

IN THE DISTRICT COURT OF McCURTAIN COUNTY
STATE OF OKLAHOMA

COURT CLERK'S OFFICE
County of McCurtain, State of Oklahoma
FILED

JUL 25 2017

THE STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.)
)
ERNEST ALVIN LEWIS,)
DOB: 10/51)
SS#: XXX-XX-5423)
Defendant.)

By: VICKI JUSTUS, Court Clerk
Deputy

Case No. CF-17-243

INFORMATION

In the name and by the authority of the State of Oklahoma comes now MIKE HUNTER, Duly Appointed Attorney General of Oklahoma, in and for the State and County aforesaid, gives the court to know and be informed as follows:

COUNT I

ERNEST ALVIN LEWIS, in McCURTAIN County, State of Oklahoma, on or about June 28, 1984 at and within said County and State aforesaid did then and there unlawfully, willfully, intentionally, knowingly, and feloniously commit the crime of **MURDER IN THE FIRST DEGREE**, by shooting Johnny Lee Smith in the neck with a firearm thereby causing Johnny Lee Smith to languish and die with malice aforethought in violation of Title 21 O.S. § 701.7, by all of which is contrary to the law and the statutes, and the peace and dignity of the State of Oklahoma.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

By: Joy Pittman
Joy Pittman Mohorovicic, OBA #19545
Assistant Attorney General
15 West 6th Street
Tulsa, OK 74119
(918) 581-2885

STATE OF OKLAHOMA)
)
) ss.
COUNTY OF McCURTAIN)

I do solemnly swear that the statements and allegations set forth in the within information are true and correct to the best of my information and belief.

Joy Pittman Mohorovic
Joy Pittman Mohorovic
Assistant Attorney General

Signed and sworn to before me on the 25th day of July, 2017, by Joy Pittman Mohorovic

(SEAL)

[Signature]
Notary Public

My Commission Expires: 2/9/19

I have examined the facts in this case and recommend that a warrant do issue.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

By: Joy Pittman Mohorovic
Joy Pittman Mohorovic
Assistant Attorney General

Penalty:

O.S. §701.9 -

A Person who is convicted of or pleads guilty or nolo contendere to murder in the first degree shall be punished by death, by imprisonment for life without parole or by imprisonment for life.

Witnesses:

Thomas Helm, Agent
Office of Attorney General
15 West 6th Street, Suite 1000
Tulsa, Oklahoma 74119

Agent Donnie Long
OSBI
6600 North Harvey
Oklahoma City, OK 73116

Agent Greg Glenn
OSBI
6600 North Harvey
Oklahoma City, OK 73116

Mary Long
OSBI
6600 North Harvey
Oklahoma City, OK 73116

Jim Looney
OSBI
6600 North Harvey
Oklahoma City, OK 73116

Michael Collins
OSBI
6600 North Harvey
Oklahoma City, OK 73116

Chai Choi, MD
Medical Examiner's Office

Terry Lynn Williston
814 W Lincoln Road
Idabel, Oklahoma

Johnny Tadlock
906 SE Quincy Street
Idabel, Oklahoma

Terry Glen Melton
5636 Fruitland Rd NE
Salem, Oregon

Charles Douglas Williams
35106 SE Muller Dr
Albany, Oregon

Dewayne Melton
1495 Archie Rd
Idabel, Oklahoma

Richard Mark Denison
1707 Larosa
Idabel, Oklahoma

George Everett
57 WestFall Avenue
Susquehanna, Pennsylvania

Arlette Bushers
100 Southeast Washington
Idabel, Oklahoma

Angela Berg
Office of the Chief Medical Examiner's

Katherine Hunter
OSBI
6600 North Harvey
Oklahoma City, OK 73116

Albert Daniel Roberts
639 Emerson Rd
Broken Bow, Oklahoma

IN THE DISTRICT COURT OF MCCURTAIN COUNTY

STATE OF OKLAHOMA COURT CLERK'S OFFICE

County of McCurtain, State of Oklahoma

FILED

THE STATE OF OKLAHOMA, Plaintiff

JUL 25 2017

VICKI JUSTUS, Court Clerk

vs.

By _____ Deputy

ERNEST ALBERT LEWIS

B/M

DOB: 11/26/1951

SSN: 445-52-5423

6'00" 200 lbs

Brown Hair/Brown eyes

Defendant

CF-17-243

AFFIDAVIT

The undersigned, upon oath, deposes and states as follows, to-wit:

Your Affiant, DONNIE LONG, has been a C.L.E.E.T. Oklahoma Certified Police Officer since 1992. He has been a Special Agent with the Oklahoma State Bureau of Investigation since October 2001.

On June 28, 1984, at about 2200 hours, JOHNNY TADLOCK, CHARLES WILLIAMS, and TERRY and DEWAYNE MELTON were standing near some parked cars on the south side of the K.C.S. Lumber Company in Idabel, Oklahoma, when they heard a noise that sounded like a gunshot or a car backfire. All four men believed the noise came from a location south of them. Just a few seconds after the noise, someone driving a Caterpillar "loader," approached the men and traveled past them within thirty to forty yards. TADLOCK, WILLIAMS, and TERRY recognized the person driving the loader as being a black male whom they knew only as "LEWIS". LEWIS was employed by K.C.S. Lumber Company. DEWAYNE was unable to see who was driving the loader because he was paying more attention to how rough the loader was being driven. TADLOCK, WILLIAMS, TERRY and DEWAYNE watched the loader almost run into a forklift nearby. TADLOCK described the throttle of the loader's engine as being "wide open." DEWAYNE described the loader's motor being "revved up" and it never slowed down as the loader almost hit the forklift. The loader traveled out of the men's sight after it approached the boiler area.

Just a few minutes later, TADLOCK, WILLIAMS, TERRY and DEWAYNE saw someone driving a pickup truck towards them. The truck passed within thirty to forty yards of the four men. As the truck passed by them, TADLOCK, WILLIAMS and TERRY recognized the driver as being LEWIS. DEWAYNE was unable to see the person driving the truck. LEWIS drove past the four men then out the front gate of the lumber company.

On June 28, 1984, GEORGE EVERTT worked his shift at the K.C.S. Lumber Company. Sometime between 2130 and 2200 hours, EVERTT heard a sound he thought was a shot. However, because it was near July 4th, he thought the noise might also have been a firecracker. After hearing the sound, EVERTT looked up and saw a "loader" parked by the fuel pump. EVERTT knew that particular loader to be the one driven by ERNEST LEWIS. About four or five minutes after hearing the sound, EVERTT saw LEWIS driving a loader very fast around the office building. The loader LEWIS was driving almost hit a forklift. LEWIS and the loader then traveled out of EVERTT'S sight. About two minutes later, EVERTT saw LEWIS driving a black Ford pickup truck very fast and he did not appear to be looking where he was going. EVERTT was driving a loader containing logs as LEWIS approached. EVERTT had to raise the bucket of the loader to avoid being hit by the truck being driven by LEWIS.

On June 28, 1984, sometime just before 2200 hours, ERNEST LEWIS came to TERRY WILLISTON at the K.C.S. Lumber Company and he told WILLISTON he had to make a telephone call. The only telephone on the premises was in the lumber company's office building. LEWIS drove to the office building on a Caterpillar. LEWIS was gone about ten to fifteen minutes before he returned to WILLISTON. LEWIS told WILLISTON he had an emergency and he needed to go home. LEWIS asked WILLISTON if he could drive his pickup truck home. WILLISTON agreed. LEWIS left in WILLISTON'S truck and about twenty minutes later WILLISTON saw that LEWIS had returned WILLISTON'S truck. About five to ten minutes after WILLISTON noticed that LEWIS had returned, someone approached WILLISTON and LEWIS and told them that someone had been killed.

Sometime just after the men heard a noise that sounded like a gunshot, JOE HOWARD, who was working at the lumber company, found a black male lying dead on the ground near the office building. The male was later identified as being JOHNNY LEE SMITH. Idabel Police Chief HOPPY DENISON requested OSBI assistance investigating SMITH'S death. OSBI Agent GREG GLENN was the case agent for the investigation. Blood from the bucket of a loader parked nearby and blood from rocks and the ground near SMITH'S body, was collected. Clothing items, a lead copper jacketed projectile, and a .357 caliber C.C.I. Blazer bullet were also collected from the scene. Items collected from the scene were later transported to the OSBI Central Laboratory in Oklahoma City.

Dr. CHAI S. CHOI, M.D., with the Office of The Chief Medical Examiner, later determined that SMITH died from a gunshot wound to his neck.

GLENN later discovered that MYRTLE LEWIS, ERNEST LEWIS'S mother, had purchased a Colt MKIII, .357 caliber pistol from "Idabel Pawn Shop," on May 9, 1984. GLENN also discovered that MYRTLE purchased C.C.I. Blazer .357 caliber ammunition from the same pawn shop on June 15, 1984. A criminalist examination later determined the bullet found underneath SMITH'S body at the scene could have been fired from a Colt MKIII pistol.

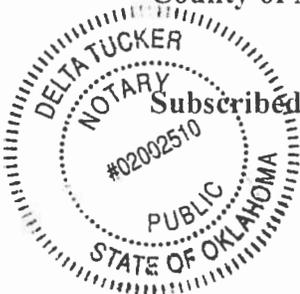
On July 22, 2011, SMITH'S body was exhumed to collect bone and tooth samples for D.N.A. testing. A D.N.A. profile was later obtained from SMITH'S remains. A partial D.N.A. profile was also obtained from the blood collected from the loader's bucket. SMITH'S D.N.A. profile could not be excluded as a potential source of the partial D.N.A. profile obtained from the blood on the outside of the loader's bucket. The probability of selecting an unrelated individual at random from the population that could be a donor of this D.N.A. is at least one in 388 thousand.

On April 26, 2012, OSBI Special Agent DONNIE LONG interviewed WILLISTON. WILLISTON reviewed his statement he gave to law enforcement officers in 1984. WILLISTON verified the statement he gave then was accurate to what he recalled. However, WILLISTON told LONG that in addition to what he told the officers previously, WILLISTON also remember seeing LEWIS with a pistol at the lumber company. WILLISTON began working at the lumber company sometime in late May of 1984. WILLISTON saw LEWIS with the pistol at the lumber company between the time he starting working there and the time SMITH was killed. On the day he saw the pistol, WILLISTON arrived at work and LEWIS was already there but he was still sitting in his car. Both men worked the same shift. As WILLISTON got out of his car, he noticed LEWIS getting out of his. LEWIS was wearing coveralls. WILLISTON saw a "dull chrome nickel plated .357 revolver pistol with a long barrel and a wooden handle," partially sticking out of the coveralls near LEWIS' waist area. LEWIS noticed that WILLISTON had seen the pistol. LEWIS said he needed to put the gun in his car. WILLISTON watched LEWIS place the pistol underneath the front driver's side seat of LEWIS' car. WILLISTON never saw the pistol again.

On April 27, 2012, LONG received a photograph of ERNEST LEWIS via electronic mail from the Denver Colorado detention center. The photograph of ERNEST was taken by the detention center at the time of incarceration in January 2012. LONG showed the photograph to JIMMY LEWIS. LEWIS identified the photograph as being his brother ERNEST ALBERT LEWIS. JIMMY also verified that ERNEST had been charged with the murder of JOHNNY LEE SMITH in 1984.


AFFIANT

State of Oklahoma)
County of McCurtain) SS.



Subscribed and sworn to before me this 19 day of July, 2017.


NOTARY PUBLIC

My Commission Expires: 3/10/18

Commission # 02002510

FINDING OF PROBABLE CAUSE

On this 25 day of July, 2017, the above-styled and numbered cause came on for hearing before me, the undersigned Judge of the District Court of McCurtain County, Oklahoma, upon the Affidavit of Donnie Long, Investigator with the Oklahoma State Bureau of Investigation, requesting that a warrant of arrest be issued for the within named Defendant, that he might be arrested and held to answer for the offense of **Murder in the First Degree**. Based upon said Affidavit, I am satisfied and do hereby find that the offense of **Murder in the First Degree** has been committed, and that there is probable cause to believe the within named Defendant, ERNEST ALVIN LEWIS has committed said offense, and that a warrant of arrest should issue.

Dated this 25 day of July, 2017.



Judge of the District Court

COURT CLERK'S OFFICE
County of McCurtain, State of Oklahoma

FILED

JUL 25 2017

By VICKI JUSTUS, Court Clerk

Deputy