

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

TAHEERAH AYESHA AHMAD,)
)
 Petitioner,)
)
 v.)
)
 THE STATE OF OKLAHOMA,)
)
 Respondent.)

NOT FOR PUBLICATION

Case No. C-2019-489

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

MAR 26 2020

JOHN D. HADDEN
CLERK

SUMMARY OPINION

LUMPKIN, JUDGE:

Petitioner Taheerah Ayesha Ahmad entered blind pleas of guilty to Assault and Battery by means likely to produce death (Count I) (21 O.S.Supp.2011, § 625(C)); Child Neglect (Counts II and III) (21 O.S.Supp.2014, § 843.5(C)); and Arson in the First Degree (Count IV) (21 O.S.Supp.2013, § 1401(A)) in the District Court of Tulsa County, Case No. CF-2018-2028. The pleas were accepted by the Honorable Dawn Moody, District Judge, on April 16, 2019. On May 16, 2019, Petitioner was sentenced to life imprisonment in each of Counts I, II, and III, and ten (10) years imprisonment in Count IV. The sentences

in Counts I, II, and III were ordered to be served concurrently and the sentence in Count IV to be served consecutively to Count I.

On May 24, 2019, Petitioner filed a motion to withdraw the guilty pleas. At the conclusion of a hearing held on June 14, 2019, the motion to withdraw was denied. Petitioner appeals the denial of her motion, and raises the following propositions of error:

- I. Petitioner should be allowed to withdraw her plea which was not knowingly, intelligently, and voluntarily made because it was entered under duress and as the result of frustration, misunderstanding, misapprehension, and without deliberation as the result of unseemly haste.
- II. The judgment and sentence filed in this case improperly includes the payment of costs which were explicitly waived by the District Court.

After thorough consideration of these propositions and the entire record before us on appeal, including the original record, transcripts, and Petitioner's brief, we have determined that the trial court did not abuse its discretion in denying the motion to withdraw guilty plea. However, the case is remanded to the District Court to correct errors in the Judgment and Sentence reflecting the imposition of costs.

In her first proposition of error, Petitioner argues that she should have been allowed to withdraw her guilty plea because her plea was not knowingly, intelligently, and voluntarily made because it was entered under duress and as the result of frustration, misunderstanding, misapprehension, and without deliberation as the result of unseemly haste.

The decision to allow the withdrawal of a plea is within the sound discretion of the trial court and we will not interfere unless we find an abuse of discretion.” *Carpenter v. State*, 1996 OK CR 56, ¶ 40, 929 P.2d 988, 998. An abuse of discretion is any unreasonable or arbitrary action taken without proper consideration of the facts and law pertaining to the matter at issue or a clearly erroneous conclusion and judgment, one that is clearly against the logic and effect of the facts presented. *Neloms v. State*, 2012 OK CR 7, ¶ 35, 274 P.3d 161, 170.

On appeal, our primary concern in evaluating the validity of a guilty plea is whether the plea was entered voluntarily and intelligently. *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 223 L.Ed.2d 274 (1969); *Ocampo v. State*, 1989 OK CR 38, ¶ 3, 78 P.2d 920, 921. Petitioner has the burden of showing that the plea was

entered unadvisedly, through ignorance, inadvertence, influence or without deliberation, and that there is a defense to present to the jury. *Estell v. State*, 1988 OK CR 287, ¶ 7, 766 P.2d 1380, 1382; *Elmore v. State*, 1981 OK CR 8, ¶ 8, 624 P.2d 78, 80. The voluntariness of the plea is to be determined by examining the entire record. *Cox v. State*, 2006 OK CR 51, ¶ 28, 152 P.3d 244, 254.

Having thoroughly reviewed the record in this case, we find Petitioner's guilty pleas were entered knowingly and voluntarily. Whatever mental health issues Petitioner may have had did not affect her ability to understand the plea proceedings and enter knowing and voluntary guilty pleas. The trial court did not abuse its discretion in denying the motion to withdraw.

In Proposition II, Petitioner contends that the Judgment and Sentence filed in this case improperly included the payment of costs which were explicitly waived by the District Court. Oral pronouncements of sentences control over written conflicting orders. *LeMay v. Rahhal*, 1996 OK CR 21, ¶ 18, 917 P.2d 18, 22 citing *U.S. v. Villano*, 816 F.2d 1448 (10th Cir.1987). If there is a conflict between the oral sentence and the written judgment and sentence, the oral sentence controls. *Id.* This case is therefore remanded to the

District Court with instructions to correct the Judgment and Sentence to reflect that no costs were imposed in this case.

DECISION

The Petition for a *Writ of Certiorari* is **DENIED**. The Judgment of the District Court is **AFFIRMED**. The case is **REMANDED TO THE DISTRICT COURT** with instructions to correct the Judgment and Sentence to state that no costs were imposed upon Petitioner. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2020), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY
THE HONORABLE DAWN MOODY, DISTRICT JUDGE

**APPEARANCES IN DISTRICT APPEARANCES ON APPEAL
COURT**

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AT THE PLEA HEARING

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NO RESPONSE NECESSARY

OPINION BY: LUMPKIN, J.

LEWIS, P.J.: Concur

KUEHN, V.P.J.: Concur

HUDSON, J.: Concur

ROWLAND, J.: Concur

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