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Oklahoma Court of Criminal Appeals Issues Opinion Narrowing Scope of Anti-Protest Law

Challenged Law Now Applies Only to Those Engaged in Riot or Riot-Related Offenses

WASHINGTON (August 26, 2022) — Oklahoma’s highest court in criminal matters, the Oklahoma Court of Criminal Appeals (OCCA), issued an opinion yesterday narrowing the scope of a challenged anti-protest law. The law was challenged in a lawsuit brought on behalf of the Oklahoma State Conference of the National Association for the Advancement of Colored People (Oklahoma NAACP) by the Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown University Law Center, the NAACP, and local attorney Melvin Hall. That lawsuit challenged two provisions of Oklahoma House Bill 1674 (HB 1674), which was enacted in response to racial-justice demonstrations held across the country in the aftermath of the May 2020 murder of George Floyd, and which sought to discourage peaceful demonstrations in Oklahoma. In its opinion today, the OCCA interpreted the challenged provisions of HB 1674 narrowly to apply only to individuals and organizations engaged in riot or riot-related offenses, leaving ample room for peaceful protestors in Oklahoma to exercise their First Amendment Rights.

The lawsuit was initially filed in the U.S. District Court for the Western District of Oklahoma. It challenged two provisions of HB 1674: the first imposes penalties on any organization “found to be a conspirator with” individuals who violate certain sections of Oklahoma’s laws concerning riots and unlawful assemblies (the Organizational-Liability Provision); the second creates a new crime that prohibits “render[ing] . . . unreasonably inconvenient” “the normal use of any public street, highway or road . . . by standing or approaching motor vehicles thereon” (the Street-Obstruction Provision). Oklahoma NAACP argued that both of these provisions violate the First and Fourteenth Amendments of the U.S. Constitution because they are vague and overbroad and subject organizations like the NAACP to draconian criminal penalties for constitutionally protected activity.

The District Court agreed with Oklahoma NAACP and prohibited enforcement of the law. The State of Oklahoma appealed. The NAACP and the State jointly requested the federal appellate court to ask the OCCA to determine the scope of the challenged provisions. In its opinion today, the OCCA answered those questions: the Organizational-Liability Provision applies only to organizations that conspire to violate specific anti-riot laws, and the Street-Obstruction Provision applies only to

individuals who are guilty of participating in a riot. As a result, organizations like Oklahoma NAACP—which does not engage in riot or conspire to engage in riot—are free to continue their public fight against the many social injustices that Oklahoma and our Nation currently face.

“Today’s opinion from the OCCA limits the ability of prosecutors in our state to target organizations and individuals who engage in peaceful, nonviolent forms of protest. The opinion ensures that our state government won’t be able to use HB 1674 to scare individuals and civil rights organizations away from marching to demand justice and equality in our state,” said **Anthony R. Douglas**, President of the Oklahoma State Conference of the NAACP.

“When HB 1674 was passed, we were deeply concerned that organizations like Oklahoma NAACP would be chilled by the law’s vague and overbroad terms and by its potentially devastating financial liability,” said ICAP Executive Director, **Mary B. McCord**. “We were vindicated in October when the District Court enjoined HB 1674’s operation, and we have been vindicated again today by the OCCA’s opinion, which definitively narrows the scope of the law and protects the right to engage in peaceful protest.”

Janette McCarthy Wallace, National General Counsel of the NAACP, said, “Today’s decision by the OCCA represents a victory for the NAACP and all civil rights and social justice organizations in Oklahoma. It thwarts any attempt by the legislature to chill the speech of such groups that organize lawful protests to shine a light on governmental injustices.”

[Read the opinion](#) and [see more about the case](#).

About the Oklahoma State Conference of the National Association for the Advancement of Colored People – Founded in 1913, Oklahoma State Conference, NAACP is the oldest civil-rights organization in Oklahoma, and serves as the umbrella organization for local branch units throughout the state. Its vision is to ensure a society in which all individuals have equal rights and there is no racial hatred or racial discrimination. Its mission is to work together with more than 2 million activists across the country to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination; to inform the public of the adverse effects of racial discrimination and to seek its elimination; to educate everyone on their constitutional rights and to take all lawful action to secure the exercise of those rights; and to take any other lawful action in furtherance of these objectives.

About the Institute for Constitutional Advocacy and Protection – ICAP uses the power of the courts to defend American constitutional rights and values. Based at Georgetown Law Center, ICAP draws on expert litigators, novel litigation strategy, and the constitutional scholarship of Georgetown to vindicate individuals’ rights and to protect America’s constitutional way of life. More information about ICAP can be found at law.georgetown.edu/icap.