OKLAHOMA SUPREME COURT GIVES GIFT TO DEADBEAT PARENTS

On June 24, 2014, the Oklahoma Supreme Court rendered its opinion in *Roca v Roca*[1], holding for the first time that in cases in which the Oklahoma Department of Human Services ("DHS) Child Support Enforcement Division ("CSED") was **not** involved, child support debtors would be relieved from their obligation to pay all the interest that would otherwise have been due on their past due arrearages. This benefit was conveyed by allowing such debtors to apply their payments on arrearages to principal first and interest last. This opinion abrogates the common law "United States Rule" as it applies to child support and the Supreme Court's own Rule 8.3 of the Rules for the District Courts without benefit of any Legislative imprimatur.

The "United States Rule" is part of the common law. The rule has ancient roots; it was first acknowledged by the U.S. Supreme Court over a century and a half ago.[2] Until *Roca,* it had always been firmly established under Oklahoma law the United States Rule applied to judgments, mandating that payments are always credited first to interest.[3] Only the amounts left after paying interest are applied to the judgment or principal.

In the case of *Landess v. State ex rel. Com'rs of Land Office*[4], the Oklahoma Supreme Court addressed the application of partial payments on a promissory note that had been reduced to judgment. The Commissioners of the Land Office applied partial payments first to delinquent interest and then to principal. The administratrix of the estates of the deceased makers of the notes contended that notwithstanding the delinquent interest, the payments should be first applied to reduce the principal. The Court noted that the advantage to the administratrix is apparent. By applying the partial payments on the principal of the loan, it would reduce the effective interest rate 44.8% from 10% to 5.2%[5]. The *Landess* Court stated:

> We are of the view that the partial payments were correctly applied in the instant case. The general rule is stated in 47 C.J.S. Interest § 66 as follows:
>
> > 'Under the general rule, partial payments, in the absence of agreement to the contrary, are first applied to discharge interest due; any surplus goes to discharge the principal, the interest being computed thereafter on the balance; and any interest remaining unpaid is not added to the principal for purposes of computing interest.'
>
> *In Tootle-Campbell Dry Goods Co. v. Mounts*, 90 Okl. 40, 216 P. 113, it was held:
>
> > 'Where partial payments are made, the rule is to apply the payments in the first place to the discharge of the interest then due and the remainder on the principal.'

U.S. Supreme Court Justice Wayne stated the rule as follows:

> The correct rule in general is, that the creditor shall calculate interest whenever a payment is made. To this interest the payment is first to be applied; and if it exceed the interest due, the balance is to be applied to diminish the principal. If the payment fall short of the interest, the balance of interest is not to be added to the principal so as to produce interest. This rule is equally applicable whether the debt be one which expressly draws interest, or on which interest is given in the name of damages[6].

Until the *Roca* decision all the prior jurisprudence of the Oklahoma Supreme Court held that the common law remains in full force in Oklahoma unless some legislative enactment explicitly and clearly expresses otherwise, and may not be viewed as having been abrogated either by silence or by mere implication[7]. Moreover, "A presumption favors the preservation of common-law rights[8]." "An intent to change the common law will not be presumed from an ambiguous, doubtful or inconclusive text. A presumption favors the preservation of common-law rights[9]."

In *Roca*, the Supreme Court held, *apparently for the first time*, that the common law could be abrogated by a regulation of the Department of Human Services. Moreover it held that a regulation not even adopted until more than three years after the appeal was lodged and a nearly year and a half after the last Certiorari brief had been submitted could stand as the basis for overruling

the common law, giving the abrogation an eleven year retroactive application, although the Legislature all the while has remained silent.

In *Roca*, the parties were divorced in 1990. Defendant Carlos Roca ("Roca") was ordered to pay child support in the amount of $403.70 per month. Instead, he disappeared, paying no child support and having no relationship with the child. In 2000, he resurfaced, and Plaintiff Debbie Roca, now Houston ("Houston") cited him for contempt for non-payment of child support. Roca elected to have a jury trial, and was found guilty of civil indirect contempt of court on July 11, 2000. Pursuant to the verdict, judgment was entered September 13, 2000, against Roca in the principal sum of $55,400.27, plus accrued interest in the amount of $29,992.50 for a total judgment amount of $85,392.77. The trial court designated the principal as the purge fee.

After paying a lump sum of $5,000.00, which the court applied to the purge fee, Roca was released from jail, conditioned upon him making monthly payments of $850.00 that included his current support obligation and payments on the arrearage judgment. The trial court didn't specify how the payments would be applied to the judgment and purge fee. The Oklahoma Supreme Court Rules for the District Courts direct how contempt purge fee payments are to be applied. Rule 8.3(b)(2) includes the statement:

> **Payments** made in accordance with the provisions of this Subsection (b)(2) **shall bear interest** as set forth in Title 43 O.S. § 114. [Emphasis supplied.]

There is nothing ambiguous about this statement. It does not say *principal* shall bear interest. It does not say Interest shall be paid *after* principal. It says the payments themselves shall bear the interest. This clearly and unambiguously means the payments are to be applied to interest consistent with the United States Rule.

In late 2002 Roca ceased making payments again. Ultimately, and in conjunction with a plea bargain made in a related criminal prosecution for Omitting to Support, Roca's payment schedule was modified to $600.00 per month, and he resumed making payments in July 2003. At that time the trial court directed that from that point forward all payments be made through the Oklahoma Centralized Child Support Registry. In its opinion, the Supreme Court states, "The Oklahoma Department of Human Services began administering child support collections for the Roca case in June 2003." However, this case was never a DHS CSED case under Title IV-D of the Social Security Act, 42 U.S.C. §651, et seq. The sole extent of DHS's role in "administering collections" was administering the Centralized Registry.

Subsequently an income assignment was entered. Thereafter, the minor child reached the age of majority in May 2005, at which time Roca's obligation for current support terminated. In August 2009, Roca filed a motion claiming to have fully satisfied the judgment and purge fee and requesting termination of the income assignment. In this Motion, Roca claimed that all the money he had paid since 2000 had been applied first to interest on the judgment and next to judgment principal. Roca's initial motion failed to take into account the obligation to pay current support between 2000 and 2005.

Roca amended his motion, acknowledging that his payments had to be credited first to the current support accruing between 2000 and 2005. However, Roca now claimed for the first time he was entitled to credit all his payments in excess of current support to principal first and last to interest. Houston maintained, consistent with the United States Rule that payments in excess of current support should be applied first to interest and last to principal. On March 19, 2010, the trial court entered a final order agreeing with Roca. As the *Landess* decision predicted, the difference in

result was substantial. Houston claimed, applying the United States Rule meant that Roca still owed $59,300.45 in principal and $24,846.81 in interest for a total of $84,147.26. The trial court concluded the balance owed was $54,818.77 which was all interest that did not accrue any further interest. On April 12, 2010, Houston filed her appeal. Roca never filed a response to Houston's Petition in Error.

In a decision that was designated for publication, but which was never published, the Court of Civil Appeals reversed in part and affirmed in part. They agreed that the United States Rule applied to the judgment and that Roca's payments, for the most part, were to be applied first to current support, next to interest and last to principal. The sole exception was the lump sum payment of $5,000 Roca initially paid as a partial purge to be released from custody. This single payment the Court of Civil Appeals ruled had been adjudicated at the time of payment to be applied to the purge fee (principal), and so it would remain.

To reach the conclusion reversing the trial court, the Court of Civil Appeals noted that in general Oklahoma follows the common law United States Rule:

> ¶12 In general, Oklahoma jurisprudence applies the common-law rule. Thus, where partial payments are made, the rule is to apply the payments first to the discharge of the interest then due, and the remainder on the principal. *Tootle-Campbell Dry Goods Co. v. Mounts*, 1923 OK 328, ¶9,216 P. 113, 115. The *Court in Multiple Injury Trust Fund v. Dean*, 2001 OK CIV APP 30, ¶ 23, 24 P.3d 861,868-69, applied the rule to partial payments of awards made by the Worker's Compensation Court. In a case involving interest on a judgment for a debt and foreclosure, the Oklahoma Supreme Court ruled:
>
> > Under the general rule, partial payments, in the absence of agreement to the contrary, are first applied to discharge interest due; any surplus goes to discharge the principal, the interest being computed thereafter on the balance; and any interest remaining unpaid is not added to the principal for purposes of computing interest.
>
> *Landess v. State*, 1958 OK 295, ¶ 10, 335 P.2d 1077, 1079 (citing *Tootle-Campbell Dry Goods Co. v. Mounts*, 1923 OK 328, 216 P. 113.) [Footnotes omitted.]

Next the Court of Civil Appeals disposed of Roca's two arguments why the common law rule should not be applied to him. His first attack was that the child support payment statutes should be strictly construed because he claimed the contempt adjudication is a criminal matter, thereby requiring strict construction of the statute. Relying on *Henry v. Schmidt*[10], the Court of Civil Appeals distinguished civil and criminal contempt proceedings. The former are proceedings that coerce compliance with a court order. The latter form is penal in nature and results in the imposition of punishment. The Court of Civil Appeals correctly concluded that the contempt proceeding against Roca was civil not criminal, and Roca's argument for strict construction failed.

Roca's second argument for not following the United States Rule was that federal law mandated a different application of his payments because the payments were made through the federally mandated Child Support Registry. This argument applied exclusively to the payments made through the Child Support Registry, which began in July 2003.

The Court of Civil Appeals noted the origins of the Child Support Registry arose in conjunction with the enactment of 56 O.S. Supp. 1997, § 237. Section 237 established a statewide plan for child support in accordance with Title IV, Part D, of the Federal Social Security Act, as amended, 42 U.S.C. § 651 *et seq.* ("IV-D"). By June 2003 when Roca started making payments voluntarily through the Registry, OKLA. STAT. tit. 43, §413 allowed such voluntary use of the Registry, even though there was no involvement of DHS under the federally mandated plan for child support enforcement in the State of Oklahoma[11], and IV-D did not apply. At that time OKLA. STAT. tit. 43, §413(F) (now §413(G)) provided,

> "F. All payments made through the Registry shall be allocated and distributed in accordance with Department of Human Services' policy and federal regulations.

The Court of Civil Appeals noted that neither Roca nor Houston ever received public assistance. As a result, any federal statute pertaining to the allocation of payments received by the Registry for families receiving assistance did not apply. Moreover, the federal statute is silent on the issue of allocation between interest and the base obligation or purge fee in such non-IV-D cases. The Court of Civil Appeals noted that the federal regulation urged by Roca in support of his argument begins with the words, "For purposes of distribution in a IV-D case," but this is not a IV-D case. Accordingly, no federal regulation applies, either. At all times applicable during the *Roca* case, OAC §340:25-5-351(c)(2) expressly stated:

> (2) In a non-IV-D case, OCSS allocates and distributes payments through the Centralized Support Registry **directly to the obligee, without otherwise allocating or distributing payments under this Section,** unless money was previously assigned to the State of Oklahoma. (Emphasis supplied.)

The Court of Civil Appeals concluded that the initial $5,000 purge fee payment in 2000 had to be applied to principal because a court minute expressly so applied it. Payments thereafter until June 2003 are unaffected by the Child Support Registry state and federal statutes or regulations because the Registry was not used. Payments through the Registry thereafter were unaffected by the Registry statutes and regulations because this is not a IV-D case and an Oklahoma regulation provided that no allocation is specified in non-IV-D cases. This left the common law United States Rule to apply.

Roca petitioned the Court of Civil Appeals for rehearing, raising for the first time an equal protection argument, urging that the *Court of Civil Appeals* ***decision*** *created* a two tiered system applying a rule that in non IV-D cases payments would be applied first to interest and a different rule in IV-D cases following federal regulations requiring payments be applied to principal first.

Houston's response was twofold. First Houston pointed out that Oklahoma law is clear that Constitutional claims may not be raised for the first time on appeal[12]. Roca had never raised the Constitutional issue in the lower court and did not even file a response to the Petition in Error let alone reserve the issue in his response. The failure to raise Constitutional Equal Protection claims in the lower court is fatal to the attempt to raise them on appeal[13].

Houston also argued that equal protection analysis did not apply. It was not the **decision of the Court of Civil Appeals** that created a two-tiered system for the payment of *delinquent* support. The United States Rule, being part of the common law has always applied to judgments. The Court of Civil Appeals's decision did not create that rule. The United States Rule is part of the pre-existing common law of Oklahoma[14].

Subsequent to the United States Rule having been recognized as a part of the common law of the United States and of Oklahoma, the United States Congress (not Oklahoma) enacted legislation including Title IV-D of the Social Security Act. Over the years Congress passed amendments eventually requiring States to adopt a plan of child support enforcement and to follow federal regulations regarding the services provided under that plan. Oklahoma complied with the federal mandate by adopting a State Plan.[15]

OKLA. STAT. tit. 56, §237(B) authorizes the Oklahoma Department of Human Services ("DHS") to take certain actions, including – *inter alia* – **to accept and expend federal funds (as well as funds from other public and private sources) for its child support services**. OKLA. STAT. tit. 56, §237(G) requires Oklahoma DHS to allocate and distribute funds ***collected pursuant to the State Plan*** in compliance with federal law.

The federal regulations that were ultimately adopted[16] actually create a classification of child

support *recipients*, **not** child support *payers*. That classification ***adversely affects the child support obligees*** receiving services under the State Plan by creating a new rule deviating from the common law that effectively reduces the interest rate received by the child support recipients. In this case, the classification of chid support recipients between those who are reaping the benefit of federal funds (and funds from other public and private sources) to obtain the assistance of the State to collect their child support and those recipients who are not reaping such benefits is not an arbitrary and capricious one. A regulation that requires a child support recipient should suffer the reduction in interest resulting from the crediting of payments first to principal, rather than interest, when federal funds (as well as funds from other public and private sources) have been used to enforce collection has a reasonable relationship to a legitimate aim. The legitimate aim is to maximize the resources being expended by the State to collect actual child support rather than expending those resources on the collection of interest.

A delinquent child support obligee should have no room to complain about the classification. ***He or she is being treated as the common law has always treated judgment debtors making partial payments***. **He or she is not a member of the newly created class of child support recipients adversely affected by the classification, and he or she has no standing to make an equal protection claim**. To have standing to bring an equal protection claim, one must be a member of the class aggrieved[17]. The Oklahoma Supreme Court has long held a [law] may not be attacked on constitutional grounds by one not injured thereby[18]. Constitutional judgments are justified only out of necessity of adjudicating rights in particular cases between litigants brought before the court[19].

In *Landess v. State ex rel. Com'rs of Land Office*[20], the Oklahoma Supreme Court observed that the effect of applying partial payments to principal first is to effectively reduce the interest rate

realized by the obligee. The change in the law created by the federal regulation – that only applies to persons receiving services under the State Plan – creates a classification that treats child support obligees receiving state services at a disadvantage compared to those child support obligees not receiving state services. Those obligees receiving services under the State Plan have their statutory judgment interest rate of ten percent (10%) effective diminished by the application of payments first to principal.

The Court of Civil Appeals denied the petition for rehearing. Roca petitioned the Supreme Court for certiorari. The Supreme Court granted certiorari on December 6, 2011. The Supreme Court ordered that any supplemental briefs must be filed no later than January 9, 2012. The Court's decision did not arrive until two and a half years later on June 24, 2014. In the interim, three terms of the Oklahoma legislature were held. On January 13, 2012, SB 1199 was introduced. Section 2 contained language to legislatively abrogate the common law United States Rule and require all delinquent child support payments "be applied first to principal balances." However, the people's elected representatives rejected this change to the common law. This provision was stripped from the bill in the House Committee and it passed without the change. Apparently there were no successful attempts to modify the common law United States Rule in the legislature in any of the 2013 regular session, 2013 special session or the 2014 regular legislative session. However, in the summer of 2013, DHS on its own changed its regulations to implement an abrogation of the common law United States Rule as it applies to child support passing through its Registry in non-IV-D cases, so on June 24, 2014, the Supreme Court took this matter into its own hands.

The Supreme Court stated in ¶3 of its opinion that after the lower court ordered payments be made through the Child Support Registry in 2003, DHS "began administering child support

collections," however at no time was this ever a IV-D case. The only "administering" DHS did was to "pass thru" the payments collected without allocation in compliance with its own regulations in effect prior to the submission of the final supplemental briefs on certiorari review in January 2012[21].

Noting that this was a case of first impression involving solely a question of law[22], the Supreme Court conducted a *de novo* review[23]. Quoting 28 Williston on Contracts §72:20 (4th ed.), The Supreme court acknowledged that the purpose of the United States Rule is to encourage prompt payment of indebtedness. Shockingly, the Supreme Court stated this policy is sound as applied to consumer loans or civil money judgments, but is unnecessary when applied to child support[24]. This is true, says the Supreme Court, because the "Oklahoma legislature has adopted specialized enforcement mechanisms to aid in the collection of child support, as required by Title IV, Part D of the Federal Social Security Act, as amended, 42 U.S.C., §651, et seq." [Footnote omitted.][25] *Roca*, however, is not a IV-D case.

A majority of the states that have addressed the issue whether the United States Rule still applies to non-IV-D cases, have held that it does.[26] However, the Oklahoma Supreme Court relied upon a decision from West Virginia.[27] The Supreme Court summarily stated the West Virginia "Court was presented with a legal scenario *comparable* to the one we are asked to decide.[28]" [Emphasis supplied.] Even a cursory reading of the West Virginia case shows it was, in fact, a IV-D case as the Bureau of Child Support Enforcement ("BCSE") was a party to the case. The true issue in the West Virginia case was whether the West Virginia legislature had sufficiently authorized the BCSE to adopt regulations in compliance with the federal regulations governing IV-D cases. That, of course, was not the issue in *Roca*.

The Supreme Court concluded that Oklahoma, as West Virginia, had adopted a

comprehensive scheme of enforcement for IV-D cases. From this conclusion, the Supreme Court extrapolated the legislature hade endowed DHS with sufficient authority to adopt regulations necessary to carry out federal law. Of course, the *Roca* case is not implicated by federal law because it is not a IV-D case. The Supreme court stated:

> In 2000, the Oklahoma Legislature amended 43 O.S. Supp 2000 §413 (eff. Nov. 1, 2000), adding subsection F, which read *"[a]ll payments made through the [Centralized Support] Registry shall be* ***allocated and distributed in accordance with the Department of Human Services policy and federal regulations.***[29] [Emphasis in original; Footnote omitted.]

As the Court of Civil appeals had correctly noted, there are no federal regulations that apply to non IV-D cases. Those regulations apply by their terms only to IV-D cases. As noted previously, and as acknowledged by the Supreme Court,[30] at all times applicable to the payments actually made by Roca up to and for a year and a half after the final brief on Certiorari had been submitted, DHS's policy was expressed in its regulation:

> In a non-IV-D case, OCSS allocates and distributes payments through the Centralized Support Registry **directly to the obligee, without otherwise allocating or distributing payments under this Section,** unless money was previously assigned to the State of Oklahoma. (Emphasis supplied.)[31]

The Supreme Court stated that DHS regulations controlled payments to interest, citing OAC 340:25-5-140.1, "which read in part '(h) CSED applies payments to interest **after** current support and all arrears have been paid in full.[32]'" The Supreme Court ***erroneously*** added that this regulation "contained no limitation on its application, and appears equally relevant to both IV-D and non-IV-D cases.[33]" The problem is that the Child Support Enforcement Division (CSED) ***is the IV-D*** collection agency. It is ***only*** involved in IV-D cases. Since the regulation applies only to CSED,

it applies only to IV-D cases. Following its erroneous premise, the Supreme Court continued with its flawed logic. The Supreme Court states there is conflict and ambiguity in the regulations when, in fact, there was none. This, the Court stated, gave it license to employ rules of construction.

At this point the Supreme Court relied upon a regulation that became effective more than three years after the appeal was filed and a year and a half after the final brief on Certiorari had been submitted. For the first time in OAC 40:25-5-351 provided for allocation of child support arrears payments made through the Registry in non-IV-D cases first to principal and last to interest without any express authorization from the Legislature, and even after the Legislature had rejected such a change in SB 1199 in 2012. Magically, the Supreme Court states this new 2013 regulation "leaves no doubt" that DHS, *apparently retroactively back to 2003,*

> "allocates payments uniformly, regardless of a case's status as IV-D or non-IV-D. . . . Because Roca paid his support through the Centralized Support Registry DHS rules controlled the method of allocation. Thus it was error to utilize the United States Rule for allocating Roca's monthly payments.

The Supreme Court offers no explanation why Houston, who never once consumed one penny of federal funds (as well as funds from other public and private sources) to enforce her child support entitlement against Roca suffers the same reduction of interest as those child support recipients who do. No shred of an explanation is offered why Roca should not be subject the same incentive to encourage prompt payment as a debtor on a consumer loan or a civil money judgment when none of the array of tools available to IV-D obligees were employed Houston in this non-IV-D case.

It is this writer's conclusion that the Supreme Court's decision was outcome driven. For whatever reason the Court wished to grant uniformity in the treatment of dead beat parents rather

than stand firm behind the responsible parent forced to raise a child without reliable financial support from their counterpart. It seems clear to this writer that the Supreme Court waited two and a half years to render a decision hoping for a legislative change such as was proposed in SB 1199 to be adopted. However, the elected lawmakers of this State chose not to make this change to the common the law of Oklahoma. Accordingly, the Supreme Court, with the help of DHS made its own law.

1.2014 OK 55

2.*Darr v. Muratore*, 8 F.3d 854, 861 n. 9 (1st Cir.1993), citing *Story v. Livingston*, 38 U.S. (13 Pet.) 359, 371, 10 L.Ed. 200 (1839). *See* Footnote 10, *Mooring Capital Fund, LLC v. Phoenix Central, Inc.* 2007 WL 2292462, 3 (W.D. Okla.,2007)

3.*Landess v. State ex rel. Com'rs of Land Office*, 1958 OK 295, 335 P.2d 1077; *Multiple Injury Trust Fund v. Dean*, 2001 OK CIV APP 30, 24 P.3d 861; *See also, Mooring Capital Fund, LLC v. Phoenix Central, Inc.* 2007 WL 2292462, 3 (Unpublished W.D. Okla.)

4.1958 OK 295, 335 P.2d 1077

5.*Landess v. State ex rel. Comm'rs of Land Office*, 1958 OK 295, at ¶11, 335 P.2d at 1079

6.*Story v. Livingston*, 38 U.S. 359, 371, 13 Pet. 359, 1839 WL 4304 (U.S. La.), 10 L.Ed. 200 (U.S. January Term 1839)

7. OKLA. STAT. tit. 12, §2; *Watson v. Gibson Capital, L.L.C.*, Okla., 2008 OK 56, 187 P.3d 735

8.*Greenberg v. Wolfberg*, 1994 OK 147, 890 P.2d 895 (1994), answer to certified question conformed to 54 F.3d 787, *certiorari denied* 116 S.Ct. 1847, 517 U.S. 1219, 134 L.Ed.2d 948.

9.*Tate v. Browning-Ferris, Inc.*, 1992 OK 72, 833 P.2d 1218

10.2004 OK 34, 91 P.3d 651

11.OKLA. STAT. tit. 56, §237

12.*In re E.S.*, 2007 OK CIV APP (Div.4) 73, 166 P.3d 505, [citing *Dunham, Jr. v. Dunham*, 1989 OK CIV APP 44, ¶ 8, 777 P.2d 403, 405 (citing *Steiger v. City National Bank of Tulsa*, 1967 OK 41, 424 P.2d 69)]; *Norman v. Mercy Memorial Health Center, Inc.*, 2009 OK CIV APP (Div. 4) 55, 215 P.3d 841; *Osborne v. Mollman Water Conditioning, Inc.*, 2003 OK CIV APP (Div. 4) 20, 65 P.3d 632. The Supreme Court has so held on multiple occasions as well, *Steiger v. City National Bank of Tulsa*, 1967 OK 41, 424 P.2d 69; *Stonecipher v. District Court of Pittsburg County*, 1998 OK 122, ¶ 11, 970 P.2d 182, 186

13.*Northwest Datsun v. Oklahoma Motor Vehicle Comm'n*, 1987 OK 31, ¶ 16, 736 P.2d 516, 520; *Johnson v. City of Woodward*, 2001 OK 85, ¶ 21, 38 P.3d 218, 226-227; *Cooper v. Booher*, 2004 OK 40, 93 P.3d 19; *See also, Springfield Fire & Marine Ins. Co. v. Biggs,* 1956 OK 114, 295 P.2d 790 (Ordinarily, where the record clearly shows that the question of the constitutionality of an act was not presented to the trial court, and no reference to the constitutionality of an act appears on the record on appeal, such question will not be considered on appeal by the Supreme Court)*; Garman v. Myers, 1938 OK 406, 80 P.2d 624*

14. *Landess v. State ex rel. Com'rs of Land Office*, 1958 OK 295, 335 P.2d 1077.

15. OKLA. STAT. tit. 56, §237, *et seq.*

16.45 CFR 302.5

17.*Oklahoma Educ. Ass'n v. State ex rel. Oklahoma Legislature*, 2007 OK 30, 158 P.3d 1058

18.*In re Mayes-Rogers Counties Conservancy District v. Barnes*, 1963 OK 206, 386 P.2d 150; *Dablemont v. State, Dept. of Public Safety*, 1975 OK 162, 543 P.2d 563

19. *Broadrick v. Oklahoma*, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d 830 (1973)

20.1958 OK 295, 335 P.2d 1077

21.OAC §340:25-5-351(c)(2)

22.*Roca at ¶6*

23.*Roca* at ¶7

24.*Roca* at ¶9

25.*Roca* at ¶10

26.*Dallas v Dallas*, 236 Kan. 92 , 689 P.2d 1184 (Kan., 1984); *In the Matter of the Marriage of Earla Gayle Gayer and Scott H. Gayer*, 326 Or. 436, 952 P2d 1030 (Ore. 1998); *Martin v Rath*, 1999 ND 31, 589 NW2d 896; *In re the Marriage of Martin v Martin*, 198 Ariz 135, 7 P3d. 144 (2000); *In re the Marriage of Alley v. Stevens*, 209 Ariz. 426, 104 P.3d 157 (2005)

27.*Hornbeck v. Caplinger*, 712 S.E. 779, 783 (W.Va 2011)

28.*Roca* at ¶11

29.*Roca at ¶12*

30.*Roca* at ¶14

31.OAC 340:25-5-351(c)(2)

32.*Roca* at ¶14

33.*Roca* at ¶14