

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

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

**JUL 26 2006**

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

NATALIE BLADES, )  
 )  
 Appellant, )  
 )  
 -vs- )  
 )  
 THE STATE OF OKLAHOMA, )  
 )  
 Appellee. )

No. RE-2005-1032

**ORDER AFFIRMING REVOCATION**  
**OF SUSPENDED SENTENCES, BUT REMANDING**  
**TO RUN THE SENTENCES CONCURRENTLY**

The Appellant, Natalie Blades, has appealed to this Court from an order of the District Court of Jackson County, entered by the Honorable Richard B. Darby, District Judge, revoking her suspended sentences in Case Nos. CF-2001-323 and CF-2000-166. In Case No. CF-2000-166, on July 25, 2000, Appellant entered a plea of guilty to Uttering a Forged Instrument, and was sentenced to a term of five (5) years, with all except the first six (6) months suspended under rules and conditions of probation. In Case No. CF-2001-323, on May 28, 2002, Appellant entered a plea of guilty to Uttering a Forged Instrument, and was sentenced to a term of five (5) years, with all except the first four (4) months suspended, the four (4) months to be served in the Jackson County Jail, with credit for time served since February 11, 2002.

On August 28, 2003, the State filed an application to revoke Appellant's suspended sentences in both cases. The application alleged Appellant had violated probation by committing the crime of Aggravated Assault on a Peace Officer in Collingsworth, TX, and by failing to pay restitution. On January 26, 2004, the hearing on the application to revoke was held before Judge Darby. At

the start of the hearing, Appellant stipulated to the application to revoke, but asked to be heard in mitigation. Judge Darby determined that Appellant's stipulation was knowingly entered. Judge Darby then heard evidence and arguments before revoking Appellant's suspended sentences in full, and ordered them to be served consecutively.

In this appeal, Appellant raises two propositions of error. She first claims the trial court erred in ordering the revoked sentences to run consecutively, when a previous order suspending sentence ordered by implication that the sentences were to be served concurrently. The second proposition contends the imposition of restitution for crimes with which Appellant was neither charged nor convicted was outside the scope of the Oklahoma statute and requires dismissal.

We agree with Appellant that terms in her Judgment and Sentence in Case No. CF-2001-323 specified that it run concurrently with her sentence in Case No. CF-2000-166. The Judgment and Sentence, and the Rules and Conditions attached, state that Appellant was to receive credit for time served since, and thus that the sentence began on, February 11, 2002. The Plea of Guilty – Summary of Facts form also states sentencing shall be imposed *instanter*, and discussions in the transcript of the sentencing hearing indicate the sentence started on February 11, 2002. Moreover, 22 O.S.2001, § 991a(A)(1)(e) allows confinement in the county jail at any time during the suspended sentence, thus Appellant's confinement and her suspended sentence began in accordance with the statute on February 11, 2002. Because Appellant's sentence in Case No. CF-2000-166 was running during the same time period, the sentences were running

concurrently. Finally, the State has cited nothing, which would allow a sentence to begin, then stop, and then re-start at a later time.

The State does argue that because Appellant's Judgment and Sentence in Case No. CF-2001-323 does not expressly state that it is to run concurrently with the sentence in Case No. CF-2000-166, then by operation of law the sentences are to be served consecutively. However, none of the authority cited by the State in support of its argument actually requires the word 'concurrent' to be stated in the Judgment and Sentence. Appellant's Judgment and Sentence specifies it is to run concurrently with the sentence in Case No. CF-2000-166 through other terms stated in the Judgment and Sentence. We find that the District Court's orders revoking Appellant's suspended sentences in Case Nos. CF-2001-323 and CF-2000-166 should be amended to reflect the sentences run concurrently, rather than consecutively, with each other.

Appellant's second proposition, concerning the imposition of restitution in Case No. CF-2000-161, is not properly before us. The scope of review in a revocation appeal is limited to the validity of the revocation order. Rule 1.2(D)(4), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2006). If Petitioner had asserted this issue prior to the entry of her guilty plea, or in direct appeal proceedings from her Judgment and Sentence, the record could have been properly documented. Moreover, Petitioner entered her plea of guilty pursuant to a plea agreement in which she specifically agreed to pay the restitution amounts of which she now complains, thus she is not now entitled to have those agreed upon restitution amounts dismissed.

**IT IS THEREFORE THE ORDER OF THIS COURT** that the revocation of

Appellant's suspended sentences in Case Nos. CF-2001-323 and CF-2000-166 in the District Court of Jackson County should be **AFFIRMED**, but **REMANDED** to the District Court to amend the orders to reflect that the sentences run concurrently rather than consecutively.

Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2006), the **MANDATE** is **ORDERED** issued forthwith upon the filing of this decision with the Clerk of this Court.

**IT IS SO ORDERED.**

**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 26<sup>th</sup> day

of July, 2006.

NOT PARTICIPATING

**CHARLES S. CHAPEL, Presiding Judge**

*[Signature]*

*I concur in result but I dissent to ordering sentences to run concurrently. The DCS does not state in P2 that letters that order*

**GARY L. LUMPKIN, Vice Presiding Judge**

*[Signature]*

**CHARLES A. JOHNSON, Judge**

*[Signature]*

**ARLENE JOHNSON, Judge**

*[Signature]*

**DAVID LEWIS, Judge**

ATTEST:

*[Signature]*

Clerk

RA