

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

FEB 17 2022

RICK WARREN
COURT CLERK

125

Case Number

CV-2022-299

Respondent.

1. On January 12, 2022, Mr. Gossett was traveling westbound on Southeast 59th Street in Oklahoma City, Oklahoma.
2. Officer Mashore, with the Valley Brook Police Department indicated he observed Mr. Gossett speeding in a location of the 1500 block of Southeast 59th Street, a location that is within Valley Brook's town limits. *See Exhibit 1.*

3. Officer Mashore began pursuit and stopped Mr. Gossett on the north bound entrance ramp to Interstate – 35 at Southeast 59th Street, a location entirely within the city limits of Oklahoma City.¹
4. Officer Mashore indicated he observed what he believed was a Xanax pill in Mr. Gossett's vehicle and removed Mr. Gossett from the vehicle to 'detain' him.
5. Officer Mashore in detaining Mr. Gossett, placed handcuffs on Mr. Gosset and searched his person for 'contraband.'
6. Mr. Gossett was placed in the back of Officer Mashore's patrol car and Officer Mashore proceeded to search Mr. Gossett's vehicle.
7. As a result of the search in Oklahoma City, Officer Mashore charged Mr. Gossett with three (3) violations of Valley Brook Ordinances.
8. While the offense of speeding may have occurred within Valley Brook, the Officer's observation and discovery of the controlled substances occurred in Oklahoma City.

II. PROCEDURAL HISTORY

9. Mr. Gossett appeared in Valley Brook Municipal Court on January 26, 2022 and Counsel for Mr. Gossett set the matter for trial. *See* Exhibit 2.
10. Mr. Gossett did not waive jury trial. Because Mr. Gossett did not waive a jury trial, he is subject to jail time and a fine in excess of five hundred dollars (\$500.00). *See* 11 O.S. § 27-119 (2006) ("In all prosecutions in the municipal court for any offense for which the municipality, with the concurrence of the court, seeks imposition of a fine of more than

¹ The location of the stop and the discovery of the two (2) controlled substances was not within the jurisdiction of Valley Brook, however Officer Mashore indicated on the citations that all offenses occurred in the 1500 block of Southeast 59th Street.

Five Hundred Dollars (\$500.00), excluding court costs, or imprisonment, or both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the municipality....”)

11. The Municipal Court set discovery compliance for February 9, 2022 and trial for February 23, 2022. *See Exhibit 2.*
12. Additionally, the Municipal Court set February 16, 2022 as a hearing date if Valley Brook failed to comply with discovery. *See Exhibit 2.*
13. On February 15, 2022, Counsel for Mr. Gossett emailed Ray Vincent, the Valley Brook municipal prosecutor, requesting discovery in the case. Mr. Vincent responded that he did not have discovery. *See Exhibit 3.*
14. On February 16, 2022, after Valley Brook did not comply with discovery, a hearing was had before Valley Brook Municipal Judge, Stephen Haynes.
15. At the hearing, the Valley Brook Municipal Judge, Stephen Haynes used his cell phone to record the audio of the hearing, to include witness testimony and argument.
16. At the hearing, Ray Vincent, the Valley Brook municipal prosecutor, provided only a police report to Counsel for Mr. Gossett.
17. At the hearing, it was alleged the dash camera and three (3) vehicle camera videos had not been working at the time of the stop and were not available to Mr. Gossett.
18. At the hearing, it was alleged a body camera video was not worn by Officer Mashore during the stop of Mr. Gossett.
19. Counsel for Mr. Gossett requested the Valley Brook Municipal Judge, Stephen Haynes, preserve the audio recording of the hearing for later transcription.

20. The Valley Brook Municipal Judge, Stephen Haynes indicated he believed the recording was his personal notes or memoranda and Counsel could make a request for the audio recording.
21. The Valley Brook Municipal Judge, Stephen Haynes indicated he “would do his best” to make sure the audio recording was not erased.
22. At the conclusion of the hearing for discovery, Counsel for Mr. Gossett made a request to bring a court reporter to the trial of Mr. Gossett as Valley Brook does not provide a court reporter.
23. The Valley Brook Municipal Judge, Stephen Haynes denied the request indicating he was aware of a District Court case that said he did not have to allow a court reporter to transcribe the trial proceedings.
24. Counsel for Mr. Gossett requested the name of the case and the Valley Brook Municipal Judge, Stephen Haynes indicated the case was thirty (30) years old and he did not know the citation.
25. Mr. Gossett is set for trial on February 26, 2022.
26. It is from the denial of the right to have a court reporter present to make a stenographic recording of the proceedings that Mr. Gossett brings this Application for Emergency Writ of Mandamus.

ARGUMENT AND AUTHORITY

Under 11 O.S. § 27-131 (1978), *The Supreme Court is authorized to issue orders of statewide application relative to procedures in and practices before the municipal courts and appeals therefrom*, subject to the provisions of this article....” (emphasis

added). “The district court in each county wherein a municipal court is established shall have the same jurisdiction to issue to the municipal court writs of mandamus, prohibition and certiorari as the Supreme Court now has to issue such writs to courts of record.” Under 11 O.S. § 27-128 (1978). “Mandamus is an extraordinary equitable remedy.” *Dale v. City of Yukon*, 1980 OK CIV APP 55, ¶ 12, 618 P.2d 954. “It is a remedy controlled by statute.” *Id.*

“An action in mandamus is instituted by the filing of a motion seeking the issuance of a writ. The motion must be made upon affidavit.” *Id.* (citing Title 12 O.S. 1971 § 1455.” “The movant must allege: (1) a clear legal right on his own part to have the things done which are asked for, (2) the clear and indisputable legal duty of respondent to do the things he is called upon to do, and that it is a nondiscretionary act; or he must allege an arbitrary, capricious, or unreasonable action done under the guise of the exercise of discretion by the respondent that amounts to an abuse of discretion, (3) that the writ will afford movant an adequate remedy, and (4) the inadequacy of any other remedy.” *Dale*, 1980 OK CIV APP 55 at ¶ 12 (citing *State ex rel. Westbrook v. Oklahoma Public Welfare Commission*, Okl., 167 P.2d 71 (1946); *Purcell-Lexington Tool Bridge Co. v. Leeper*, Okl., 296 P. 969 (1931)).

Under Rule 10.6 of the Rules of the Court of Criminal Appeals, Subsection B provides the burden the Petitioner must establish for relief through a Writ of Mandamus. The burden is that “(1) [the petitioner] has a clear legal right to the relief sought; (2) the respondent's refusal to perform a plain legal duty not involving the exercise of discretion; and (3) the adequacy of mandamus and the inadequacy of other relief.” Title 22, Chapter

18, Section X (2003) (*citing* Woolen v. Coffman, 1984 OK CR 53, ¶ 6, 676 P.2d 1375, 1377). “Mandamus is a command from a court of law of competent jurisdiction in the name of the state or sovereign to some inferior court, tribunal, or board, or corporation or person, requiring the performance of a duty therein specified, which duty results from the official station of the party to whom the writ is directed, or from the operation of law.” *Woolen v. Coffman*, 1984 OK CR 53, ¶ 6, 676 P.2d 1375, 1376-77.

“[The Oklahoma Court of Criminal Appeals has] held that writs may issue to prevent a district court from taking action which would clearly be an abuse of its discretion.” *Hamill v. Powers*, 2007 OK CR 26, ¶ 5, 164 P.3d 1083.

Valley Brook Municipal Court is an inferior court to the competent jurisdiction of the Oklahoma County District Court, acting in the appellate capacity for Oklahoma County municipal courts, not of record. Petitioner submits he has meet the elements of Rule 10.6 and case law delineating the requirements of the rule as set forth more fully below.

1. The Petitioner has a clear legal right to the relief sought as the Town of Valley Brook Municipal Court is attempting to exercise judicial power.

The Valley Brook Municipal Judge, Stephen Haynes is exercising judicial power in refusing to permit Mr. Gossett to have the proceedings of his trial recorded by a court reporter. Valley Brook does not provide a court reporter, for pay or otherwise, to defendants seeking to have proceedings recorded in its Municipal Court.

Mr. Gossett has a due process right, under the Fifth and Fourteenth Amendments to the United States Constitution and Article 2, Section 7 to the Oklahoma Constitution to have a court reporter present. Title 20 O.S. § 106.4 (2007) states “[a] refusal of the court

to permit or to require any statement to be taken down by the court reporter or transcribed after being taken down, upon the same being shown by affidavit or other direct and competent evidence, to the Supreme Court, or other appellate court, shall constitute a denial of due process of law.”

The Valley Brook Municipal Judge, Stephen Haynes, in denying a court reporter to be present, is refusing to allow statements to be taken in the trial proceedings. His refusal is a violation of Mr. Gossett’s rights.

2. The Valley Brook Municipal Judge, Stephen Haynes refusal to perform a plain legal duty is not an exercise of discretion and is unauthorized by law.

The Valley Brook Municipal Court's refusal to permit a court reporter be present at trial violated a plain legal duty required by the court and the United States and Oklahoma Constitutions. The Municipal Court did not have discretion in denying the request.

For approximately fifty-four years (54), the law has been clear it is a due process violation for a judge to deny a court reporter to record the events of a hearing or trial. See 20 O.S. § 106.4 (2007). The Valley Brook Municipal Judge, Stephen Haynes does not have discretion to deny the presence of a court reporter at the trial of Mr. Gossett on February 26, 2022.

3. A Writ of Mandamus or Prohibition is the correct remedy as all other relief is inadequate.

The correct remedy for Valley Brook Municipal Judge, Stephen Haynes denial of a court reporter’s presence at trial is the issuance of a Writ of Mandamus to Municipal Judge, Stephen Haynes directing him to allow a court reporter be present at trial to record the proceedings.

Petitioner is without relief to proceed further, without a reporter present at trial, other than through a Writ of Mandamus before this Court, to seek the relief that he has requested and that is required by the law and rules.

CONCLUSION

WHEREFORE, premises considered, the Petitioner respectfully requests this Court assume jurisdiction and grant his Application for Writ of Mandamus based upon the facts and authority heretofore presented. For relief, the Petitioner requests this Court require the Valley Brook Municipal Judge, Stephen Haynes to permit a court reporter be present for the trial of Mr. Gossett and to record the proceedings.

Respectfully Submitted,



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-and-

MARVEL E. LEWIS - OBA #19512

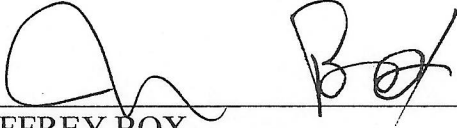
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Attorneys for Petitioner, Zachary Gossett

CERTIFICATE OF SERVICE

This is to certify that on January 17, 2022, a true and correct copy of the foregoing document was emailed and faxed to:

Raymond Vincent
Valley Brook Municipal Prosecutor
1919 South Sunny Rd.
Suite 200
Del City, OK 73135
(405) 235-0485
(405) 236-3689
rayvincent@coxinet.net



JEFFREY BOX

VALLEY BROOK POLICE
DEPARTMENT

CASE NUMBER:

2022-0028

INCIDENT / OFFENSE REPORT

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NARRATIVE:

On Wednesday, January 12, 2022, at approximately 0240 HRS, In the State of Oklahoma, County of Oklahoma, Town of Valley Brook, I, Officer Jeremy Mashore, a CLEET certified peace officer in and for the State of Oklahoma, commissioned and employed by the Valley Brook Police Department, was on routine patrol, within the 1500 block of SE 59^{sup>th/sup>} street, within Valley Brook, Oklahoma 73149, and within the corporate town limits for the Town of Valley Brook, Oklahoma. During that time, I observed a red in color Chevrolet, bearing Oklahoma License Plate KDU022, traveling westbound within the 1500 block of SE 59^{sup>th/sup>} street. Furthermore, I observed the operator of the motor vehicle was accelerating rapidly, activated my radar, and locked the vehicles speed increasing from 53 MPH in a posted 40 MPH zone./p>

p>Therefore, I activated my red and blue lights, pursued the motor vehicle by fresh or hot pursuit, began attempting to catch up to the vehicle, to which I finally did so, and the motor vehicle came to a stop. Following, I exited my patrol car, approached the driver and rsquo;s side of the vehicle, wherefore, I made contact with later identified ZACKARY TRISTAN DEAN GOSSETT DOB 11/23/2001 (DRIVER), and requested his driver and rsquo;s license, and insurance for the motor vehicle. Mr. Gossett provided his driver and rsquo;s license and insurance, where I observed pills in his center console area, in plain view, and near his gear shift for the motor vehicle. One of the pills, split in half appeared to be the Controlled Dangerous Substance Xanax, thus, I asked he lift the papers he just sat over the pills, he did so, and stated it was Xanax, he did have a prescription, did not have the prescription, or the bottle with him because it was at his house. /p>

p>In addition, I detected the odor consistent and commonly associated with the controlled dangerous substance marijuana emitting from inside of the vehicle, however, Mr. Gossett did provide an Oklahoma Medical Marijuana card for the substance. Although, because Mr. Gossett could not provide a valid prescription or the bottle for the drug of Xanax, I requested he exit the vehicle, and he did so. I placed handcuffs on Mr. Gossett, advised him he was being detained for the time being, cleared his person for weapons or contraband, to which a THC container was removed from his left front pocket. I escorted Mr. Gossett to the backseat of my patrol car, and secured him inside. /p>

p>Likewise, I returned to his vehicle, confirmed the substance was in fact Xanax, and when opening the bottle allegedly to contain THC, I located two separate plastic bags of a white powdery substance, to which I was led to believe, and Mr. Gossett later confirmed they did contain the controlled dangerous substance cocaine. In addition, three additional white bar pills of Xanax were located, one of which was broken in half as well. I collected the contraband, and secured it in the front seat of my patrol car. Moreover, Mr. Gossett did indicate later he did not have a prescription for the Xanax as he previously stated he did, and did indicate he lied about it because he was nervous and scared from pending narcotics charges in McClain County, Oklahoma./p>

p>Thereafter, I returned to my patrol car, and began checking through my in-car computer, GeoSafe terminal, Oklahoma Law Enforcement Telecommunications System, for valid insurance upon the motor vehicle, if Mr. Gossett had any active warrants, and his driver and rsquo;s license status. During that time, I learned Mr. Gossett did have valid insurance, did not have any active warrants, and he did have a driver and rsquo;s license through the Oklahoma Department of Public Safety. Furthermore, I requested Car Cab Wrecker service to our location, and began completing a vehicle impound inventory./p>

p>In conclusion, Car Cab wrecker service did arrive on scene, following the completion of a vehicle impound inventory, and they did take possession of the vehicle upon their arrival. Thereafter, I began transporting Mr. Gossett to the Valley Brook Police Department, wherefore, upon arrival, I escorted him inside, processed him, and secured him within a holding cell at the department. Lastly, all evidence or contraband was taken inside the department, processed, and secured within an evidence storage locker. For additional information on this case see attached copies./p>

p>Anticipated Charges:/p>

p>ZACKARY TRISTAN DEAN GOSSETT DOB 11/23/2001 (DRIVER)/p>

p>(1) SPEEDING 11-14 OVER THE POSTED MAXMIMUM LAWFUL LIMIT/p>

p>(2) POSSESSION CONTROLLED DANGEROUS SUBSTANCE (XANAX)/p>

p>(3) POSSESSION CONTROLLED DANGEROUS SUBSTANCE (COCAINE)/p>



REPORTING OFFICER:

Mashore, Jeremy

ID #:

14

REVIEWED BY:

ID #:

DATE OF REPORT:

01/12/2022

Town of Valley Brook
1618 SE 59th St
Valley Brook, OK 73386
(405) 677-6000

~~_____~~

Jeffrey Box

From: rayvincent@coxinet.net
Sent: Tuesday, February 15, 2022 12:30 PM
To: Jeffrey Box
Subject: Re: Nicholas Bowser

I will see what I can do. They have not given it to me yet.
Ray

From: Jeffrey Box
Sent: Tuesday, February 15, 2022 11:42 AM
To: rayvincent@coxinet.net
Cc: 'Marvel Lewis'
Subject: RE: Nicholas Bowser

Ray,

Are you going to provide the video and discovery on Zackary Gossett's case? The discovery hearing is set February 16, 2022.

Jeff

From: rayvincent@coxinet.net <rayvincent@coxinet.net>
Sent: Wednesday, August 25, 2021 3:42 PM
To: Jeffrey Box <jeffreybox@coxinet.net>
Subject: Nicholas Bowser

Please find attached a dismissal on Nicholas Bowser
Raymond A. Vincent
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1919 S. Sunnyslane Rd., Suite 200
Del City, Oklahoma 73115
405-235-0484
Fax 405-236-3689



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