

ORIGINAL



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

RICHARD GLOSSIP)
)
Petitioner,)
)
vs.)
)
THE STATE OF OKLAHOMA,)
)
Respondent.)

Case No. PCD-2015-820

**District Court of Oklahoma County
Case No: . CF-97-256**

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
SEP 21 2015
MICHAEL S. RICHIE
CLERK

**NOTICE RE: (1) INTENT TO FILE REPLY TO STATE'S RESPONSE TO
APPLICATION FOR POST-CONVICTION RELIEF AND (2) ON-GOING
INVESTIGATION OF POTENTIAL CLAIM BASED ON DESTRUCTION OF EVIDENCE**

Petitioner, Richard Glossip, by undersigned counsel, provides this Court with notice that:

(1) Petitioner's counsel are working on a Reply to State's Response Application for Post-Conviction while simultaneously investigating new evidence. Petitioner's counsel plan to file the Reply by tomorrow unless this Court allows additional time for filing the Reply;

(2) Petitioner is investigating an additional potential claim related to the destruction of evidence by the State. Petitioner's counsel learned of the possible extent of destruction of evidence when the District Attorney provided defense counsel with the attached police report on September 15, 2015. See Att. 1 to Notice; see also Att.2 (additional related information reported on September 18, 2015 on Channel 25 in Oklahoma City).

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on September 21st, 2015, a true and correct copy of the foregoing Notice was delivered to the Office of the Clerk of the Court to be delivered to the office of the Attorney General.



Mark Henricksen

OKLAHOMA CITY POLICE DEPARTMENT

CRIME REPORT

Reported Date: 10/28/99 Time: 15:26 Case: 99-095391 (000) Page: 1
Code: Crime: Class: 422100
Occurrence Date: 10/28/99- Day: THURSDAY - Time: -
Status: AS ASSIGNED Closing Officer: 000406 HOGUE, JANET
Location: 701 COLCORD DR., OK RD: 7

NARRATIVE

RE: PROPERTY TRANSFER FROM OKLA. COUNTY DA'S OFFICE
APPEALS EXHAUSTED: PROPERTY FOR DESTROY

BODY OF REPORT

On 10-28-99, this detective was assigned to transfer property from the Okla. County DA's office back to the OCPD property room. The case number is listed as CRF97-2261 with the defendants listed as Glossip and Sneed, charged with Murder I. The original officer is listed as Sgt. M. Jones. The incident occurred on 01-07-97 at 301 S. Council. The property listed as:

1. One roll of duct tape
2. One bag with duct tape
3. One envelope with note
4. One bag with glasses
5. One bag wallet, knives, keys
6. One bag with white shower curtain
7. One white box with papers
8. One deposit book
9. Two receipt books

A property card was filled out and the evidence was checked into the property room and marked for destroy by this detective.

Standard Trailer - First Page

Reporting Officer: HOGUE, JANET Number: 000406 Date: 10/28/99 Time: 15:26
Typed by: JMCNUTT Number: 406 Date: 11/02/99 Time: 08:22
Approving Officer: HOGUE, JANET Number: 000406 Date: 11/02/99 Time: 08:31

ATTACHMENT I TO NOTICE

<http://www.okcfox.com/story/30067572/new-questions-about-destroyed-evidence-could-put-glossip-case-back-in-federal-court> (posted 9.18.15 7:25 PM MDT) (last visited 9.20.15)

Oklahoma City Police released its report detailing the evidence from the murder of Barry Van Treese at the request of Fox 25. The report was never provided to attorneys who represented Richard Glossip in his second trial or his appeals according to his new defense team who received the report following a Fox 25 Investigation that aired the eve of his scheduled execution.

The 1999 police report lists the contents of the box of property marked for destruction because the appeals were exhausted. In reality, the appeals process had just begun for Glossip. Listed as contents were: "one roll of duct tape; one bag with duct tape; one envelope with note; one bag with glasses; one bag with wallet, knives [sic], keys; one bag with white shower curtain; one white box with papers; one deposit book; two receipt books."

While the state conceded in the second trial it had no physical evidence linking Richard Glossip to the motel room murder scene his new defense team says the police report discovered during the Fox 25 investigation is a document they had never seen and was never provided to his defense attorneys.

"You're supposed to preserve it and all of us have a duty as lawyers, especially the prosecution has a duty to maintain custody of any evidence that is in any investigation of any criminal offense," said Oklahoma City defense attorney Garvin Isaacs. Isaacs is a noted defense attorney, but he spent part of his career in the prosecutor's office, but he is not connected to the Glossip case. Isaacs says the destruction of evidence is, to say the least, a big deal.

"When you destroy a piece of evidence," Isaacs told Fox 25, "That raises the inference in the law that that evidence is against you. Isaacs says what that means is when a party destroys evidence, the jury should be instructed to take that as an admission of guilt. Isaacs read from the book he calls the "Bible for defense attorneys," in describing what the destruction of evidence means for prosecutors. "He is said to give ground to believe his case is weak and not to be won by fair means," Isaacs read.

But who ordered the destruction?

Police say no one knows, and it could have been the district attorney's office or it could have been a police error. Today's police policy would prohibit the destruction of any evidence from a homicide case. The police department says no one listed on the report is still employed by the police department, so Fox 25 tracked down the detective whose name is on the report.

She has since retired but told us she doesn't remember that specific box. However she said when evidence was marked for destruction, the district attorney's office would call a police supervisor who would send her to get boxes of evidence. She said she never had access to the property room and someone from the DA's office would have had to have given her that specific box and it would have been marked with the case information and contents.

Glossip's case had been ruled on, but according to online court records the destruction of evidence was ordered just days after the appeals court had ordered the case back to an Oklahoma County courtroom for a "fact finding" hearing.

ATTACHMENT 2 TO NOTICE

The detective who transferred the box of evidence was never associated with Glossip's case. And her report sat apparently unnoticed until the eve of Glossip's execution.

That is a troubling prospect says Isaacs. "It really troubles me; it scares me that Glossip's an innocent man; it scares me that at no time have we known all these things until now."

Isaacs says regardless of what the Oklahoma courts do in the case the issue of destroyed evidence is important enough it could open the door to new federal court appeals. Glossip's attorneys say they plan to supplement their filing to the Court of Criminal Appeals.