

**IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA**

FILED
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STATE OF OKLAHOMA

OCT - 3 2011

MICHAEL S. RICHIE
CLERK

GARY ROLAND WELCH,)
)
 Appellant,)
)
 vs.)
)
 THE STATE OF OKLAHOMA,)
)
 Appellee.)

Case No. D-1996-692

APPLICATION FOR EXECUTION DATE

COMES NOW E. Scott Pruitt, Attorney General of the State of Oklahoma, and hereby respectfully requests that this Court set an execution date pursuant to 22 O.S.Supp.2004, §1001.1, for sixty (60) days after October 3, 2011, or at the earliest date this Court deems fit, so that the lawful conviction and sentence of the State of Oklahoma may be carried out.

In support of this Application, the State would show this Court the following:

1. Defendant, Gary Roland Welch, was charged and convicted by a jury of his peers of the crimes of Murder in the First Degree in violation of 21 O.S.1991, § 701.7, in Case No. CRF-94-302, in the Ottawa County District Court.
2. During the second stage of trial, the jury found the existence of all three alleged aggravating circumstances beyond a reasonable doubt: (1) that the murder was especially heinous, atrocious, or cruel; (2) that the defendant was previously convicted of a felony or felonies involving the use or threat of violence

to the person; and (3) that a probability existed the defendant would commit criminal acts of violence that would constitute a continuing threat to society.

3. Having found the existence of at least one aggravating circumstance beyond a reasonable doubt, necessary under Okla. Stat. tit. 21, § 701.12, before a penalty of death can be imposed, the jury assessed the death penalty for the murder.

4. This Court affirmed Welch's convictions and sentences on October 5, 1998. Rehearing was denied on December 2, 1998. *Welch v. State*, 1998 OK CR 54, 968 P.2d 1231 (Okla. Crim. App. 1998).

5. The United States Supreme Court denied a petition for writ of certiorari to this Court on October 4, 1999. *Welch v. Oklahoma*, 528 U.S. 829, 120 S. Ct. 83, 145 L. Ed. 2d 70 (1999).

6. This Court denied Welch's application for post-conviction relief in Case No. PCD-1997-1486 on October 23, 1998. *Welch v. State*, 1998 OK CR 58, 972 P.2d. Welch did not file a petition for writ of certiorari in the United States Supreme Court to challenge the denial of post-conviction relief.

7. Welch filed a Petition for Writ of Habeas Corpus in the District Court for the Northern District of Oklahoma on October 3, 2000, which was denied on March 26, 2007.

8. The denial of habeas relief was affirmed by the Tenth Circuit on June 7, 2010. On February 10, 2011, panel rehearing was granted and the panel substituted a new opinion affirming the denial of habeas relief; *en banc* rehearing was denied. *Welch v. Workman*, 639 F.3d 980 (10th Cir. 2011).

9. Finally, Welch sought certiorari review of the Tenth Circuit's decision which the United States Supreme Court denied on October 3, 2011. *Welch v. Workman*, ___ U.S. ___, ___ S. Ct. ___, ___ L. Ed. 2d ___, (U.S., October 3, 2011) (Case No. 11-5284). At this time, all appeals in state and federal courts have been exhausted.

The above considered, the State respectfully requests that this Court set an execution date sixty (60) days after October 3, 2011, or at the earliest date this Court deems fit.

Respectfully submitted,

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA



ROBERT L. WHITTAKER, OBA #9570
ASSISTANT ATTORNEY GENERAL

313 N.E. 21st Street
Oklahoma City, OK 73105
(405) 521-3921
(405) 522-4534 Fax

ATTORNEY FOR APPELLEE

CERTIFICATE OF MAILING

On this 3rd day of October, 2011, a true and correct copy of the foregoing was mailed to:

Robert L. Wyatt
WYATT LAW OFFICE
501 N. Walker Avenue, Suite 110
Oklahoma City, Oklahoma 73102
bobwyatt@wyattlaw.com

James L. Hankins
OGLE LAW OFFICE, P.L.L.C.
100 Park Avenue, Suite 500
Oklahoma city, Oklahoma 73102
jamesshankins@ocdw.com



ROBERT L. WHITTAKER