



Appellant appeared for her revocation hearing on May 31, 2006. The following transpired:

The Court: ... And where is your attorney, Ms. Covey.

Appellant: I don't have one. I came up here to get a court appointed but they said I had to have \$40 and I don't get a social security check until the 3<sup>rd</sup> and I didn't have no money until the 3<sup>rd</sup>.

The Court Well, you made bond about three times in this case since this Petition or Motion to Revoke was filed. The original bond was in the amount of \$2500 and then apparently on March 21<sup>st</sup> bond was set at \$250 cash only and then when you failed to appear on May 3 bond was set at \$5,000 and you made a \$5,000 surety bond, and as I said the case has been set since February and you had plenty of opportunities to get an attorney one way or the other. And if you haven't had the \$40 to file an Application then it is because you have chosen to spend it on bonds. So, we are going to proceed today. The Court is going to find that you have appeared and have willfully and intentionally waived your right to have counsel present. So, go ahead Ms. Redman.

In Oklahoma the defendant has a statutory right to be represented by counsel at a revocation hearing. 22 O.S.2001 § 991b(D). The right to counsel may be waived. However, if the right to counsel is waived, the record must show or there must be an allegation and evidence which show that an accused was offered counsel but intelligently and understandingly rejected the offer. This record is mandatory and anything less is not waiver. *Lineberry v. State*, 1983 OK CR 115, ¶ 6, 668 P.2d 1144.

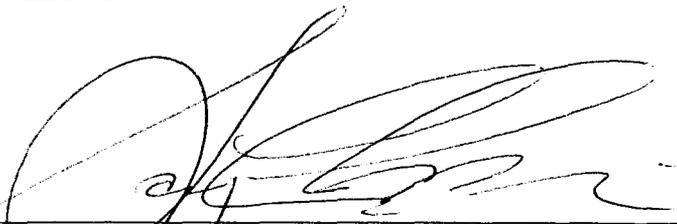
In this case we do not find a record that Appellant wanted to represent herself or that she was advised of the right to counsel for this proceeding. We do not find Appellant was advised of the dangers and disadvantages of self-

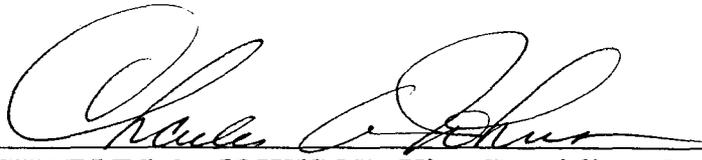
representation. The record is void of a voluntary, intelligent and knowing waiver of the right to counsel.

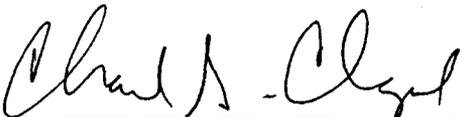
**IT IS THEREFORE THE ORDER OF THIS COURT** that the revocation order of the District Court is **REVERSED** and the matter is **REMANDED** to the District Court for a new hearing on the State's application to revoke with Appellant represented by counsel or a valid waiver in the record. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2007), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

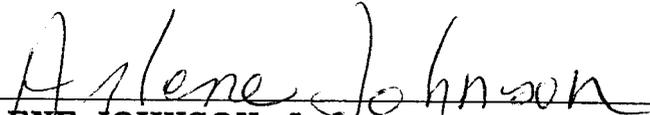
**IT IS SO ORDERED.**

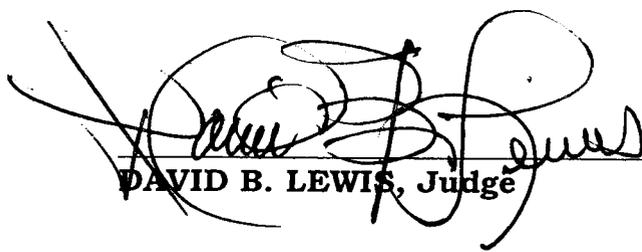
**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 26<sup>th</sup>  
day of June, 2007.

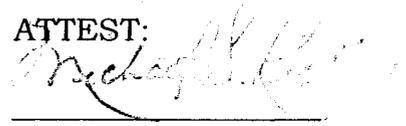
  
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**GARY L. LUMPKIN, Presiding Judge**

  
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**CHARLES A. JOHNSON, Vice Presiding Judge**

  
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**CHARLES S. CHAPEL, Judge**

  
ARLENE JOHNSON, Judge

  
DAVID B. LEWIS, Judge

ATTEST:  


Clerk

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