



In Appellant's first proposition of error he claims that his revocation was excessive in light of the alleged probation violations. Appellant argues that Judge Glassco abused his discretion because the revocation was too harsh. Appellant requests an intermediate sanction. Appellant maintains that the revocation of his suspended sentence was caused by his drug addiction and that as a result, he deserves to have his sentence modified.

In order to revoke a suspended sentence, the State need only prove to the trial court that one of the conditions of probation has been violated. *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 has established and Appellant has admitted to several violations. A trial court's order of revocation will not be reversed unless there is an abuse of discretion reflected in the record. *Jones v. State*, 1988 OK CR 20, ¶ 8, 749 P.2d 563, 565. There is sufficient evidence in the appellate record to support the trial court's decision to revoke the suspended sentence of Appellant in this case. Appellant was provided and failed several different forms of treatment and was previously sanctioned. Appellant has not established that Judge Glassco abused his discretion in deciding to revoke his suspended sentence. This proposition of error is without merit.

In Appellant's second proposition of error, he argues that Judge Glassco abused his discretion by including one year of post-imprisonment supervision in the revocation order in this case. Appellant argues that ordering one year of post-imprisonment supervision, which would occur beyond the expiration of his suspended sentence, is an impermissible lengthening of his sentence.

The State contends that 22 O.S. § 991a(A)(1)(f) provides Judge Glassco with the authority to sentence Appellant to post-imprisonment supervision pursuant to an intervening revocation order. Section 991a(A)(1)(f) states in relevant part:

- A. Except as otherwise provided in the Elderly and Incapacitated Victim's Protection Program, when a defendant is convicted of a crime and no death sentence is imposed, the court shall either:
  - 1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following:...
  - f. to confinement as provided by law together with a term of post-imprisonment community supervision for not less than three (3) years of the total term allowed by law for imprisonment, with or without restitution; provided, however, the authority of this provision is limited to Section 843.5 of Title 21 of the Oklahoma Statutes when the offense involved sexual or sexual exploitation; and Sections 865 et seq., 885, 886, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115, and 1123 of Title 21 of the Oklahoma Statutes...

According to the State, the phrase "at any time during the suspended sentence" allowed Judge Glassco to order the post-imprisonment supervision at the time of the revocation. The meaning of the above cited language from subsection (A)(1)(f) stating that the sentencing court "may order the convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following" is not clear. The State argues that this language refers to the time at which the sentencing judge may order post-imprisonment supervision.

We disagree. This language refers to the time frame during which the sentencing orders must be completed. In other words, the statute directs the sentencing judge that at the time a defendant is “convicted and sentenced” the sentencing judge may order the defendant to complete certain tasks during the resulting suspended sentence.

Accordingly, Section 991a(A)(1)(f) did not authorize Judge Glassco to impose this post-imprisonment supervision pursuant to a revocation order and that portion of the trial court’s order must be vacated as an unauthorized modification of Appellant’s sentence.

**DECISION**

The August 29, 2013, order of the District Court of Tulsa County, revoking in full the suspended portion of Appellant’s sentence in Case No. CF-2010-4306, is **AFFIRMED**; the one year of post-imprisonment supervision is **VACATED** and the case is **REMANDED** for issuance of a revocation order consistent with this opinion. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2014), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**REVOCAATION APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY, THE HONORABLE KURT G. GLASSCO, DISTRICT JUDGE**

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**OPINION BY: SMITH, V.P.J.**

LEWIS, P.J.: CONCUR  
LUMPKIN, J.: CONCUR  
A. JOHNSON, J.: CONCUR

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