



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

FILED
COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

In Re:
The Setting of Execution Dates
in—

JUL - 1 2022

JOHN D. HADDEN
CLERK

JAMES ALLEN CODDINGTON,
RICHARD EUGENE GLOSSIP,
BENJAMIN ROBERT COLE,
RICHARD FAIRCHILD,
JOHN FITZGERALD HANSON,
SCOTT JAMES EIZEMBER,

Nos. D-2008-655
D-2005-310
D-2004-1260
D-1996-121
D-2006-126
D-2005-319

Appellants,

v.

STATE OF OKLAHOMA,

Appellee.

ORDER SETTING EXECUTION DATES
PURSUANT TO 22 O.S.2021, § 1001.1
(PHASE ONE)¹

This matter comes before the Court on the State of Oklahoma's request for execution dates for James Allen Coddington, Richard Eugene Glossip, Robert Benjamin Cole, Richard Fairchild, John Fitzgerald Hanson and Scott James Eizember, pursuant to 22

¹ We address in a separate order the State's request for execution dates of other death row inmates who were plaintiffs in *Glossip v. Chandler*. As detailed there, the execution schedule will be carried out in five separate phases. As discussed *infra*, the inmates scheduled for execution in this order represent Phase One.

O.S.2021, § 1001.1(D),(E). These inmates have exhausted all state and federal appeals of their convictions and death sentences. The State advises that judgment was recently granted in full, after a trial on the merits, against these inmates' challenges in federal court to the constitutionality of Oklahoma's lethal injection protocol. See *Glossip v. Chandler*, 2022 WL 1997194 (W.D. Okla. June 6, 2022). In light of this federal court ruling, the State tells us there are no further legal impediments to carrying out the executions of these inmates. Coddington, Glossip and Cole have now filed objections with this Court to the requested settings.²

Coddington, Glossip, Cole, Fairchild, Hanson and Eizember are six of the many inmates who were plaintiffs in *Glossip v. Chandler* and for whom the State has now requested execution dates. Of those inmates, the State has requested that Coddington be executed first because his March 10, 2022, execution date was stayed by federal court after Coddington was allowed to rejoin the lethal injection lawsuit. The order staying Coddington's execution has now dissolved in light of the final judgment entered in the lethal injection case.

² These objections are addressed in separately filed orders.

The State requests that the stays previously entered by this Court for Glossip, Cole, Fairchild, Hanson and Eizember be lifted and they be scheduled for execution after Coddington, but before the other plaintiffs from the lethal injection case, because they were the first to exhaust the appeals of their convictions and sentences. Execution dates for Glossip and Cole were stayed indefinitely in 2015 by this Court pending the investigation of, and adjustments to, Oklahoma's lethal injection protocol. The setting of execution dates for Fairchild, Hanson and Eizember were thereafter stayed indefinitely for the same reasons.

The State says it has consulted with the Oklahoma Department of Corrections (ODOC) regarding an appropriate date for carrying out the execution of each of these inmates. The State has not, however, submitted a proposed execution schedule. Instead, the State has tendered a list of conditions governing the setting of execution dates in these cases. In order for ODOC to meet its own operating procedures, and to accommodate the scheduling of clemency hearings before the Pardon and Parole Board, the State requests *inter alia* that the first execution date be set no earlier than August 25,

2022; that each execution be carried out on a Thursday; and that executions be scheduled no less than four weeks apart.

Based upon a thorough review of the record before this Court, we find that the setting of execution dates in these cases is now appropriate and required pursuant to 22 O.S.2021, § 1001.1(D),(E). The stays previously entered by this Court are hereby lifted. For purposes of scheduling, these six cases represent Phase One of the execution schedule. Therefore, we hereby order the execution of the judgments and sentences of death in these cases to be carried out as follows:

1. James Allen Coddington is incarcerated pursuant to a judgment and sentence of death rendered in the District Court of Oklahoma County, Case No. CF-1997-1500. *See Coddington v. State*, 2011 OK CR 17, 254 P.3d 684. **The execution of James Allen Coddington shall be set for August 25, 2022.**

2. Richard Eugene Glossip is incarcerated pursuant to a judgment and sentence of death rendered in the District Court of Oklahoma County, Case No. CF-1997-244. *See Glossip v. State*, 2007 OK CR 12, 157 P.3d 143. **The execution of Richard Eugene Glossip shall be set for September 22, 2022.**

3. Benjamin Robert Cole is incarcerated pursuant to a judgment and sentence of death rendered in the District Court of Rogers County, Case No. CF-2002-597. *See Cole v. State*, 2007 OK CR 27, 164 P.3d 1089. **The execution of Benjamin Robert Cole shall be set for October 20, 2022.**

4. Richard Fairchild is incarcerated pursuant to a judgment and sentence of death rendered in the District Court of Oklahoma County, Case No. CF-1993-7103. *See Fairchild v. State*, 1999 OK CR 49, 998 P.2d 611. **The execution of Richard Fairchild shall be set for November 17, 2022.**

5. John Fitzgerald Hanson is incarcerated pursuant to a judgment and sentence of death rendered in the District Court of Tulsa County, Case No. CF-1999-4583. *See Hanson v. State*, 2009 OK CR 13, 206 P.3d 1020. **The execution of John Fitzgerald Hanson shall be set for December 15, 2022.**

6. Scott James Eizember is incarcerated pursuant to a judgment and sentence of death rendered in the District Court of Canadian County, Case No. CF-2005-35, after a change of venue for trial from the District Court of Creek County, Bristow Division, Case No. BCF-2003-260. *See Eizember v. State*, 2007 OK CR 29, 164 P.3d

208. The execution of Scott James Eizember shall be set for
January 12, 2023.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this

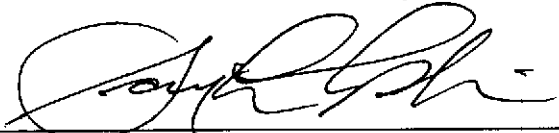
1st day of July, 2022.



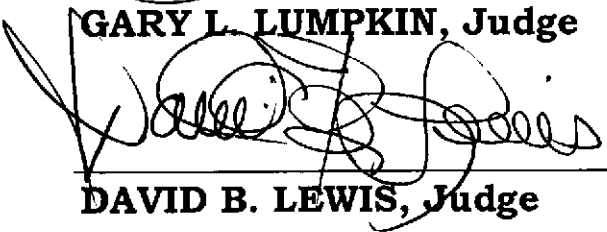
SCOTT ROWLAND, Presiding Judge



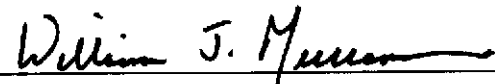
ROBERT L. HUDSON, Vice Presiding Judge



GARY L. LUMPKIN, Judge



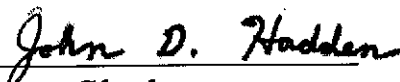
DAVID B. LEWIS, Judge



WILLIAM J. MUSSEMAN, Judge*

***I recuse in the case of John
Fitzgerald Hanson, D-2006-126,
but concur as to all other cases.**

ATTEST:



Clerk