

**ORIGINAL**



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

**JAMES WILBUR ALLEN,**

**Appellant,**

**v.**

**THE STATE OF OKLAHOMA,**

**Appellee.**

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**NOT FOR PUBLICATION**

**No. RE 2016-0784**

**FILED**  
**IN COURT OF CRIMINAL APPEALS**  
**STATE OF OKLAHOMA**  
**JUN - 8 2017**

**SUMMARY OPINION**

**MICHAEL S. RICHIE**  
**CLERK**

**LEWIS, VICE PRESIDING JUDGE:**

James Wilbur Allen, Appellant, pled guilty on August 28, 2001, in Delaware County District Court Case No. CF-2001-62, to six counts of Child Sexual Abuse. He was sentenced to twenty years on each count with the balance suspended upon successful completion of sex offender treatment program while incarcerated. The sentences were ordered to run concurrently. He was also fined \$100.00. Ten years of Appellant's suspended sentences were revoked following a revocation hearing on March 12, 2008, with the remaining suspended portions of the sentences supervised under the original rules and conditions of probation.

The State filed an application to revoke the balance of Appellant's suspended sentences on July 15, 2016, alleging Appellant committed the new crimes of Driving Under the Influence, Speeding and Driving with License Cancelled/Suspended/Revoked. The State also alleged Appellant failed to report his arrest as required, denied all law enforcement contact with his probation officer, then admitted to his probation officer that he had been frequenting bars

and consuming alcoholic beverages for the past few months; and was in arrears with his probation fees. Following a revocation hearing on August 15, 2016, the Honorable Robert G. Haney, District Judge, found Appellant violated the conditions of probation and revoked Appellant's suspended sentences in full, with credit for time served. The Judgment and Sentence on Motion to Revoke Suspended Sentence ordered Appellant to serve a term of post-imprisonment supervision for a period of one year.

Appellant appeals the revocation of his suspended sentences raising the sole proposition of error that the District Court was without authority to modify his sentences by adding post-imprisonment supervision. *See Friday v. State*, 2016 OK CR 16, ¶¶4-6, 387 P.3d 928. The State answers that this claim is without merit as it has been rendered moot by the trial court's correction of the written revocation order.

The trial judge's oral pronouncement specified no post-imprisonment supervision. The language imposing post-imprisonment supervision, however, appeared in the Judgment and Sentence on Motion to Revoke Suspended Sentence. This was remedied by the trial court on February 15, 2017, by the trial court issuing a *Nunc Pro Tunc* Judgment and Sentence on Motion to Revoke Suspended Sentence.

### **DECISION**

As the Judgment and Sentence on Motion to Revoke Suspended Sentence has been corrected omitting the imposition of post-imprisonment supervision, the revocation of Appellant's suspended sentences in Delaware County District Court

Case No. CF-2001-62 is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2017), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**REVOCATION APPEAL FROM THE DISTRICT COURT OF DELAWARE COUNTY, THE HONORABLE ROBERT G. HANEY, DISTRICT JUDGE**

**APPEARANCES AT  
REVOCATION PROCEEDING**

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**OPINION BY: LEWIS, V.P.J.**

LUMPKIN, P.J.: Concurs in Result  
JOHNSON, J.: Not Participating  
SMITH, J.: Concurs  
HUDSON, J.: Concurs

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