

imposition of adult sentence as Youthful Offender must be stricken because it is not reflective of the trial court's findings and oral pronouncement; (2) The trial court abused its discretion in determining that there was clear and convincing evidence that the imposition of an adult sentence was necessary, thus sustaining the State's motion; and, (3) The trial court's denial of [Appellant's] motion to certify as a Juvenile was an abuse of discretion especially with regard to adequate protection of the public and the reasonable likelihood of Appellant's rehabilitation.

For imposition of an adult sentence, Section 2-5-208(D) of Title 10A requires the District Court to find "by clear and convincing evidence that there is good cause to believe that the accused person would not reasonably complete a plan of rehabilitation or that the public would not be adequately protected if the person were to be sentenced as a Youthful Offender". These findings were not made by the District Court. To the contrary, Judge Adair specifically found that Appellant could complete a rehabilitation plan and that the public could be adequately protected. Therefore, finding merit to Appellant's argument that the trial court abused its discretion concluding Appellant should be sentenced as an adult, the order of the District Court granting the State's motion to sentence Appellant as an adult is reversed and remanded for sentencing as a Youthful Offender if Appellant is convicted of the charged crime.

Addressing Appellant's claim that the trial court abused its discretion by denying Appellant's motion to sentence him as a Juvenile, we disagree. Appellant has not shown an abuse of discretion in this matter. *See C.L.F. v. State*, 1999 OK CR 12, ¶ 5, 989 P.2d 945. The record supports the trial judge's decision to

treat Appellant as a Youthful Offender and not as a Juvenile.

DECISION

The order of the District Court of Muskogee County denying Appellant's motion for certification as a Juvenile is **AFFIRMED** and the order granting the State's motion to sentence Appellant as an adult if convicted is **REVERSED**. The matter is **REMANDED** for further proceedings with Appellant being sentenced as a Youthful Offender should he be convicted of the charged crime. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2010), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF MUSKOGEE COUNTY
THE HONORABLE ROBIN W. ADAIR, SPECIAL JUDGE**

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OPINION BY: LEWIS, V.P.J.

JOHNSON, A., P.J.: Concur
LUMPKIN, J.: Concur
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