

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

JEREMIAH WILLIAM CREEKMORE,)
)
 Appellant,)
)
 v.)
)
 STATE OF OKLAHOMA,)
)
 Appellee.)

NOT FOR PUBLICATION

No. RE 2012-0711

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

SEP 20 2013

SUMMARY OPINION

MICHAEL S. RICHIE
CLERK

A. JOHNSON, JUDGE:

Appellant Jeremiah William Creekmore, pled guilty November 25, 2008, to Lewd Molestation, in Tulsa County District Court Case No. CF-2008-5092. He was fined \$500.00 and sentenced to ten years with three years in the Department of Corrections and seven years suspended with rules and conditions of probation. Creekmore was given credit for time served. This sentence was ordered to run concurrently with Tulsa County Case No. CF-2008-2478.

The State filed an application to revoke Creekmore's suspended sentence on June 4, 2012, alleging Creekmore was arrested in Pawnee County for possession of marijuana and unlawful possession of drug paraphernalia on January 13, 2012. Following a revocation hearing on July 20, 2012, the Honorable William C. Kellough, District Judge, revoked Creekmore's seven year

suspended sentence, with credit for all time earned and served. Creekmore appeals, raising the following issues:

- (1) whether the trial court abused its discretion in finding the evidence sufficient to prove a violation of probation;
- (2) whether it was an abuse of discretion to revoke the whole seven year suspended sentence; and
- (3) whether he was deprived of effective assistance of counsel.

Finding merit to Creekmore's first proposition of error, the order revoking Creekmore's suspended sentence is reversed and remanded for a new hearing.

In Creekmore's first proposition of error he argues that the State failed to present evidence that this Judgment and Sentence was final. We agree. No witnesses were called by the State at the revocation hearing, but a Judgment and Sentence for Pawnee County Case No. CF-2012-11 was offered as Exhibit 1, showing Creekmore had subsequently been convicted of possession of marijuana, a felony, and unlawful possession of drug paraphernalia, a misdemeanor. In *Pickens v. State*, 1989 OK CR 58, ¶ 12, 779 P.2d 596, this Court held "that when the State introduces a certified or authenticated copy of the judgment and sentence of the predicate conviction as a basis for revocation of a suspended sentence, it must also offer strict proof of the finality of that predicate judgment and sentence." In the present case, as in *Pickens*, the State failed to offer strict proof of finality.

Because the first proposition of error warrants relief, we find it unnecessary to address the remaining proposition of error.

DECISION

The revocation of Creekmore's suspended sentence in Tulsa County District Court Case No. CF-2008-5092 is **REVERSED AND REMANDED** for a new revocation hearing. Pursuant to Rule 3.15 the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**REVOCATION APPEAL FROM THE DISTRICT COURT OF
TULSA COUNTY, THE HONORABLE WILLIAM C. KELLOUGH,
DISTRICT JUDGE**

APPEARANCES AT TRIAL

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OPINION BY: A. JOHNSON, J.

LEWIS, P.J.: Dissent
SMITH, V.P.J.: Concur
LUMPKIN, J.: Concur
C. JOHNSON, J.: Concur

RC

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