

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

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

MAR 28 2001

JAMES W. PATTERSON
CLERK

MICHAEL DARREN BOLES,)
)
 Appellant,)
)
vs.)
)
STATE OF OKLAHOMA,)
)
 Appellee.)

No. RE-2000-1010

ACCELERATED DOCKET ORDER

On August 27, 1999, Appellant, represented by counsel, pled guilty to Count I, Possession of a Controlled Dangerous Substance (Methamphetamine) With Intent to Distribute, Count II, Failure to Affix a Tax Stamp, Count III, Unlawful Possession of Marijuana, Count IV, Unlawful Use of a Police Radio, and Count V, Unlawful Possession of Drug Paraphernalia in Case No. CF-99-27 in the District Court of Pawnee County. Appellant was sentenced to ten (10) years, suspended, for each of Counts I, II and IV, and one (1) year, suspended, for each of Counts III and IV. On April 14, 2000, the State filed an application to revoke Appellant's suspended sentences. On July 28, 2000, Appellant's suspended sentences were revoked in full. From this Judgment and Sentence, Appellant appeals.

On appeal Appellant raised one proposition of error:

1. The sentence imposed upon Mr. Boles was excessive and should be modified.

Pursuant to Rule 11.2(A)(2), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2000) this appeal was automatically assigned to the Accelerated Docket of this Court. The propositions or issues were presented to this Court in oral argument March 22, 2001, pursuant to Rule 11.2(F). At the conclusion of oral argument, the parties were advised of the decision of this Court.

We find that the trial court did not abuse its discretion in revoking Appellant's sentences in their entirety. *Harris v. State*, 1989 OK CR 10, ¶ 3, 772 P.2d 1329, 1331; *Crowels v. State*, 1984 OK CR 29, ¶ 6, 675 P.2d 451, 453; *Cooper v. State*, 1979 OK CR 85, ¶ 16, 599 P.2d 419, 422-23. We affirm the revocation of Appellant's suspended sentence.

During the course of the hearing on this matter, the State brought to this Court's attention that Appellant's sentences for Counts II and IV exceeded the maximum allowed by statute. Apparently, the maximum sentence for Count II, Failure to Affix a Tax Stamp is five (5) years and Count IV, Unlawful Use of a Police Radio is three (3) years. This matter is therefore **REMANDED** to the District Court of Pawnee County for entry of an order **MODIFYING** Appellant's sentences for Counts II and IV to the statutory maximums of five (5) and three (3) years respectively.

IT IS THEREFORE THE ORDER OF THIS COURT, by a three (3) to zero (0) vote, that the order of the District Court of Pawnee County revoking Appellant's suspended sentences in Case No. CF-99-27 is **AFFIRMED**. This

matter is **REMANDED** to the District Court of Pawnee for entry of an order **MODIFYING** Appellant's sentences for Counts II and IV to the statutory maximums of five (5) and three (3) years respectively.

IT IS SO ORDERED.

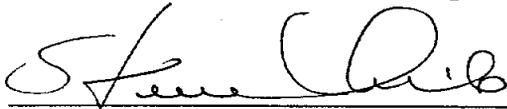
WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 28th day
of March, 2001.



GARY L. LUMPKIN, Presiding Judge

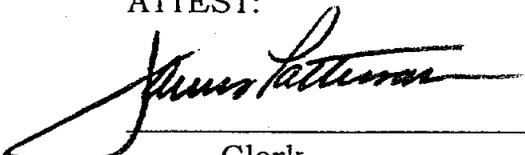


CHARLES S. CHAPEL, Judge



STEVE LILE, Judge

ATTEST:



Clerk