

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

FILED
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STATE OF OKLAHOMA

APR 15 2013

MICHAEL S. RICHIE
CLERK

BRIAN DARRELL DAVIS,)
)
 Appellant,)
)
vs.)
)
 THE STATE OF OKLAHOMA,)
)
 Appellee.)

Case No. D-2003-256

Death Penalty Case

APPLICATION FOR EXECUTION DATE

The State of Oklahoma, by and through E. Scott Pruitt, Attorney General of the State of Oklahoma, requests that this Court set an execution date pursuant to 22 O.S.2011, § 1001.1, sixty (60) days from April 15, 2013, or the earliest date this Court deems fit, so that the lawful conviction and sentence of the State of Oklahoma rendered in the case herein may be carried out.

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

1. Brian Darrell Davis, hereinafter referred to as "the defendant", was convicted of first degree murder and first degree rape in the District Court of Kay County, State of Oklahoma, Case No. CF-2001-733 and sentenced to death for the murder conviction plus one hundred years imprisonment for first degree rape.

2. The defendant filed a direct appeal from his conviction, which was affirmed by this Court on December 14, 2004. *Davis v. State*, 2004 OK CR 36, 103 P.3d 70.

3. The defendant also sought post-conviction relief which was denied by this Court on October 27, 2005. *Davis v. State*, 2005 OK CR 21, 123 P.3d 243.

4. On November 17, 2006, the defendant filed a petition for writ of habeas corpus. On January 10, 2011, the United States District Court for the Western District of Oklahoma denied habeas relief. *Davis v. Workman*, No. CIV-06-139-R, slip p. (W.D. Okla. Jan. 10, 2011) (unpublished).

5. The defendant appealed the denial of federal habeas relief to the United States Court of Appeals for the Tenth Circuit. On August 28, 2012, the Tenth Circuit affirmed the denial of habeas relief. *Davis v. Workman*, 695 F.3d 1060 (10th Cir. 2012). The Tenth Circuit denied defendant's request for rehearing and rehearing *en banc* on October 9, 2012. *Davis v. Workman*, No. 11-6022 (10th Cir. Oct. 9, 2012) (unpublished).

9. The defendant sought certiorari review from the United States Supreme Court on the decision of the Tenth Circuit. Certiorari review was denied April 15, 2013.

The defendant has exhausted all state and federal appeals. Therefore, the State respectfully requests this Court set an execution date sixty (60) days from April 15, 2013, or the earliest date this Court deems fit.

Respectfully submitted,

E. SCOTT PRUITT
ATTORNEY GENERAL

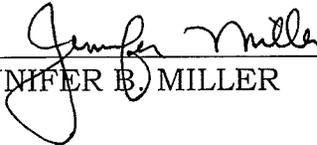

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ASSISTANT ATTORNEY GENERAL

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CERTIFICATE OF MAILING

On this 15th day of April, 2013, a true and correct copy of the foregoing was mailed to:

Jack D. Fisher
Post Office Box 1976
Edmond, OK 73083



JENNIFER B. MILLER