



On January 22, 2018, the State filed a Motion to Revoke Suspended Sentence in Case No. CF-2016-375 and First Amended Motion to Revoke Suspended Sentence in Case No. CF-2016-952. The petitions alleged Appellant failed to pay District Attorney Reimbursement fees as ordered; absconded; failed to provide proof of employment; failed to provide proof of community service; and failed to provide proof he completed mental health and substance evaluations and followed any recommendations. Following a revocation hearing, the Honorable Stephen Kistler, Associate District Judge, found the State had proven the allegations and passed sentencing to May 16, 2018, for Appellant to come into compliance. Appellant failed to appear on May 16, 2018, and a warrant was issued.<sup>1</sup> The parties appeared again on July 24, 2018, and following argument from the parties, the trial court revoked Appellant's remaining sentence in full.

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<sup>1</sup> On June 15, 2018, the Oklahoma Department of Corrections filed a violation report alleging Appellant failed a drug test (Methamphetamine); to report; to appear for court; to provide his address to probation officers; to provide proof of community service; and to provide proof he completed mental health and substance abuse evaluations and follow the recommendations made in the evaluations.

On July 11, 2019, the State filed a Motion to Supplement the Record with the Clerk of this Court seeking to include in the appeal record the First Amended Judgment and Sentence After Revocation filed in with the clerk of the district court in each case. The State's Motion to Supplement the Record on Appeal is **GRANTED**. See Rule 3.11(A), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019).

In his first proposition, Appellant argues revocation of his suspended sentences was an abuse of discretion because he was "plagued by personal disadvantages." According to Appellant, Judge Kistler abused his discretion when he refused to provide Appellant with an additional opportunity to remain in the community. This argument is without merit.

A suspended sentence is a matter of grace. *Hagar v. State*, 1999 OK CR 35, ¶ 8, 990 P.2d 894, 898; *Demry v. State*, 1999 OK CR 31, ¶ 12, 986 P.2d 1145, 1147. The State must only prove one violation of probation in order to revoke Appellant's suspended sentence in full. *Tilden v. State*, 2013 OK CR 10, ¶ 10, 306 P.3d 554, 557 (citing *McQueen v. State*, 1987 OK CR 162, ¶ 2, 740 P.2d 744, 745). Here,

the State filed a petition setting forth the grounds for the revocation and the State established multiple probation violations.

The decision to revoke a suspended sentence in whole or in part is within the sound discretion of the trial court and such decision will not be disturbed absent an abuse thereof. *Jones v. State*, 1988 OK CR 20, ¶ 8, 749 P.2d 563, 565. Appellant was repeatedly shown leniency in this case. Appellant admitted to several violations of his probation. Further, Appellant never provided any proof to the trial court of his claimed minimal compliance with the rules and conditions of his probation. Appellant has not shown an abuse of discretion. *Id.*

At Proposition II Appellant complains that the original revocation order omits credit for time served by the Appellant and added post-imprisonment supervision. The trial court filed First Amended Judgment and Sentences After Revocation with the clerk of the trial court on July 11, 2019. The amended revocation orders correct the errors alleged in this proposition. As a result, this proposition is moot.

**DECISION**

The revocation of Appellant's suspended sentences in Payne County District Court Case Nos. CF-2016-375 and CF-2016-952 is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF PAYNE COUNTY, THE HONORABLE STEPHEN KISTLER, ASSOCIATE DISTRICT JUDGE**

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**OPINION BY: HUDSON, J.**  
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KUEHN, V.P.J.: CONCUR  
LUMPKIN, J.:    CONCUR  
ROWLAND, J.:    CONCUR

RA/F