

COPY

IN THE DISTRICT COURT OF PAYNE COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CF-2011-75
)	
DARRELL WILLIAMS,)	
)	
Defendant.)	

MOTION FOR NEW TRIAL

COMES NOW the Defendant, DARRELL WILLIAMS, in the above styled and numbered case, after verdict, but prior to judgment and sentence and moves this Honorable Court to grant a new trial for the reason of newly discovered evidence and errors that violated due process and the Defendant's Constitution Rights, as guaranteed by the Constitution of the United States, specifically the Fifth and Fourteenth Amendments and by the Constitution of the State of Oklahoma. The Defendant further states that when each of these errors was committed, timely objections were made and exceptions saved:

1. Newly discovered evidence by the Defendant that could not have been discovered with reasonable diligence prior to the trial in this matter and that the facts in relation thereto were unknown to the Defendant and his attorneys until after the completion of the jury trial. In the alternative, the newly discovered evidence was either unknown to the State of Oklahoma or was not disclosed willfully or inadvertently by the State of Oklahoma. The newly discovered evidence is evidence that would it have been available to the Defendant, would have been exculpatory, and would have been used to impeach a witness and there is a reasonable probability that the suppressed evidence would have produced a different verdict. 22 O.S. 952, Brady vs. Maryland, 373 U.S. 83 (1963), Strickler vs. Greene, 527 U.S. 263 (1999), Plotner vs. Oklahoma, 762 P.2d 936, (1988), Underwood vs. State, 252 P.3d 221 (2011) and Baker vs. Oklahoma, 238 P.3d 10, (2010).


2. That error was committed in overruling the Defendant's motion to suppress the identification of the witnesses based upon the viewing by the witnesses online numerous times prior to any identification at Stillwater Police Department. Further, the identification by using the team photo of the Oklahoma State University basketball team was suggestive and illegally advised the witnesses that the alleged perpetrator was in the photograph. The Defendant adopts the brief previously filed in this matter as well as all testimony presented regarding the identification procedure.
3. That error was committed in not instructing the jury regarding the punishment of sex offender registration in this matter. The jury should be advised of all of the punishment provided for by statutes. The jury was not fully informed of the ramifications of a guilty verdict.
4. The verdict of the jury was a compromise verdict and was against the weight of the evidence. The verdict is inconsistent with the evidence presented. Therefore, the Court should set aside the verdict of the jury and direct a verdict of not guilty in this matter.
5. The Court erred in overruling the Defendant's motion for directed verdict and demurrer to the evidence at the close of the State's case.
6. The Court erred in making rulings of law concerning the admissibility and inadmissibility of evidence during the trial.
7. The finding of guilt on the part of the jury was based on pure conjecture and was without any factual or circumstantial evidence to sustain the same, it being based upon their belief that any doubt in this case could be resolved upon appeal.

8. That the Court erred in overruling the Defendant's objection to the State's use of a peremptory challenge to remove a juror, which challenge was based upon bias and prejudice, in direct violation of the Defendant's constitutional rights. *Batson v. Kentucky*, 476 U.S. 79 (1986) (*Batson* was a case in which the United States Supreme Court ruled that a prosecutor's use of peremptory challenge—the dismissal of jurors without stating a valid cause for doing so—may not be used to exclude jurors based solely on their race. The Court ruled that this practice violated the Equal Protection Clause of the Fourteenth Amendment.

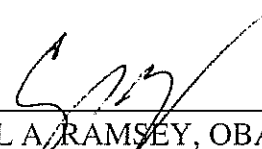
WHEREFORE, the Defendant, **DARRELL WILLIAMS**, moves this Honorable Court to sustain his motion for new trial, reinstate his bond and release him from custody instanter.

Respectfully submitted,

BAKER KOEMEL & IHRIG, P.C.

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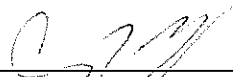
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CERTIFICATE OF DELIVERY AND FACSIMILE

I, **CHERYL A. RAMSEY**, do hereby certify that a true and correct copy of the above and foregoing Motion for New Trial was delivered via facsimile this 23rd day of August, 2012, to: Ms. Jill Tontz, Assistant District Attorney, Logan County Courthouse, Fax Number 405-282-8159; and delivered this same day, to: Mr. Tyson Branyan, Assistant District Attorney, Payne County Courthouse, Stillwater, Oklahoma 74074.



CHERYL A. RAMSEY