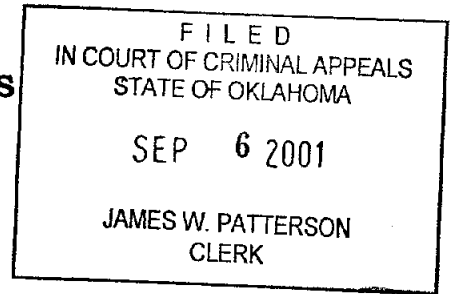


**IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA**



EUGENE PAUL VIVIER,
Petitioner,

v.

THE STATE OF OKLAHOMA,
Respondent.

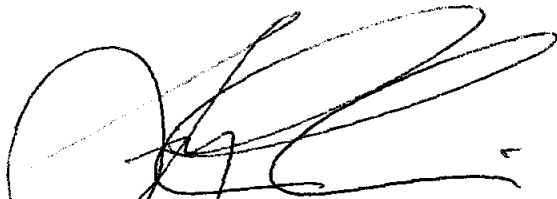
Case No. C-2001-225

**ORDER REMANDING PETITIONER'S MOTION TO WITHDRAW PLEA FOR A
NEW HEARING**

Petitioner made nominal claims that his attorney at the time of his plea and sentencing was ineffective. Whenever such claims are made, one in Petitioner's position is entitled to have another attorney represent him at the hearing on his motion to withdraw plea of guilty. *Carey v. State*, 1995 OK CR 55, 902 P.2d 1116. The record and Respondents arguments, although making a strong showing that any error was harmless, do not forestall the necessary result. Harmless error analysis can not be applied under these circumstances. *Randall v. State*, 1993 OK CR 47, 861 P.2d 314. *Holloway v. Arkansas*, 98 S.Ct. 1173, 435 U.S. 475, 55 L.Ed.2d 426. This matter is REMANDED for a new hearing on Petitioner's Motion to Withdraw Plea and Petitioner must be provided counsel for that hearing.

IT IS SO ORDERED.

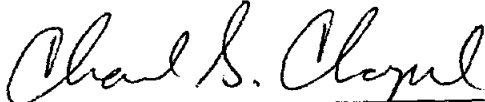
WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 6th day
of September, 2001.



GARY L. LUMPKIN, Presiding Judge



CHARLES A. JOHNSON, Vice Presiding Judge



CHARLES S. CHAPEL, Judge

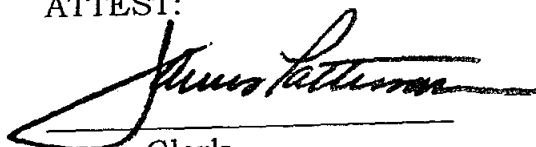


RETA M. STRUBHAR, Judge



STEVE LILE, Judge

ATTEST:



Clerk