

After a thorough consideration of these propositions and the entire record before us, including the original record, transcripts, and briefs of the parties, we find reversal or modification is not required.

With respect to proposition one, we find no double jeopardy violation at all and no double punishment violation concerning the simultaneous convictions for robbery with a firearm and possessing a firearm after a former felony conviction. We agree, therefore, with the reasoning of the unpublished case cited in the briefs of *Hamilton v. State*, F-2005-1085 (March 30, 2007), as it applies to this case, i.e., "Appellant was guilty of being a felon in possession of a firearm from the minute he first took possession of the weapon that day. By enacting 21 O.S. § 1283 (2001), our Legislature clearly intended to punish felons who possess firearms, regardless of whether they actually use them to facilitate a new crime." We find, however, that Appellant has been punished twice for the same criminal act by his simultaneous convictions for robbery with firearms and pointing a firearm. *Davis v. State*, 1999 OK CR 48, ¶ 13, 993 P.2d 124, 126. On this point, *Hammon v. State*, 1995 OK CR 33, 898 P.2d 1287 is distinguishable, involving two separate culprits and two separate acts. Count three, the pointing charge, is therefore reversed and dismissed.

Regarding proposition two, we find, after viewing the evidence in the light most favorable to the State and accepting all reasonable inferences and credibility choices that tend to support the jury's verdict, any rational trier of fact could have found the essential elements of the crimes beyond a reasonable doubt. *Spuehler v. State*, 1985 OK CR 132, ¶ 7, 709 P.2d 202, 203-204. Even

assuming, *arguendo*, that there was an extra-judicial identification problem in this case, the evidence was clearly sufficient without the victims' identifications. The arresting officers caught Appellant within moments of the crime with evidence of the crime (and his own i.d.) on his person. Moreover, Appellant made damaging admissions while being transported in the police car.

DECISION

The judgment and sentences on Count I and II are hereby **AFFIRMED**. The judgment and sentence on Count III is hereby **REVERSED** and **DISMISSED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2008), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF OKLAHOMA COUNTY
THE HONORABLE BILL GRAVES, DISTRICT JUDGE

APPEARANCES AT TRIAL

STACY SMITHLAUGHLIN
1330 N. CLASSEN BLVD.
OKLAHOMA CITY, OK 73102
COUNSEL FOR APPELLANT

MICHAEL FISHER
ASSISTANT DISTRICT ATTORNEY
OKLAHOMA COUNTY
DISTRICT ATTORNEY'S OFFICE
320 ROBERT S. KERR, SUITE 505
OKLAHOMA CITY, OK 73102
COUNSEL FOR THE STATE

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

APPEARANCES ON APPEAL

JUDITH L. JOHNSON
P.O. BOX 926
NORMAN, OK 73070
COUNSEL FOR APPELLANT

W.A. DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA
THOMAS LEE TUCKER
ASSISTANT ATTORNEY GENERAL
313 N.E. 21ST STREET
OKLAHOMA CITY, OK 73105
COUNSEL FOR THE STATE

RD