

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

DEBBIE EDWARDS,

Appellant,

-vs-

THE STATE OF OKLAHOMA,

Appellee.

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)
) **NOT FOR PUBLICATION**
)

) Case No. RE-2010-431
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)
)

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

APR 19 2011

MICHAEL S. RICHIE
CLERK

SUMMARY OPINION

LEWIS, VICE PRESIDING JUDGE:

On April 30, 2004, Debbie Edwards entered pleas of guilty to committing a Forged Instrument in Osage County District Court Case Nos. CF-2004-56, CF-2004-57, CF-2004-58, CF-2004-59 and CF-2004-60. The pleas were accepted and sentencing was deferred for five years, or until April 30, 2009. The sentences were ordered to be served concurrently.

On October 27, 2004, an application to accelerate deferred sentence was filed in Case No. CF-2004-56. On November 19, 2004, an application to accelerate deferred sentence was filed in Case Nos. CF-2004-57, CF-2004-58, CF-2004-59 and CF-2004-60. On May 12, 2006, the court found Edwards had violated the rules and conditions of her probation and sentenced her to five years incarceration, all suspended. The sentences were ordered to be served concurrently.

On January 9, 2007, the State filed applications to revoke suspended sentences in each case. On April 30, 2010, a hearing was held before the

Honorable John S. Boggs, Special Judge. At the conclusion of that hearing, Edwards' sentences were revoked in full and ordered to run consecutively.

In her first assignment of error, Edwards claims the District Court lacked authority to order her sentences to run consecutively.¹ The State agrees the District Court committed error by running Edwards' sentences consecutively and requests this Court remand the matter for re-sentencing consistent with the original Judgment and Sentence.

We agree. The consequence of a judicial revocation is to execute a penalty previously imposed in the Judgment and Sentence. *Degraffenreid v. State*, 1979 OK CR 88, ¶13, 599 P.2d 1107, 1109.

In her final assignment of error, Edwards asserts her trial counsel was ineffective for failing to object to the District Court's order running her sentences consecutively. Our resolution of Proposition I renders this proposition of error moot.

DECISION

The order of the District Court of Osage County revoking Debbie Edwards' five year suspended sentences in Case Nos. CF-2004-56, CF-2004-57, CF-2004-58, CF-2004-59 and CF-2004-60 is **AFFIRMED**. However, the matter is **REMANDED** for **RESENTENCING** consistent with the original Judgment and Sentence. Pursuant to Rule 3.15, Rules of the Oklahoma Court of Criminal

¹ Appellant's motion to accept exhibits cited in brief is **GRANTED**.

Appeals, Title 22, Ch. 18, App. (2011), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF OSAGE COUNTY
THE HONORABLE JOHN S. BOGGS, SPECIAL JUDGE**

ATTORNEYS AT TRIAL

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OPINION BY: LEWIS, V.P.J.:

A. JOHNSON, P.J.: Concurs
LUMPKIN, J.: Concurs
C. JOHNSON, J.: Concurs
SMITH, J.: Concurs

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