



held within twenty days of arraignment. The State answers that Appellant acquiesced in the delay in the revocation hearing thereby waiving the 20-day Rule under Section 991b(A) of Title 22.

Section 991b(A) requires a revocation hearing to be held within twenty days after the entry of the plea of not guilty to the petition unless waived by both the State and the defendant. In *Grimes v. State*, 2011 OK CR 16, ¶ 7, 251 P.3d 749, we held that a defendant cannot acquiesce in the delay of a hearing or participate in the continuance of a hearing and then claim an entitlement to relief because the District Court did not abide by the 20-day time limitation.

In the present case the revocation hearing was held a year after Appellant entered a plea of not guilty. The record is void of a waiver of the 20-day Rule. The record does not show Appellant was even advised of the 20-day Rule. While the revocation hearing was originally timely set, the hearing was rescheduled outside of the twenty days without explanation. The record does not show that Appellant or his counsel was present when the hearing was rescheduled or that Appellant requested any extension of time during this one year period. Based upon this record, we cannot find Appellant acquiesced in the delay of the revocation hearing.

### **DECISION**

The revocation of Appellant's suspended sentence in McCurtain County District Court Case No. CF-2006-76 is **REVERSED AND REMANDED** to the District Court with instructions to **VACATE** the order revoking Appellant's suspended sentence. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of*

*Criminal Appeals*, Title 22, Ch.18, App. (2012), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**REVOCATION APPEAL FROM THE DISTRICT COURT OF MCCURTAIN COUNTY, THE HONORABLE WILLARD DRIESEL, DISTRICT JUDGE**

**APPEARANCES AT TRIAL**

ELIZABETH GRIFFITH  
ATTORNEY AT LAW  
113 N. CENTRAL AVE.  
IDABEL, OKLAHOMA 74745  
COUNSEL FOR APPELLANT

JOHNNY LOARD  
ASSISTANT DISTRICT ATTORNEY  
MCCURTAIN COUNTY COURTHOUSE  
P. O. BOX 1378  
IDABEL, OKLAHOMA 74745  
COUNSEL FOR THE STATE

**OPINION BY: LUMPKIN, J.**  
A. JOHNSON, P.J.: CONCUR  
LEWIS, V.P.J.: CONCUR  
C. JOHNSON, J.: CONCUR  
SMITH, J.: CONCUR

RC

**APPEARANCES ON APPEAL**

JAMES H. LOCKARD  
DEPUTY DIVISION CHIEF  
OKLAHOMA INDIGENT DEFENSE  
SYSTEM  
P. O. BOX 926  
NORMAN, OKLAHOMA 73070  
COUNSEL FOR APPELLANT

E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA  
DONALD D. SELF  
ASSISTANT ATTORNEY GENERAL  
313 N.W. 21<sup>st</sup> STREET  
OKLAHOMA CITY, OKLAHOMA 73105  
COUNSEL FOR THE STATE