

APR 17 2001

JAMES W. PATTERSON
CLERK

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

JEFFREY PAUL ANDERSON,

Appellant,

v.

STATE OF OKLAHOMA,

Appellee.

No. RE 2000-0688

ACCELERATED DOCKET ORDER
REVERSING AND REMANDING MATTER TO THE DISTRICT COURT

On August 14, 1997, Appellant pled nolo contendere in the District Court of Washington County, Case No. CF-97-272, to Unlawful Possession of a Controlled Substance - Amphetamine and was given a six year sentence with four years suspended and with rules and conditions of probation. On April 12, 2000, the State filed an application to revoke Appellant's suspended sentence. Following a revocation hearing on May 16, 2000, Appellant's suspended sentence was revoked in full. Appellant appeals from the revocation of his suspended sentence.

Pursuant to Rule 11.2, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2000), the appeal was automatically assigned to the Accelerated Docket of this Court. Appellant raised the following proposition of error on appeal: "The trial court lost jurisdiction to act on the State's application to revoke because more than twenty days passed between Appellant's arraignment and the date of the revocation hearing."

Oral argument was held April 5, 2001, pursuant to Rule 11.2(F). At the conclusion of oral argument, the parties were advised of the decision of this Court.

Section 991b of Title 22 very clearly sets out:

Whenever a sentence has been suspended by the court after conviction of a person for any crime, the suspended sentence of said person may not be revoked, in whole or part, for any cause unless a petition setting forth the grounds for such revocation is filed by the district attorney with the clerk of the sentencing court and competent evidence justifying the revocation of the suspended sentence is presented to the court at a hearing to be held for that purpose within twenty (20) days after the entry of the plea of not guilty to the petition, unless waived by both the state and the defendant.

In this case Appellant was arrested and entered a plea in the District Court on April 12, 2000. A revocation hearing was scheduled for April 27, 2000. The record reflects that on April 27, 2000, the revocation hearing was rescheduled for May 18, 2000. On May 2, 2000, counsel was appointed for Appellant and the revocation hearing was rescheduled for May 16, 2000. The revocation hearing was not held within twenty days after the entry of Appellant's plea and the record before this Court does not reflect a waiver by the Appellant and the State.

IT IS THEREFORE THE ORDER OF THIS COURT that the revocation order of the District Court is **REVERSED** and the matter is **REMANDED** to the District Court for further proceedings consistent with this Order.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 17th day of April, 2001.



GARY L. LUMPKIN, Presiding Judge



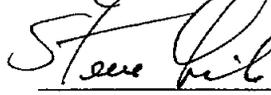
CHARLES A. JOHNSON, Vice Presiding Judge



CHARLES S. CHAPEL, Judge

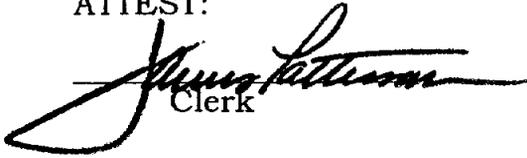


RETA M. STRUBHAR, Judge



STEVE LILE, Judge *cases require several hrs. However
I believe that cases should
be reversed; failure to raise
the 20 day requirement should
be deemed a sufficient waiver.*

ATTEST:


Clerk