

Richard Eugene Hickock inmate case file

Section 15, Pages 421 - 450

The Kansas State Penitentiary case file on Richard Hickock, inmate number 14746. Hickock and his accomplice, Perry Smith, were convicted of first degree murder for the brutal 1959 killings of Herb and Bonnie Clutter, their daughter, Nancy, and son, Kenyon, in Holcomb, Kansas. The murders inspired the non-fiction novel "In Cold Blood" by Truman Capote. Hickock was executed by hanging on April 14, 1965. Please note that some images have been removed in accordance with K.S.A. 45-221(a)(29) and have been labeled with pages indicating their removal. Additional redactions of personally identifiable information made in accordance with K. S. A. 2005 Supp. 45-221(a)(30).

Creator: Kansas State Penitentiary

Date: 1959 - 1965

Callnumber: State Penitentiary, Inmate Files, Executed Prisoners, Box 2

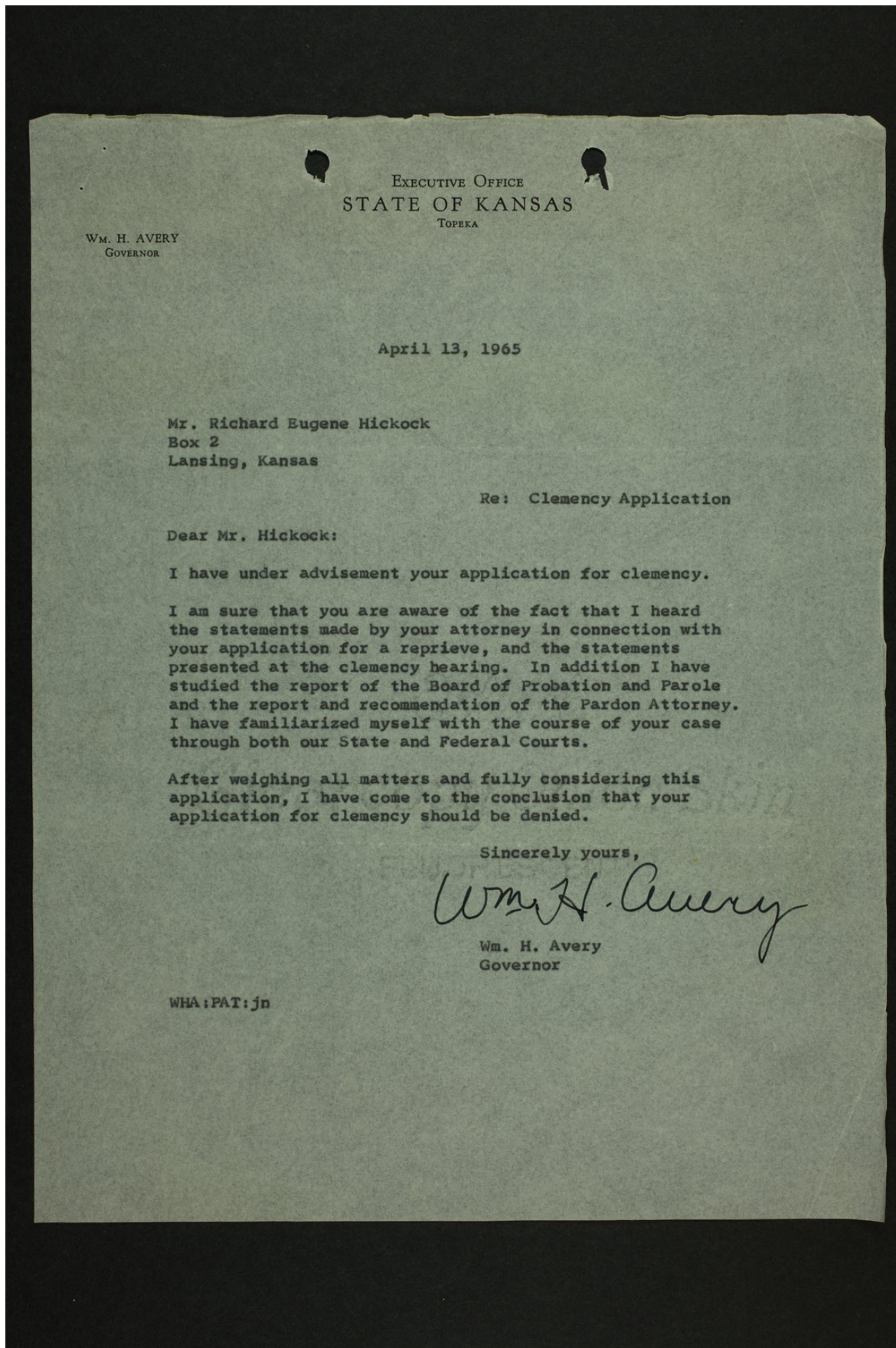
KSHS Identifier: DaRT ID: 208963

Item Identifier: 208963

www.kansasmemory.org/item/208963

KANSAS
HISTORICAL
SOCIETY

Richard Eugene Hickock inmate case file



EXECUTIVE OFFICE
STATE OF KANSAS
TOPEKA

WM. H. AVERY
GOVERNOR

April 13, 1965

Mr. Richard Eugene Hickock
Box 2
Lansing, Kansas

Re: Clemency Application

Dear Mr. Hickock:

I have under advisement your application for clemency.

I am sure that you are aware of the fact that I heard the statements made by your attorney in connection with your application for a reprieve, and the statements presented at the clemency hearing. In addition I have studied the report of the Board of Probation and Parole and the report and recommendation of the Pardon Attorney. I have familiarized myself with the course of your case through both our State and Federal Courts.

After weighing all matters and fully considering this application, I have come to the conclusion that your application for clemency should be denied.

Sincerely yours,

Wm. H. Avery

Wm. H. Avery
Governor

WHA:PAT:jn

Richard Eugene Hickock inmate case file

#14746

Lansing, Kansas
December 6, 1961

Dear Mom:

It is Tuesday evening and I decided to write a few lines, so I will probably quit before long and finish tomorrow. I had a visit today from a couple of preachers, who drove up from Newton, Kansas. They were mindinited, (have you spelled it) and were the emotional, insistent type. They seemed to be in their late sixties or early seventies, and were a couple of dandies. I suppose the old gentlemen meant well and I appreciate their interest, but I don't like forceful methods. They didn't want to take "no" for an answer in regard to my salvation. I knew as much about the "bible" as they did. I think both were past-time farmers, and the crying, loud talking, floor rolling kind. They asked me to get down on the floor. With as much diplomacy as I could muster, I declined their offer and remained in my chair. One started crying and waving his arms, while shouting prayers, and the other started a foot stomping chant of "a men". I thought they were a couple "refugees" from the "House of David". They kept saying that time is short and the second coming of Christ was upon us. A knock came at the door and I thought it was him, but it was only a colored boy getting a chair for the officer to sit on. I looked at the officer, he looked at me, and I wondered if I could subvert him to the door. One of the men stopped shouting long enough to ask me if I felt it. The only thing I felt was a head ache coming on. I said to him, "feel what?" He looked like I had insulted him. After about five minutes of this, they finally got out their handkerchiefs and the next five minutes was spent cleaning their nose out. They started reading verses

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out of the libl, and their voice was so loud that over a hundred men on the yard bowed their heads. But being serious, it was quite a sight. When they left, both promised to come back. I told them to write first. I want to be ready for the next session. They were doing what they felt right, and that is the important thing. I do appreciate their thoughts; and know that some people are considerate, even tho they are nuts. I exaggerated a little describing them, but you get the general idea. You might tell Carol about it, she'll get a kick out of it.

I am drawing some pictures of Carol, you, and the boys. As soon as I finish them, I'll see if I can mail them to you. All I have to use to copy from is the small snapshots, plus I'm just beginning, so I trust you will take that in consideration when you see them.

I haven't received any additional news since I last wrote you, with the exception that I received permission to write Nations through Mr. Carley in Garden City. Carley drew up the contracts, but he may not wish to handle such an arrangement. In the event he doesn't, other arrangements may be able to be arranged.

Well I suppose I just as well close for now. I didn't intend to write so much tonight, but I got carried away. Hope you are feeling okay. Have you got your teeth yet? Did you say David's new address is R.R. #1, Wellsville? I don't know if I am going to send him a Christmas card or not. I would like to mail him a ball bat so he could use it on himself. He sure isn't doing you right. I can understand about me, but not you. He ought to be horse whipped. If dad was alive, he'd do it. Lots of love
Dick

Richard Eugene Hickock inmate case file

Richard E. Hickock
P.O. Box 2,
Lansing, Kansas

Mrs. Eunice Hickock
6217 Arcadia
Kansas City,
Kansas

Richard Eugene Hickock inmate case file

Smith

The Kansas City Kansas
Wednesday, April 14, 1965

Two Killers To Gallows Hour Apart

Lansing (UPI) — Richard Eugene Hickock, 34, and Perry Edward Smith, 36, calmly and without remorse, paced the 13 steps up the gallows stairs and were hanged early today for the 1959 slaying of a family of four.

The executions took place inside a stone warehouse at the Kansas state prison exactly one hour apart. The trapdoor beneath Hickock's feet dropped at 12:19 a.m. and the blond crewcut killer was pronounced dead 22 minutes later.

A light rain peppering down on the warehouse's tin roof had stopped when Smith walked up the gallows 60 minutes later. Smith, heavily bearded with sleepy dark eyes and graying temples, was dead at 1:19 a.m.

They were convicted of the Nov. 14, 1959, robbery-murder of Herbert W. Clutter, his wife and the couple's two teen-aged children. The four victims had been bound, gagged and shot point-blank in the head with a 12-gauge shotgun. Clutter, a farm advisor of the Eisenhower administration, had his throat slit.

The killers had been searching for a non-existent fortune supposedly stashed away by the Clutter family in their Garden City, Kan., home. All Hickock and Smith got for their efforts was \$80, a portable radio and a pair of cheap binoculars.

"I think it's a hell of a thing because a life has to be taken in this manner," said Smith, his eyes fixed upon the scaffold. "I think capital punishment is legally and morally wrong."

Smith, who said apologies would be "meaningless," added: "I don't hold any animosity toward anyone in this matter."

Hickock was philosophical at the end.

"You know you are sending me to a better place than this and, please, do not have any bad feelings about it," he told a Kansas Bureau of Investigation agent who investigated the case.

FIRST SUB SINKING

First sinking of an enemy warship by a submarine occurred in February of 1864, when the Confederate submarine *Hundley* torpedoed the Union warship *Housatonic*, which was blockading the port of Charleston. Both vessels went down.

Parole System Blamed By Two Clutter Slayers

By Lucille Doores

Lack of understanding by the Kansas Board of Paroles and its unwillingness to "give a man another chance" caused bitterness which led to the Clutter family killings. Two Kansas City Kansas attorneys said they were told this by the two men executed today for the 1959 crime.

The two attorneys, court-appointed by U.S. District Judge Arthur J. Stanley, are Joseph P. Jenkins, for Richard Eugene Hickock, and Robert H. Bingham for Perry Edward Smith.

The lawyers, who have fulfilled their duties to do their utmost legally for the pair, are starting to "pick up" normal activities again.

Why did the two men kill the prominent farmer, his wife and the two children in their Holcomb, Kan., home? The pair had gone there to rob a safe which was supposed to be kept in the house and contain a large sum of money.

There was no safe, no large sum of money.

Jenkins and Bingham said the two men could not explain why they had killed the family, and expressed themselves as "sorry" and distressed—Hickock especially concerning the daughter.

But, the attorneys said, the men said they know what led them to the Clutter home and how that came about.

They blame the parole system at the Lansing institution. Both were embittered when refused paroles from sentences for first offenses — Hickock for grand larceny and Smith for second degree burglary. Bingham said Smith told him he did not have an attorney when he pleaded guilty and was sentenced to from 5 to 10 years.

After the paroles were denied, Hickock learned from another prisoner about the reported safe and money at the Clutter home. Hickock and Smith had become friendly. Smith, Bingham said, originally did not hear about the Clutter safe story. But, after the pair finally did obtain paroles, Hickock contacted Smith and the trip to the Clutter home resulted.

Bingham said Smith was especially bitter at the parole board because members insisted he go to Nevada to be with his father rather than remain in Kansas, where he had job offers. Smith told Bingham he and his father "didn't get along too well," and that also, the elder Smith was returning to Alaska, a climate the son could not tolerate.

Also, Bingham said, Smith had served two years in the Merchant Marine and three and a half years in the Army, 15 months being in combat in Korea.

Jenkins said Hickock told him it was not until after his parole had been denied that he heard from another inmate about the supposed safe.

"He kept telling me that if he had been given the parole that time, he would not have heard about the safe—he and Smith would never have been at the Clutter home," Jenkins said.

Bingham and Jenkins spent much of the last two weeks in last-minute attempts to obtain new trials for their clients. Many hours were spent with the two men.

Hickock and Smith said parole board members should consider whether especially the "first offenders" would be worthwhile risks after a minimum of time behind bars.

Also, they said, first offenders when denied parole and remaining in bitterness, often have an extensive "education in crime" from the more hardened criminals with whom they come into contact.

Jenkins said both men had resigned themselves to death. Today was the sixth execution date which had been set for them. He said the pair said they did not "want to go thru this again," and said they did not have any animosity toward anyone.

They were executed just five years and 5 months from the Nov. 14, 1959 date of the slayings. They had been in death row at Lansing for five years and 10 days.



Richard Eugene Hickock inmate case file

File: 112-1

February 5, 1965

Mr. John F. Davis, Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: HICKOCK, Richard Eugene
KSP No. 14746

Your: RICHARD EUGENE HICKOCK v.
SHERMAN H. CROUSE, WARDEN
No. 610 Misc., Oct. Term,
1964

Dear Mr. Davis:

Receipt is acknowledged, this date, of a certified copy of the order signed by Mr. Justice White, staying the execution of Richard Eugene Hickock.

Very truly yours,

S. H. Crouse
S. H. Crouse
Warden

SHC:owb

Richard Eugene Hickock inmate case file

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C., 20543

February 3, 1965

Mr. Sherman H. Crouse, Warden
Kansas State Penitentiary
Lansing, Kansas

RE: RICHARD EUGENE HICKOCK v.
SHERMAN H. CROUSE, WARDEN
No. 610 Misc., October Term, 1964

Dear Mr. Crouse:

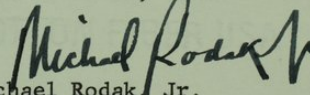
Enclosed is a certified copy of the order
signed today by Mr. Justice White, staying the
execution of Richard Eugene Hickock.

Kindly acknowledge receipt of this order.

Very truly yours,

JOHN F. DAVIS, Clerk

By


Michael Rodak, Jr.
Deputy Clerk

MRjr:jmh
Enclosure

AIR MAIL

Richard Eugene Hickock inmate case file

Supreme Court of the United States

No. 610 Misc. , October Term, 19 64

RICHARD EUGENE HICKOCK,

Petitioner,

vs.

SHERMAN H. CROUSE, WARDEN

O R D E R

UPON CONSIDERATION of the application of counsel for the petitioner,

IT IS ORDERED that the execution and enforcement of the sentence of death imposed upon the petitioner be, and the same is hereby, stayed pending this Court's consideration and decision on the petition for rehearing in the above-captioned case. Should the petition for rehearing be denied, then this stay is to terminate automatically. In the event the petition for rehearing is granted, then this stay is to continue pending the issuance of the mandate of this Court.

S/ BYRON R. WHITE

Associate Justice of the Supreme
Court of the United States.

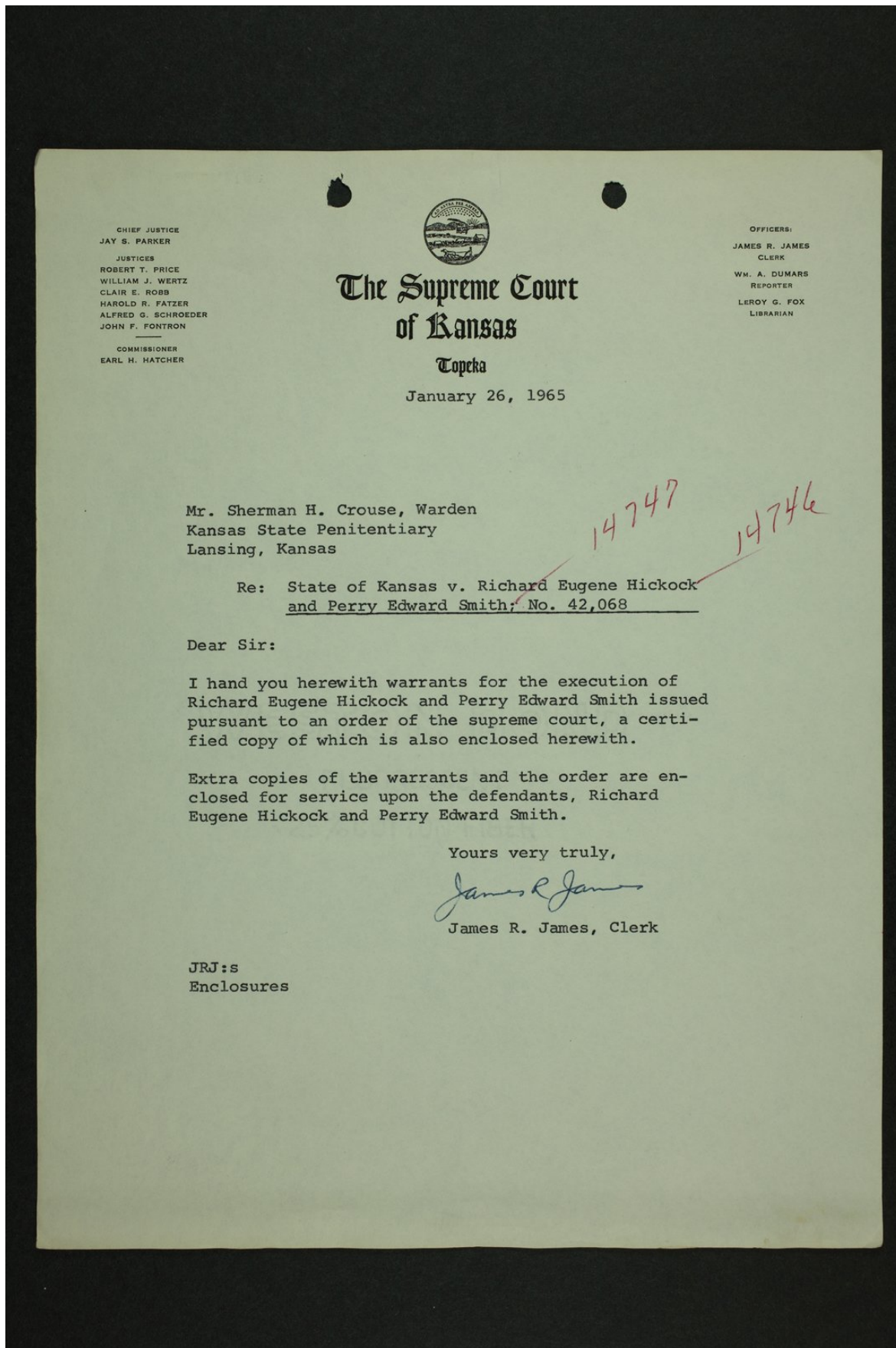
Dated this 3rd
day of February, 1965.

A true copy JOHN F. DAVIS

Clerk of the Supreme Court of the United States

BY Michael Roden Deputy

Richard Eugene Hickock inmate case file



Richard Eugene Hickock inmate case file

IN THE SUPREME COURT OF THE STATE OF KANSAS

STATE OF KANSAS,)	
)	
)	
Appellee,)	
)	
vs.)	No. 42,068
)	
RICHARD EUGENE HICKOCK)	
)	
Appellant.)	

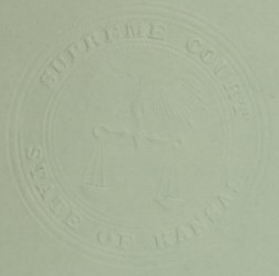
WARRANT

WHEREAS, on January 26, 1965, under the authority of K.S.A., 62-2414, it was by this court ordered that execution of the sentence of death by hanging of Richard Eugene Hickock, imposed by the District Court of Finney County, Kansas, be carried out on Thursday, February 18, 1965, between the hours of 12:01 o'clock a.m. and 4:00 o'clock a.m., and the clerk of this court was ordered and directed to issue to the warden of the Kansas State Penitentiary his warrant under the seal of this court commanding such warden to carry the sentence into execution at the time designated in said order.

NOW, THEREFORE, THIS IS TO COMMAND YOU, THE WARDEN OF THE KANSAS STATE PENITENTIARY, that on Thursday, February 18, 1965, between the hours of 12:01 o'clock a.m. and 4:00 o'clock a.m., you proceed to carry into execution the sentence of death hereinbefore imposed upon Richard Eugene Hickock, and when said sentence has been carried out you are directed forthwith to return this warrant, with a statement of the proceedings taken by you thereunder, to the clerk of the District Court of Finney County, Kansas,

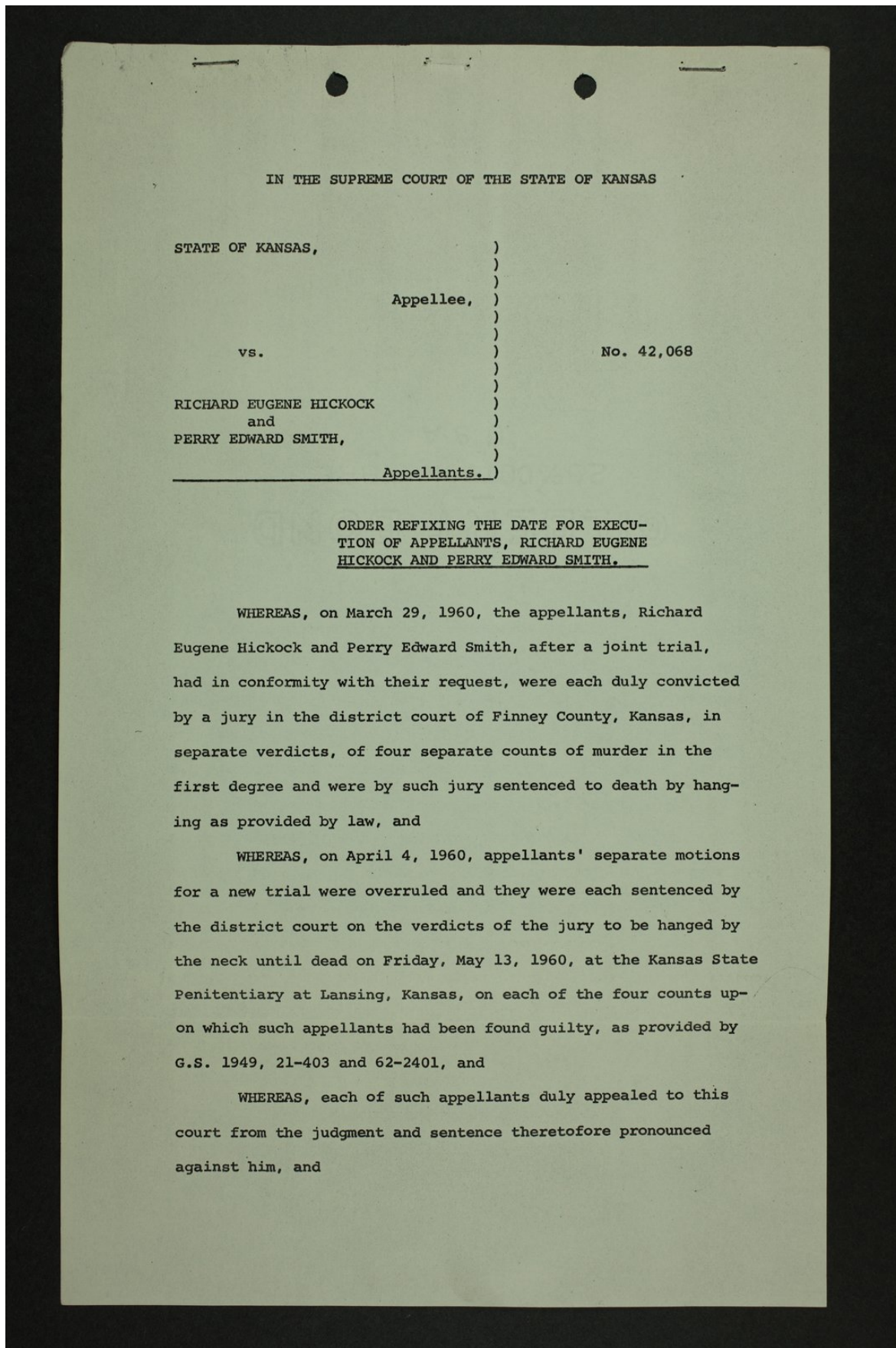
Richard Eugene Hickock inmate case file

WITNESS my hand and the seal of this court this 26th
day of January, 1965.


James R. James
JAMES R. JAMES
Clerk of the Supreme Court of the
State of Kansas.

- 2 -

Richard Eugene Hickock inmate case file



IN THE SUPREME COURT OF THE STATE OF KANSAS

STATE OF KANSAS,

Appellee,

vs.

No. 42,068

RICHARD EUGENE HICKOCK
and
PERRY EDWARD SMITH,

Appellants.)

ORDER REFIXING THE DATE FOR EXECU-
TION OF APPELLANTS, RICHARD EUGENE
HICKOCK AND PERRY EDWARD SMITH.

WHEREAS, on March 29, 1960, the appellants, Richard Eugene Hickock and Perry Edward Smith, after a joint trial, had in conformity with their request, were each duly convicted by a jury in the district court of Finney County, Kansas, in separate verdicts, of four separate counts of murder in the first degree and were by such jury sentenced to death by hanging as provided by law, and

WHEREAS, on April 4, 1960, appellants' separate motions for a new trial were overruled and they were each sentenced by the district court on the verdicts of the jury to be hanged by the neck until dead on Friday, May 13, 1960, at the Kansas State Penitentiary at Lansing, Kansas, on each of the four counts upon which such appellants had been found guilty, as provided by G.S. 1949, 21-403 and 62-2401, and

WHEREAS, each of such appellants duly appealed to this court from the judgment and sentence theretofore pronounced against him, and

Richard Eugene Hickock inmate case file

WHEREAS, on April 11, 1960, on their separate applications, orders were made by this court staying the execution of the judgment and sentence imposed against each of such appellants during the pendency of their appeals and until otherwise ordered by this court, and

WHEREAS, on July 8, 1961, (see State v. Hickock & Smith, 188 Kan. 473, 363 P.2d 541) this court affirmed the judgment and sentence rendered by the district court against each of such appellants, and

WHEREAS, after this court's affirmance of the foregoing judgment, appellants filed separate, as well as joint, motions for a rehearing, and

WHEREAS, following the filing of such motions for a rehearing action thereon was deferred by this court in order that it might have an opportunity to investigate and determine certain legal questions raised by appellants to the effect that during the trial in the court below they were deprived of a fair trial and other rights guaranteed by the Constitution of the United States and the State of Kansas, and

WHEREAS, in an original habeas corpus proceeding (see Hickock & Smith v. Hand, 190 Kan. 224, 373 P. 2d 206 [case No. 42,970], motions for rehearing denied August 27, 1962) this court, under conditions and circumstances set forth at length in the opinion of that case, gave full and complete consideration to all constitutional questions raised by appellants and, for reasons set forth in the opinion, denied their joint application for a writ of habeas corpus, and

Richard Eugene Hickock inmate case file

WHEREAS, with all constitutional questions raised by appellants in this court relating to the validity of the judgment and sentence imposed against each of them by the district court of Finney County having been fully and completely determined and disposed of, in manner and form as herein indicated, contrary to their contentions, this court on September 10, 1962, after careful consideration of all motions for rehearing filed by appellants in State v. Hickock & Smith, 188 Kan. 473, 363 P. 2d 541, found that each and all of such motions lacked merit and should be denied, and it was so ordered, and

WHEREAS, on September 10, 1962, this court fixed the date to carry into execution the sentence of death imposed upon each of the appellants for Thursday, October 25, 1962, and issued warrants to carry execution of their respective sentences into effect, and

WHEREAS, following the issuance of such warrants, the Supreme Court of the United States, on request of the appellants who were attempting to have that tribunal review the decisions of this court, stayed the order of this court fixing the date of execution of each of such appellants during the pendency of proceedings in that tribunal, and

WHEREAS, on February 18, 1963, the Supreme Court of the United States denied appellant Richard Eugene Hickock a writ of certiorari to review the decision of this court in cases No. 42,068 and 42,970 (372 U.S. 924, 9 L. Ed. 2d 728, 83 S. Ct. 741), and

WHEREAS, on May 27, 1963, the Supreme Court of the United States entered an order dismissing the appeal of appellant

Richard Eugene Hickock inmate case file

Perry Edward Smith, and denying certiorari in case No. 42,068 and 42,970 373 U.S. 544, 10 L. Ed. 2d 688, 835 S. Ct. 1545, the certified copy of the judgment being received in the office of the clerk of this court on June 24, 1963, and

WHEREAS, by order dated June 26, 1963, this court refixed the date to carry out the execution of the sentence of death posed on each of the appellants for Thursday, August 8, 1963, and

WHEREAS, said order was stayed on August 1, 1963, by an order of the United States Court for the District of Kansas pending the disposition by that court of petitions for habeas corpus filed therein by the appellants, and

WHEREAS, that court recalled and set aside its stay of execution by order dated October 23, 1963, and

WHEREAS, the judgment of that court was affirmed by the United States Court of Appeals for the 10th Circuit on July 1, 1964 (Hickock and Smith v. Crouse, 334 F. 2d 95), and

WHEREAS, the United States Supreme Court on January 18, 1965, denied appellants' separate petitions for certiorari to review the judgment of the Court of Appeals in cases No. 610 Misc. and 614 Misc., October Term 1964, 33 U.S.L. Week 3246, and

WHEREAS, all stays of execution issued by the federal court have been terminated and no other stays of execution are presently in effect, and

WHEREAS, on January 25, 1965, appellee, The State of Kansas, by and through the Attorney General of the State, filed

Richard Eugene Hickock inmate case file

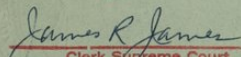
a motion requesting this court to refix the date for execution of the appellants, and each of them, and

WHEREAS, it is now the duty of this court, pursuant to K.S.A. 62-2414, to refix the date of execution of the sentence of death heretofore imposed upon each of the appellants.

NOW, THEREFORE, the date for execution of the appellants, Richard Eugene Hickock and Perry Edward Smith, under sentence of death imposed against them, and each of them, by the district court of Finney County, is refixed for Thursday, February 18, 1965, between the hours of 12:01 o'clock a.m. and 4:00 o'clock a.m., and the clerk of this court is directed to issue to the warden of the Kansas State Penitentiary his warrants under the seal of this court commanding the warden to carry the sentence of death of each of such appellants into execution on the date and between the hours herein designated by this court.

BY ORDER OF THE COURT made this 26th day of January, 1965.

A true copy ATTEST:


Clerk Supreme Court



Richard Eugene Hickock inmate case file

14746

6-1-63

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

IN THE MATTER OF THE PETITION
FOR WRIT OF HABEAS CORPUS FOR
RICHARD EUGENE HICKOCK,

vs.

SHERMAN H. CROUSE, WARDEN,
KANSAS STATE PENITENTIARY,

Petitioner,

Respondent.

No. HC 3526

ORDER STAYING PROCEEDINGS
AND EXECUTION OF SENTENCE

Now on this 1st day of August, 1963, upon the application
of petitioner for an order under the authority of 28 U.S.C., Sec.
2251, staying all state court proceedings pending the determination
of his petition for a writ of habeas corpus now pending before this
Court, good cause being shown,

IT IS ORDERED that all state court proceedings against or
concerning the petitioner, Richard Eugene Hickock, be and are hereby
stayed pending the determination of this action and the further order
of this court.

IT IS FURTHER ORDERED that respondent, Sherman H. Crouse,
Warden, Kansas State Penitentiary, be and is hereby directed to stay
all actions and proceedings heretofore to be taken by him under and by
virtue of the order of the Supreme Court of the State of Kansas, dated
June 26, 1963, and the warrant issued by the Clerk of said court
on that date, ordering him to execute the sentence of death by hanging
of petitioner on Thursday, August 8, 1963, and to take no further
action to execute said orders or sentence until the determination of
this action and the further orders of this court.

FILED
AUG 1 1963

CHARLES W. CAHILL, Clerk
/s/ Edward R. Delich Deputy

/s/ GEORGE TEMPLAR
United States District Judge

U. S. DISTRICT COURT)
DISTRICT OF KANSAS) ss.

I hereby certify that
the foregoing is a true copy
of the original on file in
this court and cause.

CHARLES W. CAHILL, Clerk
By Edward R. Delich
Deputy

Dated: 8/1/63

Richard Eugene Hickock inmate case file

CHIEF JUSTICE
JAY S. PARKER

JUSTICES
ROBERT T. PRICE
WILLIAM J. WERTZ
CLAIR E. ROBB
HAROLD R. FATZER
ALFRED G. SCHROEDER
SCHUYLER W. JACKSON



The Supreme Court of Kansas

Topeka

June 26, 1963

OFFICERS:

JAMES R. JAMES
CLERK

WM. A. DUMARS
REPORTER

LEROY G. FOX
LIBRARIAN

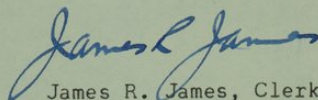
Mr. Sherman H. Crouse, Warden
Kansas State Penitentiary
Lansing, Kansas

Re: State of Kansas v. Richard Eugene
Hickock and Perry Edward Smith
No. 42,068

Dear Sir:

I hand you herewith orders directing you to carry into execution the sentences imposed upon Richard Eugene Hickock and Perry Edward Smith as required by the terms of the warrants issued by this court on September 10, 1962. A certified copy of the order directing that such orders be issued is also enclosed herewith. Extra copies of both orders are enclosed for service upon the defendants, Richard Eugene Hickock and Perry Edward Smith.

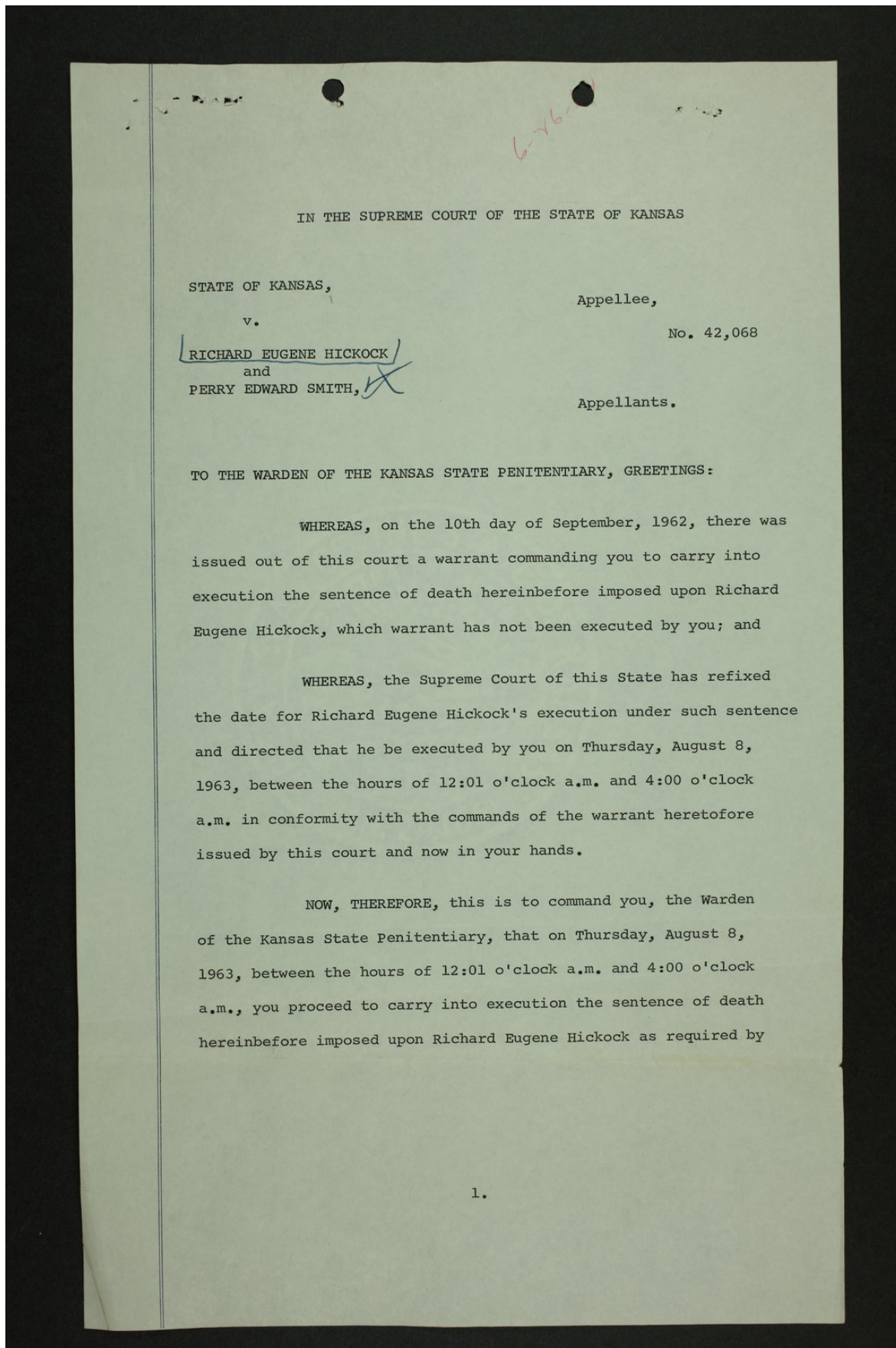
Yours very truly,



James R. James, Clerk

JRJ:s
Enclosures

Richard Eugene Hickock inmate case file

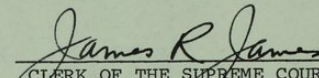


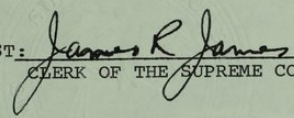
Richard Eugene Hickock inmate case file

the terms of such warrant and, when such sentence has been executed,
you are directed to return the warrant with a statement of the pro-
ceedings taken by you thereunder to the Clerk of the District
Court of Finney County, Kansas.

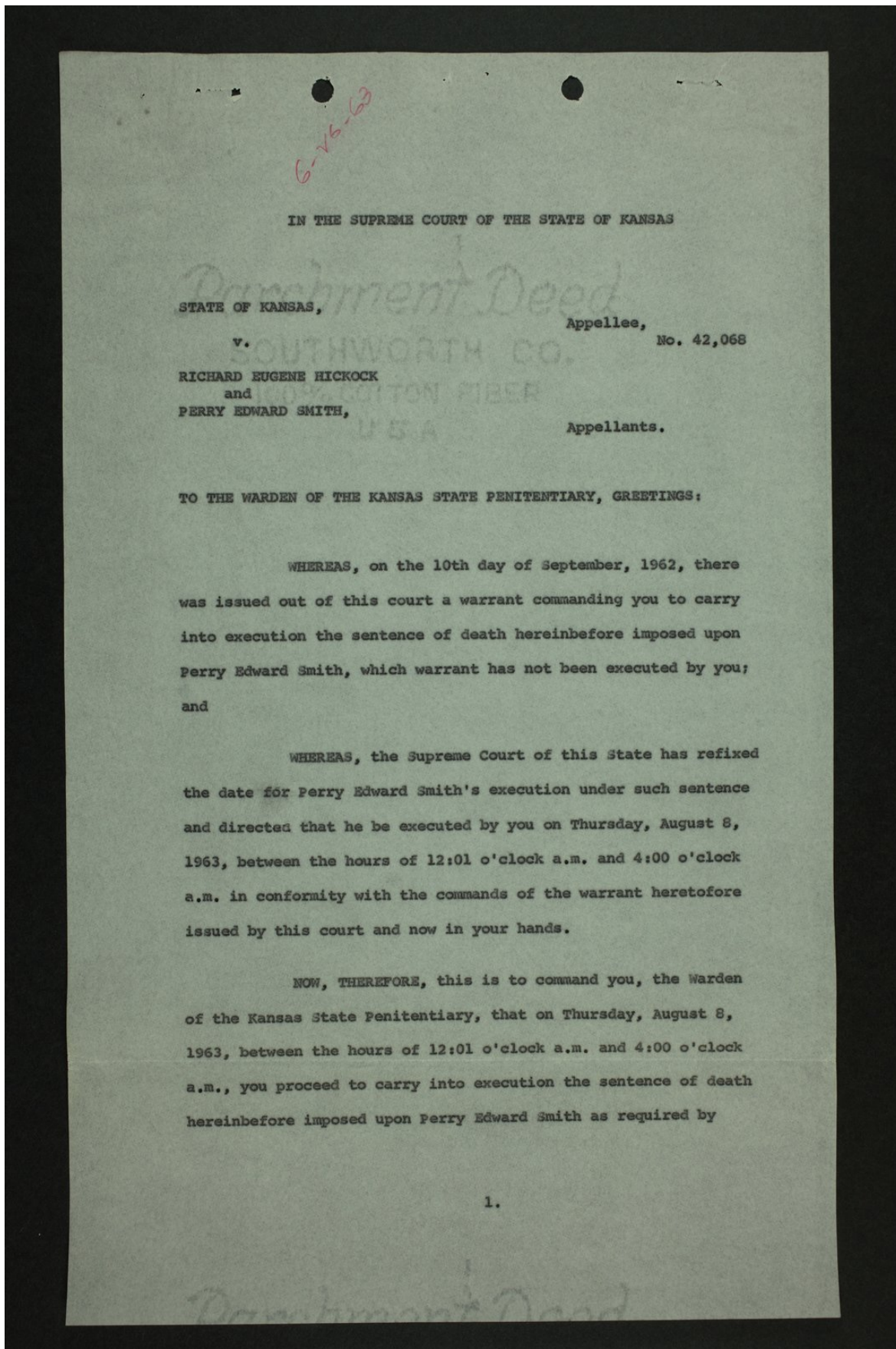
BY ORDER OF THE COURT

WITNESS, my hand and seal of this court this 26th
day of June, 1963.


CLERK OF THE SUPREME COURT
OF THE STATE OF KANSAS

ATTEST: 
CLERK OF THE SUPREME COURT

Richard Eugene Hickock inmate case file



IN THE SUPREME COURT OF THE STATE OF KANSAS

STATE OF KANSAS,

Appellee,

v.

No. 42,068

RICHARD EUGENE HICKOCK
and
PERRY EDWARD SMITH,

Appellants.

TO THE WARDEN OF THE KANSAS STATE PENITENTIARY, GREETINGS:

WHEREAS, on the 10th day of September, 1962, there was issued out of this court a warrant commanding you to carry into execution the sentence of death hereinbefore imposed upon Perry Edward Smith, which warrant has not been executed by you; and

WHEREAS, the Supreme Court of this State has refixed the date for Perry Edward Smith's execution under such sentence and directed that he be executed by you on Thursday, August 8, 1963, between the hours of 12:01 o'clock a.m. and 4:00 o'clock a.m. in conformity with the commands of the warrant heretofore issued by this court and now in your hands.

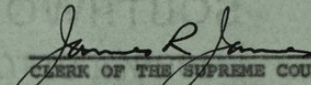
NOW, THEREFORE, this is to command you, the Warden of the Kansas State Penitentiary, that on Thursday, August 8, 1963, between the hours of 12:01 o'clock a.m. and 4:00 o'clock a.m., you proceed to carry into execution the sentence of death hereinbefore imposed upon Perry Edward Smith as required by

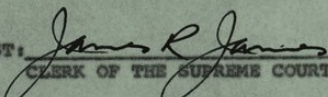
Richard Eugene Hickock inmate case file

the terms of such warrant and, when such sentence has been executed,
you are directed to return the warrant with a statement of the pro-
ceedings taken by you thereunder to the Clerk of the District
Court of Finney County, Kansas

BY ORDER OF THE COURT

WITNESS, my hand and seal of this court this 26th
day of June, 1963.

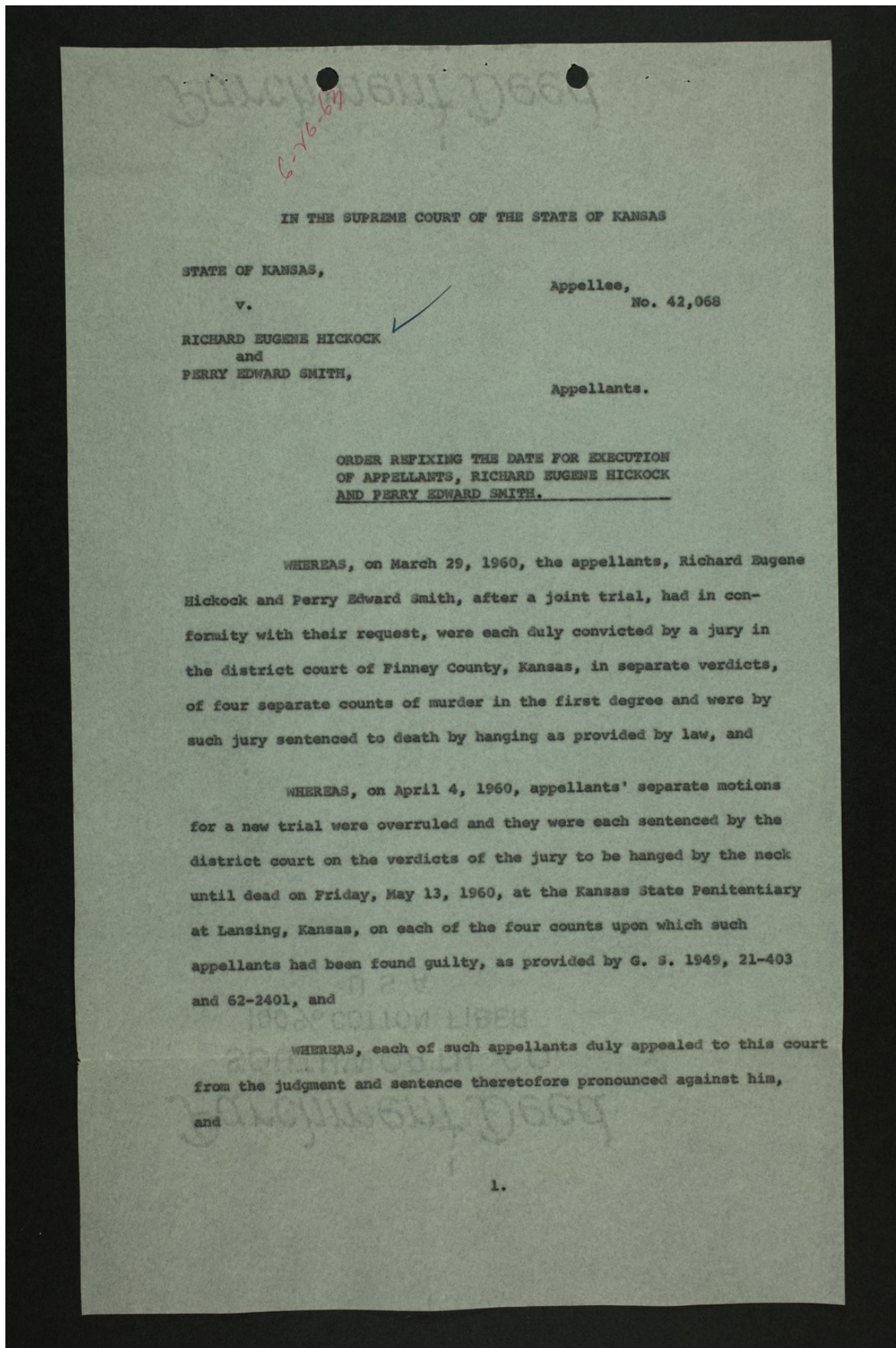

CLERK OF THE SUPREME COURT
OF THE STATE OF KANSAS

ATTEST: 
CLERK OF THE SUPREME COURT

A true copy ATTEST:


Clerk Supreme Court

Richard Eugene Hickock inmate case file



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WHEREAS, on April 11, 1960, on their separate applications, orders were made by this court staying the execution of the judgment and sentence imposed against each of such appellants during the pendency of their appeals and until otherwise ordered by this court, and

WHEREAS, on July 8, 1961, (see State v. Hickock & Smith, 188 Kan. 473, 363 P. 2d 541) this court affirmed the judgment and sentence rendered by the district court against each of such appellants, and

WHEREAS, after this court's affirmance of the foregoing judgment, appellants filed separate, as well as joint, motions for a rehearing, and

WHEREAS, following the filing of such motions for a rehearing action thereon was deferred by this court in order that it might have an opportunity to investigate and determine certain legal questions raised by appellants to the effect that during the trial in the court below they were deprived of a fair trial and other rights guaranteed by the Constitution of the United States and the State of Kansas, and

WHEREAS, in an original habeas corpus proceeding (see Hickock & Smith v. Hand, 190 Kan. 224, 373 P. 2d 206 [case No. 42,970], motions for rehearing denied August 27, 1962) this court, under conditions and circumstances set forth at length in the opinion of that case, gave full and complete consideration to all constitutional questions raised by appellants and, for reasons set forth in the opinion, denied their joint application for a writ of habeas corpus, and

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WHEREAS, with all constitutional questions raised by appellants in this court relating to the validity of the judgment and sentence imposed against each of them by the district court of Finney County having been fully and completely determined and disposed of, in manner and form as herein indicated, contrary to their contentions, this court on September 10, 1962, after careful consideration of all motions for rehearing filed by appellants in State v. Hickock & Smith, 188 Kan. 473, 363 P. 2d 541, found that each and all of such motions lacked merit and should be denied, and it was so ordered, and

WHEREAS, on September 10, 1962, this court fixed the date to carry into execution the sentence of death imposed upon each of the appellants for Thursday, October 25, 1962, and issued warrants to carry execution of their respective sentences into effect, and

WHEREAS, following the issuance of such warrants, the Supreme Court of the United States, on request of the appellants who were attempting to have that tribunal review the decisions of this court, stayed the order of this court fixing the date of execution of each of such appellants during the pendency of proceedings in that tribunal, and

WHEREAS, on February 18, 1963, the Supreme Court of the United States denied appellant Richard Eugene Hickock a writ of certiorari to review the decision of this court in Cases No. 42,068 and 42,970 (___ U.S. ___, 9 L. Ed. 2d 728), and

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WHEREAS, on May 27, 1963, the Supreme Court of the United States entered an order dismissing the appeal of appellant Perry Edward Smith, and denying certiorari, in Cases No. 42,068 and 42,970(____U. S.____, No. 966 Misc. October Term 1962, 31 U.S.L. Week 3389.), the certified copy of the judgment being received in the office of the Clerk of this court on June 24, 1963, and

WHEREAS, in view of the heretofore related orders and judgments of the Supreme Court of the United States all stays of execution issued by the Federal Courts have been terminated and no other stays of execution are presently in effect, and

WHEREAS, on June 24, 1963, appellee, The State of Kansas, by and through the Attorney General of the State, filed a motion requesting this court to refix the date for execution of the appellants, and each of them, and

WHEREAS, it is now the duty of this court, pursuant to G. S. 1949, 62-2414, to refix the date of execution of the sentence of death heretofore imposed upon each of the appellants.

NOW, THEREFORE, the date for execution of the appellants, Richard Eugene Hickock and Perry Edward Smith, under sentence of death imposed against them, and each of them, by the district court of Finney County, is refixed for Thursday, August 8, 1963, between the hours of 12:01 o'clock a.m. and 4:00 o'clock a.m., and the Clerk of this court is directed to notify the Warden of the Kansas State Penitentiary of the new date fixed for such execution and

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command that official to execute the said appellants, Richard Eugene Hickock and Perry Edward Smith, on such date in conformity with the warrants heretofore issued out of this court on September 10, 1962.

BY ORDER OF THE COURT made this 26th day of June, 1963.

A true copy ATTEST:
James R. James
Clerk Supreme Court

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

RICHARD EUGENE HICKOCK, # 14746
Petitioner,
VS.
SHERMAN H. CROUSE, Warden
Kansas State Penitentiary,
Lansing, Kansas,
Respondent.

No. 3377 H.C.

FILED
DEC 22 1962

JOURNAL ENTRY OF JUDGMENT s/ CHARLES W. CAHILL, Clerk
Edward R. Delich, Deputy

On the 4th day of October, 1962, this Court upon receipt of a verified petition issued an order to the respondent to show cause, if any, why a writ of habeas corpus should not be issued. This order was returnable on the 8th day of October, 1962. On that 8th day of October, the petitioner appeared by his court appointed attorney Joseph P. Jenkins. The respondent appeared by J. Richard Feth, and Harold A. Pfalzgraf, Assistant Attorneys General of Kansas. Hearing was held before The Honorable Arthur J. Stanley, Jr., Judge of the United States District Court for the District of Kansas. At the conclusion of the hearing the petitioner was allowed three days in which to file his answer to the return of the respondent. The hearing was accordingly continued until 10:00 on Wednesday, October 17, 1962. This answer has been received by the court.

On the 17th day of October, 1962, this matter came on again for hearing before The Honorable Arthur J. Stanley, Jr. The appearances were as before. After hearing the statements of counsel and the testimony of petitioner's witness, Russell Shultz, the court took this matter under advisement.

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Now having well and fully considered the evidence and the arguments of counsel the Court finds:

(1) The petitioner is being held pursuant to a judgment of conviction and sentence entered by the District Court of Finney County, Kansas, for violation of a state law.

(2) Although the petitioner has presented his grounds for relief to the Supreme Court of the State of Kansas he had at the time of the hearings herein presented no petition for a writ of certiorari to review that Court's decision to the Supreme Court of the United States.

(3) The petitioner has now pending such petition for a writ of certiorari.

(4) The Court further finds that there are no extraordinary circumstances which would relieve the petitioner from his duty to exhaust his state remedies.

THEREFORE the Court concludes that it is without power to take jurisdiction of this matter at this time.

ACCORDINGLY, IT IS BY THE COURT ORDERED, ADJUDGED AND DECREED that the stay of execution of judgment issued herein be dissolved and that the petition for a writ of habeas corpus be dismissed.

Entered this 22nd day of December, 1962.

(Signed) ARTHUR J. STANLEY, JR.,

ARTHUR J. STANLEY, JR.,
District Judge

U. S. DISTRICT COURT)
DISTRICT OF KANSAS) ss.

I hereby certify that the foregoing is a true copy of the original on file in this court and cause.

CHARLES W. CAHILL, Clerk

By Charles W. Cahill
Deputy

Dated: 12/22/62

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