

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

LAVESTER BILLS,

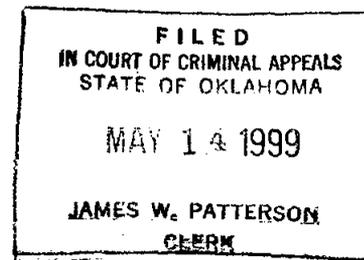
Appellant,

-vs.-

THE STATE OF OKLAHOMA,

Appellee.

No. F-98-698



**ACCELERATED DOCKET ORDER**

On February 27, 1991, the District Court of Choctaw County in Case No. CF-90-200, after receiving a plea of guilty by Appellant to the offense of Second Degree Burglary, deferred Appellant's sentencing for two years to February 27, 1993. On August 24, 1992 a hearing was held upon a motion by the State for acceleration of Appellant's deferred sentence. At the hearing the District Court found there was sufficient evidence to accelerate Appellant's sentence. Nevertheless, the District Court did not, at that time, enter a judgment of guilt nor pronounce sentence nor enter a formally journal entry memorializing the acceleration proceedings. Instead the District Court continued sentencing to a date certain but thereafter repeatedly postponed the sentencing to permit Appellant further opportunities to comply with the terms of his probation.

On October 21, 1993, Appellant's matter came on for hearing upon a December 29, 1992 pleading by the State entitled "Second Amended Application to Accelerate Deferred Sentence." According to the District Court's minute entry for October 21st, the Appellant "stipulated" and a sentencing date was set. Once more no formal order of acceleration nor any judgment and sentence was pronounced, and again Appellant's sentencing date did not occur as originally scheduled but was instead persistently postponed. Finally on June 9, 1998, Appellant still having failed to pay any restitution or other costs and as-

assessments due under the terms of probation, the District Court sentenced Appellant to two years imprisonment. From this acceleration and Judgment and Sentence, Appellant has perfected this appeal.

The appeal was regularly assigned to this Court's Accelerated Docket under Section XI, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (1999). Oral argument was held on April 29, 1999, and the Court duly considered Appellant's single proposition of error raised upon appeal:

Proposition

The District Court lost jurisdiction to accelerate Appellant's deferred sentence, where the acceleration and sentencing were continued repeatedly over a six-year period, long past the expiration of appellant's deferred term.

After hearing oral argument and after a thorough consideration of Appellant's propositions of error and the entire record before us on appeal, by a vote of three (3) to zero (0), we reverse as hereinafter set forth.

A District Court's jurisdiction to accelerate a defendant's deferred sentence will continue past the expiration of the deferred period, if the State has filed its application to accelerate prior to the deferred period ending. *See State v. Rodriguez*, 1976 OK CR 68, ¶ 9, 547 P.2d 974, 975 ("the actual hearing can be held on the application to accelerate the deferred sentence after the term of the deferred sentence has run, provided, that the application itself is filed prior to the end of the term"). However, the District Court's continuing jurisdiction in such matters does not last forever.

It is required that the trial court appoint a time for pronouncement of judgment and sentence and that such be a reasonable time incident to the administration of justice; and if it is not, the trial court will lose jurisdiction to impose judgment and sentence. *Norman v. State*, 73 Okl.Cr. 295, 298, 120 P.2d 369, 370 (1941); *see also Jefferies v. Municipal Court of Tulsa*, 1975 OK CR 112,

¶ 11, 536 P.2d 1313, 1317 ("Generally, the cases have held that a postponement of pronouncing judgment and sentence is only proper when done incident to the administration of justice or for other proper cause."). In Appellant's matter, pronouncement of Judgment and Sentence occurred over four-and-one-half years from Appellant's stipulation to the State's application to accelerate, over five years from the expiration of Appellant's deferred sentence, and over seven years from Appellant's guilty plea to Second Degree Burglary - an offense that carried a sentence of no more than seven years. Under the totality of the circumstances in Appellant's case, the Court **FINDS** the length of the District Court's postponement of Judgment and Sentence was simply too great for its jurisdiction to have survived.

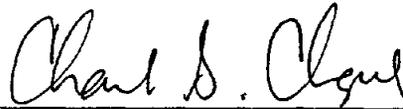
**IT IS THEREFORE THE ORDER OF THIS COURT** that the June 9, 1998 Order Accelerating Deferred Sentence of the Choctaw County District Court in Case No. CF-90-200 should be, and hereby is, **REVERSED AND REMANDED WITH INSTRUCTIONS TO DISMISS.**

**IT IS SO ORDERED.**

**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 14<sup>th</sup> day of May, 1999.

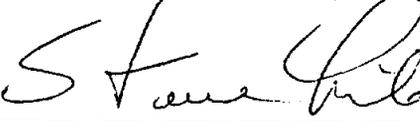


**RETA M. STRUBHAR, Presiding Judge**



**CHARLES S. CHAPEL, Judge**

ATTEST:

  
Clerk

**STEVE LILE, Judge**

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