and 14th Amend., U.S. Const.

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MICROFILM ROLL # 17 PAGES 1753

Respectfully submitted,

James T. Rowan
James T. Rowan, OBA #7787
Oklahoma Indigent Defense System
Capital Trial Division
P.O. Box 926
Norman, OK 73070-0926
(405) 329-4272
ATTORNEY FOR JOSHUA D. STUMP

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MICROFILM ROLL # 411 PAGE# 1754

IN THE DISTRICT COURT OF LINCOLN COUNTY

STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
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 Plaintiff,)
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 -vs-)
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 JOSHUA D. STUMP,)
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 Defendant.)

Case No. CF-95-104

FILED
 JAN 10 1996
 8:55am
 Lincolnia Stas, Ct. Clerk, Lincoln Co. Okla.
 Deputy

**MOTION TO INVOKE RULE PRIOR TO VOIR DIRE,
 PROHIBIT WITNESSES FROM CONVERSING, AND TO ENJOIN
 THE DISTRICT ATTORNEY FROM ADVISING OF PREVIOUS TESTIMONY**

COMES NOW the Defendant, by and through his attorney, and moves this Court pursuant to the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, Article II, §§ 7, 9, and 20 of the Oklahoma Constitution, and 12 O.S. § 2615, to enter an order invoking the Rule prior to voir dire, requiring that the witnesses be advised not to discuss the testimony which they have given with any other prospective witness and instructing the district attorney or his assistants not to advise the witnesses, including police officers, as to what testimony has previously been given. In support of said Motion, the Defendant would show the Court the following:

During voir dire the attorneys for each side ask questions of the jury concerning what they intend to prove during the course of the trial. If witnesses are sitting in the courtroom, this will have a tendency to slant their testimony.

During the opening statement, the attorneys sometimes specify what facts a certain witness will tell the jury, and if the witness is present and hears what the lawyer says, he may have a tendency to adapt his testimony to leave out some relevant testimony.

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In the past, during trials in other counties, witnesses have been freely able to leave the witness stand and go back to where the other witnesses were waiting, and they have been overheard on numerous occasions discussing their testimony with witnesses who were to go on the witness stand. The defense attorney has no control over the witnesses once they are out of his sight and cannot properly object to the witnesses discussing their testimony.

In the past, during trials in other counties, it has been evident that the witnesses knew what testimony had been previously given, and this knowledge could only have come from other witnesses or from the district attorney's office, in total violation of this Rule. This denies the Defendant his right of confrontation under the Sixth and Fourteenth Amendments to the United States Constitution and Article II, § 20 of the Oklahoma Constitution.

The purpose of invoking the Rule is to preclude taint of witnesses' testimony by the influence of the attorneys or other witnesses. For this reason, a witness should discuss the case with no one, and hear neither party's theory of the case.

The expediency of separating a party's witnesses in order to detect falsehoods by exposing inconsistencies has its roots in antiquity and has been long-practiced in various communities.

For the Court to instruct the witnesses and the district attorney's office not to discuss testimony previously given would reaffirm the underlying purpose of the invocation of the Rule under 12 O.S. § 2615. *See, Gee v. State*, 538 P.2d 1102 (Okl.Cr.1975); *Dyke v. State*, 716 P.2d 693 (Okl.Cr.1986).

WHEREFORE, premises considered, the Defendant prays that the Court enter an order granting the relief requested herein.

Respectfully submitted,

James T. Rowan
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Oklahoma Indigent Defense System
Capital Trial Division
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Norman, OK 73070-0926
(405) 329-4272
ATTORNEY FOR JOSHUA D. STUMP

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Case No. CF-95-104

FILED
 JAN 12 1996
 Linda Siler, Ct. Clerk, Lincoln Co. Okla.
 By: [Signature]

MOTION FOR PRODUCTION OF JUROR LIST

COMES NOW the Defendant, Joshua D. Stump, and moves this Court to order the State to provide a copy of the list of prospective veniremen who will be available for jury service during the time the above-captioned cause comes for trial. In support of this motion, the Defendant would allege and state:

1. It is known by defense counsel that many counties compile a list containing certain information on all potential jurors which is provided to all prosecutors.
2. The prosecution has information available to them that is not available to the defense despite due diligence on the part of the Defendant.
3. The rules of equity and fair play and a citizen's right to a fundamentally fair trial and an impartial jury comprised of a fair cross-section of the population of Lincoln County require that the prosecutor not be equipped with information concerning potential jurors that is simply not available to the defense.

WHEREFORE, the Defendant prays that this motion be granted.

AUTHORITY:

6th, 8th, and 14th Amendments, U.S. Constitution

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