



to be served consecutively. Appellant now appeals his various convictions and sentences.

Appellant raises the following propositions of error in this appeal:

- I. Appellant's multiple convictions arising from a single criminal episode are in violation of statutory and constitutional prohibitions against double jeopardy;
- II. The evidence was insufficient to support Appellant's convictions for assault and battery with a deadly weapon with intent to kill or second degree rape [by instrumentation] of Ms. Kelly; and
- II. Appellant's sentences are excessive, disproportionate, and violative of federal and state constitutional prohibitions against cruel and unusual punishment.

After a thorough consideration of these propositions and the entire record before us, including the original record, transcripts, and briefs of the parties, we find the two kidnapping convictions must be reversed, but we otherwise affirm.

With respect to proposition one, we find a double jeopardy violation occurred when Appellant was convicted for two counts of kidnapping. The evidence does not reflect that the kidnappings were separate and distinct crimes from the robberies and rapes Appellant committed or participated in as an aider and abettor. *Davis v. State*, 993 P.2d 124, 126 (Okla. Cr. 1999).

With respect to proposition two, we find, after viewing the evidence in the light most favorable to the State and accepting all reasonable inferences and credibility choices that tend to support the jury's verdict, any rational trier of fact could have found the essential elements of the crimes charged beyond a reasonable doubt. *Spuehler v. State*, 709 P.2d 202, 203-204 (Okla. Cr. 1995); *Powell v. State*, 995 P.2d 510, 524 (Okla. Cr. 2000).

With respect to proposition three, we find Appellant's remaining sentences, although severe, are not so excessive as to shock the conscience of the Court. *Rea v. State*, 34 P.3d 148,149 (Okl.Cr.2001).

**DECISION**

The judgment and sentences on Counts I, II, III, IV, V, X, and XII are hereby **AFFIRMED**. The judgments and sentences on Counts VI and VII, kidnapping, are hereby **REVERSED** with instructions to **DISMISS**. This matter is **REMANDED** to Oklahoma County for further proceedings consistent herewith.

AN APPEAL FROM THE DISTRICT COURT OF OKLAHOMA COUNTY  
THE HONORABLE SUSAN W. BRAGG

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**OPINION BY: LUMPKIN, J.**  
JOHNSON, P.J.: CONCUR  
LILE, V.P.J.: CONCUR  
CHAPEL, J.: CONCUR IN PART/DISSENT IN PART  
STRUBHAR, J.: CONCUR

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