

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN RE APPLICATION OF E. SCOTT PRUITT, )  
ATTORNEY GENERAL OF THE STATE OF )  
OKLAHOMA, REQUESTING AN ORDER )  
DIRECTING THAT A MULTICOUNTY GRAND )  
JURY, HAVING JURISDICTION EXTENDING )  
THROUGHOUT THE STATE, ENCOMPASSING )  
ALL SEVENTY-SEVEN COUNTIES OF THE )  
STATE, BE CONVENED. )

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
SEP 20 2012

MICHAEL S. RICHIE  
CLERK

No. SCAD 2012-61

ES-2012-1

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

SEP 26 2012

PATRICIA PRESLEY, COURT CLERK

ORDER

Upon Application of the Attorney General of the State of Oklahoma, the Court finds that a

multicounty grand jury should be convened.

IT IS THEREFORE ORDERED:

1. A multicounty grand jury be convened upon a date certain to be set by the Supreme Court at a later date.
2. Pursuant to the provisions of Article II, § 18 of the Oklahoma Constitution, the multicounty grand jury shall have the power and authority to inquire into and return indictments for all character and grade of crimes in any and all seventy-seven (77) counties of the State of Oklahoma.
3. The Honorable Barbara Swinton is hereby designated and assigned as presiding judge over the multicounty grand jury. All applications and motions relating to the work of the multicounty grand jury shall be presented to the designated presiding judge.
4. IT IS FURTHER ORDERED, with respect to investigations, indictments, reports, and all other proper activities of the multicounty grand jury, that the Honorable Barbara Swinton, as presiding judge, shall have judicial authority and jurisdiction in any and all seventy-seven (77) counties of the State of Oklahoma.
5. The Administrative Director of the Courts shall prepare a list of two hundred (200)

prospective grand jurors drawn from the current grand jury lists of the seventy-seven (77) counties of Oklahoma, each of whom shall be summoned to appear at a date certain, to be specified by subsequent order of this Court, at a location designated by the Administrative Director of the Courts, in Oklahoma County, Oklahoma. The Administrative Director of the Courts shall use the automated process of prospective juror selection previously approved by this Court.

6. The court clerk of the county in which a prospective member of the multicounty grand jury resides, upon receipt from the Administrative Director of the Courts of a list of prospective multicounty grand jurors residing in that county, shall cause such prospective grand jurors to be summoned for service to the courtroom in the Oklahoma County Courthouse designated by the Administrative Director.

7. The presiding judge shall impanel a multicounty grand jury from the pool of the prospective grand jurors summoned for service. The multicounty grand jury shall consist of twelve (12) persons, and a first, second and third alternate grand juror. The alternate grand jurors shall attend all functions of the multicounty grand jury while in session and are subject to all laws governing grand jurors. No alternate grand juror shall participate in any deliberations of the multicounty grand jury until appointed to fill a vacancy, if one occurs. Pursuant to 38 O.S.2011, § 21, the presiding judge may order at any time during the term of the grand jury that additional prospective grand jurors be summoned, if such becomes necessary to complete the grand jury panel.

8. In the event the presiding judge is unable to impanel a multicounty grand jury and alternates from the two hundred (200) prospective grand jurors originally summoned, the Administrative Director of the Courts shall prepare a second list of two hundred (200) prospective grand jurors in the manner herein provided, to be summoned in accordance with the provisions of

this Order. The same methodology shall be employed until a multicounty grand jury is impaneled.

9. Challenges to the panel of the multicounty grand jury, or any individual grand juror, may be allowed in accordance with the applicable provisions of law. The county of residence of the multicounty grand jurors shall not be grounds for a challenge to the panel or to an individual grand juror, provided not more than one-half (½) of the multicounty grand jurors are residents of any one county. 22 O.S.2011, § 359(B).

10. Oklahoma County is designated as the principal location for the multicounty grand jury proceedings. After they are impaneled, the multicounty grand jury shall conduct their sessions at a site within Oklahoma County designated by the presiding judge. Nothing contained in this Order shall prevent the multicounty grand jury from conducting business in any county other than Oklahoma County for good cause shown and with the express consent of the presiding judge.

11. The multicounty grand jury shall have, and may exercise, those powers as are enumerated in 22 O.S.2011, § 354.

12. The Court Clerk of Oklahoma County, or a designated deputy or deputies, are instructed to perform all customary duties of the office related to the preparation and selection of grand jurors for the multicounty grand jury, and such other duties as may be ordered by the presiding judge of the multicounty grand jury, except preparation of the list of prospective jurors from the seventy-seven (77) counties and the summoning of the potential grand jurors. This is necessary because the principal situs of the multicounty grand jury is Oklahoma County.

13. The Office of the Public Defender in and for Oklahoma County is directed to undertake the representation of any indigent person or persons requesting appointed counsel who are called to testify before the multicounty grand jury, upon a finding of indigence by the presiding judge of the

multicounty grand jury and appointment by the judge. In the event a conflict exists with regard to the office of the Public Defender in and for Oklahoma County and a person or persons called to testify before the multicounty grand jury, legal representation will be selected from the court-appointed list of attorneys and shall be paid as provided by previous agreement by the Office of the Attorney General and the Office of the Oklahoma County Public Defender. In the event the multicounty grand jury is sitting in a county other than Oklahoma County and an indigent person requests counsel, the presiding judge will appoint the public defender from that county, or if there be no public defender in that county, the presiding judge will appoint private counsel to represent the indigent person. Private counsel will be reimbursed in the same manner as counsel for indigent defendants in criminal cases.

14. The term of the multicounty grand jury shall be eighteen (18) months unless an order for discharge is entered earlier pursuant to 22 O.S.2011, § 352. The term shall commence from the date the multicounty grand jury is impaneled and sworn. Nothing contained herein shall prevent the grand jury from recessing from time to time during the specific term of service as the press of business may dictate.

15. The regular term of the multicounty grand jury may be extended by the presiding judge for a specified time period upon a verified petition by the Attorney General stating that an extension is necessary to conclude a grand jury inquiry begun prior to the expiration of the regular term. No multicounty grand jury as extended shall serve for more than twenty-four (24) months, unless permission is granted by the Supreme Court of Oklahoma.

16. Unless otherwise provided herein, all costs attributable to this multicounty grand jury, including, but not limited to, the costs of any and all transcripts, juror fees, juror mileage and per

diem, shall be borne by the Office of the Attorney General of Oklahoma from such funds as are specifically designated for that purpose, save and except those legal fees associated with the representation of indigent persons.

17. The Attorney General shall obtain the services of a duly licensed or certified court reporter who shall serve the multicounty grand jury under the direction of the presiding judge. The salary and/or per diem and mileage of the court reporter shall be paid by the Office of Attorney General.

18. It is the specific intent of this Order that the summoning, impaneling and action of the multicounty grand jury be governed by the provisions of Article II, § 18 of the Oklahoma Constitution and the Multicounty Grand Jury Act, 22 O.S.2011, §§ 350-363, unless these sections be silent, in which event the law governing county grand juries shall control.

19. This Order may be amended as the ends of law and proper practice may require, either *sua sponte* by the Court or upon proper verified application made to this Court.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 20<sup>th</sup> day of September 2012.

  
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Chief Justice 1

CONCUR: TAYLOR, C.J.; COLBERT, V.C.J.; and KAUGER, WINCHESTER, EDMONDSON, REIF, and GURICH, JJ.

DISSENT: WATT and COMBS, JJ.