

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

WILLIE LEE FORD, SR.,

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Appellant,

vs.

STATE OF OKLAHOMA,

Appellee.

NOT FOR PUBLICATION

No. RE-2013-1177

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
JAN - 8 2015

MICHAEL S. RICHIE
CLERK

SUMMARY OPINION

SMITH, PRESIDING JUDGE:

On September 18, 2012, Appellant Ford, represented by counsel, entered a plea of guilty to a charge of Domestic Assault and Battery by Strangulation after former conviction of a felony in Washita County Case No. CF-2012-25. Ford was sentenced to twelve years, all suspended but the first 141 days, which were satisfied by credit for time served.

On October 28, 2013, the State filed an Application to Revoke Ford's suspended sentence alleging Ford violated the terms and conditions of his probation by committing the offense of Domestic Assault and Battery as alleged in Washita County Case No. CF-2013-353. At a hearing conducted December 10, 2013, the District Court of Washita County, the Honorable Christopher S. Kelly, Associate District Judge, revoked the remainder of Ford's suspended sentence, sentencing him to eleven years and 224 days with all but the first ten years suspended.

Ford does not challenge the revocation of his suspended sentence. He alleges in his first proposition of error that the sentence imposed by the District

Court, upon revoking Ford's suspended sentence, exceeds the original sentence assessed in this case by more than nine months. The original sentence imposed in this matter was twelve years, all suspended, except for the first 141 days, satisfied by credit for time served. Ford's sentence expires on September 17, 2024. The sentence imposed by Judge Kelly at the revocation proceeding extends Ford's original sentence, making its expiration date July 21, 2025. Ford alleges the sentence is void, citing to this Court's decision in *Glenn v. State*, 1986 OK CR 16, 714 P.2d 212.

The State confesses error, admitting that the sentence imposed exceeds the original sentence imposed in Washita County Case No. CF-2012-25. The State contends that the revocation of Ford's suspended sentence should be affirmed, but the matter remanded for entry of a proper sentencing order.

The revocation of Ford's suspended sentence is **AFFIRMED**. The sentence imposed at the revocation of Ford's suspended sentence is **VACATED**, and the matter is **REMANDED** to the District Court of Washita County, the Honorable Christopher S. Kelly, Associate District Judge, for entry of a proper sentencing order not exceeding the original sentence imposed in Washita County Case No. CF-2012-25.

Because the sentence in this matter has been vacated, requiring issuance of a new sentencing order, Ford's second proposition of error alleging that the sentencing order contains clerical errors is rendered **MOOT**.

DECISION

The order of the District Court of Washita County revoking Appellant's suspended sentence in Case No. CF-2012-25 is **AFFIRMED**. The sentencing portion of the order memorializing the revocation of Appellant's suspended sentence is **VACATED** and the matter is **REMANDED** to the District Court of Washita County, the Honorable Christopher S. Kelly, for entry of a proper sentencing order consistent with this opinion. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2015), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF WASHITA COUNTY
THE HONORABLE CHRISTOPHER S. KELLY, ASSOCIATE DISTRICT JUDGE

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OPINION BY: SMITH, P.J.:

LUMPKIN, V.P.J.: CONCUR
JOHNSON, J.: CONCUR
LEWIS, J.: CONCUR

RA/F