

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

RICHARD GLOSSIP, *et al.*,

Plaintiffs,

v.

KEVIN J. GROSS, *et al.*,

Defendants.

Case No: CIV-14-665-F

MOTION FOR LEAVE TO FILE SEALED *EX PARTE* MOTION FOR RELIEF

Counsel for Defendants Burrage, Evans, Gross, Haynes, Henke, Holder, Neal, Newburn, Parker, Patton, Roach, Tilly, Trammell, Ware and Williams request leave of the Court to submit an *ex parte* motion for relief under seal. In support of this motion, Counsel states the following:

1. The Oklahoma Attorney General (“OAG”) is investigating the events and circumstances surrounding the Oklahoma Department of Corrections’ execution protocol, and ODOC’s implementation thereof.
2. The undersigned Counsel for Defendants are attorneys employed by the OAG, and are representing Defendants in this litigation.
3. Counsel have concerns regarding their attorney-client privilege under state law in state proceedings, and the effects that may have on representation in this federal litigation
4. This current litigation is based on a federal question. Therefore, state law will not affect any privilege determined in this litigation. *See United States v. Zolin*, 491 U.S. 554, 562 (1989).

5. Although this litigation is premised on a federal question, and the state-law will not materially affect the issues in this case, a potential lack of privilege between Defendants and their Counsel will prevent the free flow of information that is necessary for Counsel to represent Defendants in this litigation.

6. Plaintiffs will not be prejudiced in any way by *ex parte* discussion and relief on this issue, as this litigation will continue to be guided by federal privilege law. No *ex parte* orders by this Court on this issue will have any effect on Plaintiffs' case.

WHEREFORE, Counsel for Defendants request leave to file an *ex parte* motion for relief.

Respectfully submitted,

/s/Aaron J. Stewart

AARON J. STEWART, OBA#31721

Assistant Attorney General

Oklahoma Attorney General's Office

Litigation Division

313 NE 21st Street

Oklahoma City, OK 73105

Telephone: (405) 521-3921

Facsimile: (405) 521-4518

Email: aaron.stewart@oag.ok.gov

Attorney for Defendants Burrage, Evans, Gross, Haynes, Henke, Holder, Neal, Newburn, Parker, Patton, Roach, Tilly, Trammell, Ware and Williams

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of October 2015, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Patti Palmer Ghezzi
Randy A. Bauman
FEDERAL PUBLIC DEFENDER
215 Dean A. McGee Ave., Ste. 109
Oklahoma City, OK 73102
Email: patti_ghezzi@fd.org
Email: randy_bauman@fd.org
*Attorneys for Plaintiffs, Cole,
Cueste-Rodriguez, Davis, Fairchild, Grant,
Grissom, Harmon, Johnson, Littlejohn,
Pavatt, Simpson and Underwood*

Mark Henricksen
Lanita Henricksen
HENRICKSEN & HENRICKSEN,
LAWYERS, INC.
600 N. Walker Ave., Ste. 200
Oklahoma City, OK 73102
Email: mark@henricksenlaw.com
*Attorney for Plaintiffs Andrew, Glossip,
Jackson, Hancock and Warner*

Mark H. Barrett
PO Box 896
Norman, OK 73070
Email: barrettlawoffice@gmail.com
Attorney for Plaintiff Jones

David B. Autry
1021 NW 16th Street
Oklahoma City, OK 73106
Email: dbautry44@hotmail.com
Attorney for Plaintiff Hancock

Gary Peterson
211 N. Robinson Ave., Ste. 450 South
Two Leadership Square
Oklahoma City, OK 73102
Email: gp@garypeterson.com
Attorney for Plaintiff Warner

Fred L. Staggs
510 NW 17th St.
Oklahoma City, OK 73013
Email: staggslaw@aol.com
Attorney for Plaintiff Mitchell

Dale A. Baich
Robin C. Konrad
FEDERAL PUBLIC DEFENDER
850 W. Adams St., Ste. 201
Phoenix, AZ 85007
Email: dale_baich@fd.org
Email: robin_konrad@fd.org
Attorney for Plaintiff Wood

/s/Aaron J. Stewart
Aaron J. Stewart