

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

GEORGE OCHOA,)
)
 Appellant,)
)
 vs.)
)
 THE STATE OF OKLAHOMA,)
)
 Appellee.)

Case No. D-1996-339
Death Penalty Case

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
OCT - 1 2012
MICHAEL B. RICHIE
CLERK

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 October 1, 2012, 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. George Ochoa, hereinafter referred to as "the defendant"; was convicted of two counts of first degree murder in the District Court of Oklahoma County, State of Oklahoma, Case No. CF-1993-4302 and sentenced to death.

2. The defendant filed a direct appeal from his conviction, which was affirmed by this Court on June 30, 1998, at *Ochoa v. State*, 1998 OK CR 41, 963 P.2d 583. Rehearing was denied on August 11, 1998. The defendant sought

certiorari review from the United States Supreme Court which was denied. *Ochoa v. State of Oklahoma*, 526 U.S. 1023 (1999).

3. The defendant also sought post-conviction relief which was denied by this Court on August 4, 1998. *Ochoa v. State*, PCD-1997-1558, slip op. (Okl. Cr. Aug. 4, 1998) (unpub'd).

4. On November 1, 1999, the defendant filed a petition for writ of habeas corpus. On December 19, 2001, the United States District Court for the Western District of Oklahoma denied habeas relief.

5. The defendant appealed the denial of federal habeas relief to the United States Court of Appeals for the Tenth Circuit in Case No. 02-6032. During the pendency of the appeal, the United States Supreme Court decided *Atkins v. Virginia*, 536 U.S. 304 (2002).

6. In light of *Atkins*, the defendant filed a second application for post-conviction relief. The Tenth Circuit issued an order staying Case No. 02-6032 pending exhaustion of defendant's *Atkins* claim. The defendant's second application for post-conviction relief was denied on May 25, 2006. *Ochoa v. State*, 2006 OK CR 21, 136 P.3d 661. The defendant sought certiorari review from the United States Supreme Court which was denied. *Ochoa v. State of Oklahoma*, 549 U.S. 1061 (2006).

7. Defendant filed a second petition for writ of habeas corpus in federal district court which was denied on March 10, 2010. *Ochoa v. Workman*, 2010 WL 916825 (W.D. Okla. Mar. 10, 2010).

8. The defendant appealed the denial of federal habeas relief to the United States Court of Appeals for the Tenth Circuit in Case No. 10-6088. The Tenth Circuit heard oral argument on both Case No. 02-6032 and 10-6088. On December 1, 2011, the Tenth Circuit affirmed the denial of habeas relief in Case No. 02-6032. *Ochoa v. Workman*, 451 Fed. Appx. 728 (10th Cir. Dec. 1, 2011). On January 18, 2012, the Court affirmed the denial of habeas relief in Case No. 10-6088. *Ochoa v. Workman*, 669 F.3d 1130 (10th Cir. 2012).

9. The defendant sought certiorari review from the United States Supreme Court on the decision of the Tenth Circuit. Certiorari review was denied October 1, 2012.

The defendant has exhausted all state and federal appeals. Therefore, the State respectfully requests this Court set an execution date sixty (60) days from October 1, 2012, or the earliest date this Court deems fit.

Respectfully submitted,

E. SCOTT PRUITT
ATTORNEY GENERAL

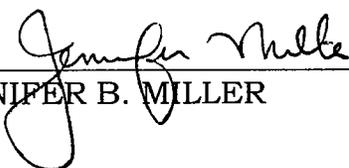

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CERTIFICATE OF MAILING

On this 1st day of October, 2012, a true and correct copy of the foregoing was mailed to:

James L. Hankins
THE COLONADE
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JENNIFER B. MILLER