

IN THE DISTRICT COURT OF PITTSBURG COUNTY
STATE OF OKLAHOMA

RECEIVED AND FILED
IN DISTRICT COURT
PITTSBURG COUNTY, OKLAHOMA

2009 JUL 31 P 2:44

CINDY ELLER

No. CJ-09-240
DEPUTY

IN RE: APPLICATION OF W.A. DREW)
EDMONDSON, ATTORNEY GENERAL OF)
THE STATE OF OKLAHOMA, REQUESTING)
AN ORDER DIRECTING THAT A COUNTY)
GRAND JURY, HAVING JURISDICTION IN)
PITTSBURG COUNTY, BE CONVENED)

**APPLICATION REQUESTING AN ORDER
DIRECTING THAT A COUNTY GRAND JURY
HAVING JURISDICTION IN PITTSBURG COUNTY, BE CONVENED**

COMES NOW W.A. Edmondson, the duly elected, qualified and acting Attorney General of the State of Oklahoma and hereby makes application pursuant to the provisions of Article 2 § 18 of the Oklahoma Constitution, for the convening of a county grand jury having jurisdiction in Pittsburg County. In support of this Application, the Attorney General offers as follows:

1. I am Attorney General for the State of Oklahoma and, as such, have the responsibility and authority to conduct grand jury investigations before county grand juries. I respectfully state:

(a) The proposed scope, of the requested grand jury includes:

Investigation of alleged lewd and lascivious acts against a child under fourteen (14) in violation of 21 O.S. § 1123 which were carried out by David Harold Eugene Earls and were not the subject of any prior adjudicated charge and plea agreement.

The "Appendix" filed herewith under seal provides greater detail as to the grand jury's initial objectives.

(b) **Certified Court Reporter**

With respect to obtaining the services of a certified court reporter for the Pittsburg County grand jury, 20 O.S. 1991 § 106.9(D) is the basis for the availability and source of payment. Under this statute, the compensation for a certified court reporter shall come from the Pittsburg County Court funds.

(c) **Bailiff**

With respect to the compensation of the bailiff of the Pittsburg County grand jury, 20 O.S. 1991 § 1304(B)(2) is the basis for the source of payment. Under this statute, the compensation for the bailiff shall come from the Pittsburg County court funds.

(d) **Indigent Defense**

With respect to indigent witnesses called before the grand jury, the County Public Defender, should be appointed upon a court's finding that the witness qualifies for a court appointed attorney.

2. It is my judgment as Attorney General of the State of Oklahoma that the convening of a county grand jury having jurisdiction extending throughout Pittsburg County, is necessary because of the existence of crimes as defined in Article 2 § 18 of the Oklahoma Constitution and in Section 331 of Title 22 of the Act.

3. The convening of a Pittsburg County grand jury having jurisdiction extending throughout Pittsburg County is necessary because the crimes as defined in Article 2 § 18 of the Oklahoma Constitution and in Section 331 of Title 22 of the Act, including organized crime, homicides and fraud, can be investigated more effectively through the use of those resources available to a Pittsburg County grand jury. The investigative resources to be utilized by the proposed

Pittsburg County grand jury will include, inter alia, the following:

(a) The Subpoena Power Available to a Pittsburg County Grand Jury (22 O.S. 1991, § 333);

(1) The power to compel the appearance of witnesses before the Pittsburg County grand jury and the power to compel the testimony of said witnesses under oath are essential to effectively investigate many crimes; for example organized crime, homicides and fraud. It is a well known tenet of law enforcement that in every criminal organization there are individuals who have information relevant to said criminal activity, but who decline to provide information to law enforcement officials. If subpoenaed before a Pittsburg County grand jury, it is believed these individuals would testify and provide information to assist law enforcement agencies in their respective investigations.

(2) Often an examination of the finances and business records of corrupt organizations, which operate much like large corporations, is the only means to discover and document illegal activity. The power to issue subpoena duces tecum and to compel the production of financial documents, business records and other relevant evidence is absolutely essential in order to effectively investigate organized crime or fraud.

(b) The Power to Compel Testimony from those Witnesses Who Have Been Granted Immunity (22 O.S. 1991, § 333). Orders of immunity are necessary to compel testimony from witnesses such as victims, co-conspirators, employees, business associates, family members and others who are involved in criminal activities as defined in Article 2 § 18 of the Oklahoma Constitution and in Section 331 of Title 22 of the Act including, but not limited to, organized crime, homicides and fraud, who are legitimately concerned with self-incrimination. The power to request

orders of immunity and thereby compel testimony enables the Pittsburg County grand jury to more effectively obtain testimony from said witnesses or any other witnesses who are reluctant to cooperate and provide testimony to said grand jury.

4. In addition to the criminal activities enumerated in the appendix filed under seal, the Pittsburg County grand jury will investigate other areas of criminal activity.

5. That pursuant to 22 O.S. 1991 Section 351(B) it is requested that said order convening a Pittsburg County grand jury shall:

(a) Designate a district court judge to serve as the presiding judge over such Pittsburg County grand jury. The Honorable Chief Judge of Pittsburg County previously presided over matters related to areas within the scope of initial investigation. Accordingly, Petitioner respectfully requests that another judge be appointed presiding judge for the Pittsburg County grand jury;

(b) Designate a location or locations for the Pittsburg County grand jury proceeding; and

(c) Provide for such other incidentals relevant to the convening of a Pittsburg County grand jury as may be necessary, to include the following:

(1) Payment of costs and expenses concerning the Pittsburg County grand jury;

(2) Obtaining the services of a certified court reporter to serve the Pittsburg County grand jury;

(3) Obtaining the services of a bailiff to serve the Pittsburg County grand jury;

(4) Representation of indigent persons who request court appointed counsel;

(5) Designation of a court clerk to perform all of the necessary and statutory duties of a court clerk relating to the Pittsburg County grand jury.

6. A proposed order is submitted for the Court's consideration.

WHEREFORE, the Attorney General of the State of Oklahoma respectfully requests that this Honorable Court, pursuant to the provisions of Article 2 § 18 of the Oklahoma Constitution, issue an order directing that a Pittsburg County grand jury having jurisdiction extending throughout Pittsburg County, be convened and that said order shall:

(a) Designate a district court judge to be the presiding judge over such Pittsburg County grand jury;

(b) Designate a location or locations for the Pittsburg County grand jury proceeding; and

(c) Provide for such other incidental arrangements as may be necessary, to include the following:

(1) Payment of costs and expenses concerning the Pittsburg County grand jury;

(2) Obtaining the services of a certified court reporter to serve the Pittsburg County grand jury;

(3) Obtaining the services of a bailiff to serve the Pittsburg County grand jury;

~~the~~ (4) Representation of indigent persons who request court appointed
counsel;

(5) Designation of a court clerk to perform all of the necessary and
statutory duties of a court clerk relating to the Pittsburg County grand jury.

Respectfully submitted,



W.A. DREW EDMONDSON
ATTORNEY GENERAL
STATE OF OKLAHOMA

IN THE DISTRICT COURT OF PITTSBURG COUNTY
STATE OF OKLAHOMA

RECEIVED AND FILED
DISTRICT COURT
PITTSBURG COUNTY, OKLAHOMA

IN RE: APPLICATION OF W.A. DREW)
EDMONDSON, ATTORNEY GENERAL OF)
THE STATE OF OKLAHOMA, REQUESTING)
AN ORDER DIRECTING THAT A COUNTY)
GRAND JURY, HAVING JURISDICTION IN)
PITTSBURG COUNTY, BE CONVENED)

2009 JUL 31 P 2:45

No. CJ-09-240 CINDY ELLER

BY _____
DEPUTY

**ORDER DIRECTING THAT A COUNTY GRAND JURY
HAVING JURISDICTION IN PITTSBURG COUNTY, BE CONVENED**

This matter comes before me this 31 day of July, 2009, upon the Application of W.A. Drew Edmondson, the duly elected, qualified and acting Attorney General of the State of Oklahoma and hereby makes application pursuant to the provisions of Article 2 § 18 of the Oklahoma Constitution, for the convening of a county grand jury having jurisdiction in Pittsburg County. The Court being fully advised upon the premises, finds as follows:

A county grand jury shall be convened with the projected nature and length of investigations of the requested grand jury requires the disclosure of confidential investigative information and is submitted to this court under seal as "Appendix". The information provided in "Appendix" addresses the questions as to scope, initial objectives, results, nature and length of investigations.

The Court further finds that a Certified Court Reporter shall be appointed for the Pittsburg County Grand Jury. Pursuant to 20 O.S. 1991 § 106.9(D), a **Certified Court Reporter** shall be appointed for the Pittsburg County Grand Jury. The Court further finds that compensation for the certified court reporter shall come from the Pittsburg County Court funds.

The Court further finds that a **Bailiff** shall be appointed for the Pittsburg County Grand Jury. Pursuant to 20 O.S. 1991 § 1304(B)(2), the Bailiff shall be compensated from Pittsburg County court

funds. O*

The Court further finds that indigent witnesses shall be afforded counsel upon a proper finding by the Court. In such instances, the County Public Defender shall be appointed to advise said indigent witness.

The Court further finds that the convening of a county grand jury having jurisdiction extending throughout Pittsburg County, is hereby necessary because of the existence of crimes as defined in Article 2 § 18 of the Oklahoma Constitution and in Section 331 of Title 22 of the Act. Furthermore, the convening of a Pittsburg County grand jury having jurisdiction extending throughout Pittsburg County is hereby necessary because the crimes as defined in Article 2 § 18 of the Oklahoma Constitution and in Section 331 of Title 22 of the Act, including organized crime, homicides and fraud, can be investigated more effectively through the use of those resources available to a Pittsburg County grand jury. The investigative resources to be utilized by the proposed Pittsburg County grand jury will include, inter alia, the following:

(a) The Subpoena Power Available to a Pittsburg County Grand Jury (22 O.S. 1991, § 333);

(b) The power to compel the appearance of witnesses before the Pittsburg County grand jury and the power to compel the testimony of said witnesses under oath are essential to effectively investigate many crimes; for example organized crime, homicides and fraud. It is a well known tenet of law enforcement that in every criminal organization there are individuals who have information relevant to said criminal activity, but who decline to provide information to law enforcement officials. If subpoenaed before a Pittsburg County grand jury, it is believed these individuals would testify and provide information to assist law enforcement agencies in their

respective investigations.

(c) Often an examination fo the finances and business records of corrupt organizations, which operate much like large corporations, is the only means to discover and document illegal activity. The power to issue subpoena duces tecum and to compel the production of financial documents, business records and other relevant evidence is absolutely essential in order to effectively investigate organized crime or fraud.

(d) The Power to Compel Testimony from those Witnesses Who Have Been Granted Immunity (22 O.S. 1991, § 333). Orders of immunity are necessary to compel testimony from witnesses such as victims, co-conspirators, employees, business associates, family members and others who are involved in criminal activities as defined in Article 2 § 18 of the Oklahoma Constitution and in Section 331 of Title 22 of the Act including, but not limited to, organized crime, homicides and fraud, who are legitimately concerned with self-incrimination. The power to request orders of immunity and thereby compel testimony enables the Pittsburg County grand jury to more effectively obtain testimony from said witnesses or any other witnesses who are reluctant to cooperate and provide testimony to said grand jury.

In addition to the criminal activities enumerated in the appendix filed under seal, the Pittsburg County grand jury shall investigate other areas of criminal activity as is deemed appropriate.

The Court further finds, pursuant to 22 O.S. 1991 Section 351(B), it is further ordered:

(a) That the undersigned Pittsburg County District Court Judge shall serve as the presiding judge over such Pittsburg County grand jury;

(b) That the undersigned Judge shall designate a location or locations for the

Pittsburg County grand jury proceeding; and

(c) Provide for such other incidentals relevant to the convening of a Pittsburg County grand jury as may be necessary, to include the following:

(1) Payment of costs and expenses concerning the Pittsburg County grand jury;

(2) Obtaining the services of a certified court reporter to serve the Pittsburg County grand jury;

(3) Obtaining the services of a bailiff to serve the Pittsburg County grand jury;

(4) Representation of indigent persons who request court appointed counsel;

(5) Designation of a court clerk to perform all of the necessary and statutory duties of a court clerk relating to the Pittsburg County grand jury.

IT IS ADJUDGED, ORDERED, AND DECREED BY THE COURT, upon the request of the Attorney General of the State of Oklahoma, pursuant to the provisions of Article 2 § 18 of the Oklahoma Constitution, that a Pittsburg County grand jury having jurisdiction extending throughout Pittsburg County, shall be and is hereby ordered convened

IT IS SO ORDERED.



JOHN MALEY, DISTRICT JUDGE

IN THE DISTRICT COURT OF PITTSBURG COUNTY
STATE OF OKLAHOMA

RECEIVED AND FILED
IN DISTRICT COURT
PITTSBURG COUNTY, OKLA

IN RE:)
PITTSBURG COUNTY GRAND JURY)

Case No. CJ-2009-240

2009 JUL 31 P 2:45

CINDY ELLER

ORDER

BY _____
DEPUTY

Pursuant to the Order of this Court herein of July 31, 2009, the Pittsburg County Grand Jury shall convene on August 24, 2009, at 10:00 a.m. The Pittsburg County Grand Jury shall be impaneled and proceed in accordance with the Court's Order of July 31, 2009.

The Court further orders that requests for grand jury investigation must be submitted to the court clerk's office no later than 5:00 p.m. on August 20, 2009.

Dated this 31st day of July, 2009.



JOHN MALEY, PRESIDING JUDGE

IN THE DISTRICT COURT OF THE 18TH JUDICIAL DISTRICT AND FILED
WITHIN AND FOR PITTSBURG COUNTY, STATE OF OKLAHOMA DISTRICT COURT
PITTSBURG COUNTY, OKLAHOMA

MINUTE ORDER (SUMMARY) 2009 JUL 31 P 1:40

CINDY ELLER

IN RE: APPLICATION OF W.A. DREW EDMONDSON, ATTORNEY GENERAL OF THE STATE OF OKLAHOMA REQUESTING AN ORDER DIRECTING THAT A COUNTY GRAND JURY, HAVING JURISDICTION IN PITTSBURG COUNTY, BE CONVENED

CASE NO.: CJ-2009-240

BY _____
DEPUTY

DATE: July 31, 2009

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APPEARANCES:

PLAINTIFF'S ATTORNEY: Thomas W. Gruber and Joel-Lyn McCormick

DEFENDANT'S ATTORNEY :

OTHERS

TAPE NO. I-09-24 COURT REPORTER: Tamara Richards

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COMES ON FOR: Recusal.

RULING: Court believes it can be fair and impartial in the above style case, but to avoid the appearance of impropriety, the Court hereby sua sponte recuses from any further proceedings in this case. Case to be assigned by the Chief Justice of the Supreme Court of Oklahoma.



CHIEF JUDGE OF THE DISTRICT COURT

COUNTY OF PITTSBURG) ss
STATE OF OKLAHOMA)
I, CINDY ELLER, Court Clerk in and for
Pittsburg County State of Oklahoma do hereby certify
that the within and foregoing is a true and correct
copy of the original Minute Order as
the same appears on file and record in my office in
witness whereof, I hereunto set my hand and affix the
seal of said court.
This 31 day of July, 2009
CINDY ELLER, Court Clerk
By Ronald M. ...
Deputy

RECEIVED AND FILED
IN DISTRICT COURT
PITTSBURG COUNTY, OKLA.

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
JUL 31 2009

ORDER OF ASSIGNMENT TO JUDICIAL SERVICE
2009 JUL 31 P 2:44

CINDY ELLER

S.C.A.D. No.: 2009- *76*

MICHAEL S. RICHIE
CLERK

BY _____
DEPUTY

Acting under the authority vested in me by Article VII, Sections 6 and 8(i), of the Oklahoma Constitution, I hereby assign:

The Honorable John Maley
District Judge

CJ-09-240

as the presiding judge over the Pittsburg County, Oklahoma grand jury proceedings filed on July 31, 2009 in Case No. CJ-2009-240. All applications and motions related to the work of the grand jury shall be presented to the designated presiding judge.

The Honorable John Maley shall have judicial authority and jurisdiction with respect to any investigations, indictments, reports, and all other activities related to the Pittsburg County grand jury proceedings.

The Court Clerk of Pittsburg County shall cause an appropriate list of prospective grand jurors residing in Pittsburg County to be summoned for jury service in said matter.

The presiding judge shall impanel a grand jury from the pool of prospective grand jurors summoned for service. The grand jury shall consist of twelve (12) persons and one or more alternates at the discretion of the presiding judge. No alternate grand juror shall participate in any deliberations of the grand jury until appointed to fill a vacancy on the grand jury if one occurs.

Challenges to the grand jury panel, or any grand juror, may be allowed in accordance with the laws of the State of Oklahoma.

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

Dated this 31st day of July 2009.



Chief Justice