

**IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA**

FLOYD KEITH GRASS,)
)
 Appellant,)
)
 vs.)
)
 STATE OF OKLAHOMA,)
)
 Appellee.)

No. RE-99-295

ACCELERATED DOCKET ORDER

On August 23, 1996, Appellant, represented by counsel, entered guilty plea in Case No. CF-96-831 to the charge of Assault With a Dangerous Weapon in the District Court of Cleveland County. Appellant received a five (5) year deferred sentence. On February 26, 1997, the State moved to accelerate the deferred sentence, and on March 20, 1997, Appellant's judgment and sentence was accelerated. Appellant received a five (5) year suspended sentence. On June 26, 1998, the State filed an application to revoke Appellant's suspended sentence. After a hearing on September 1, 1999, Appellant's suspended sentence was revoked in full. From this Judgment and Sentence, Appellant appeals.

On appeal Appellant raised two propositions of error:

1. The trial court lost jurisdiction to act on the State's application to revoke because more than twenty (20) days passed between Appellant's arraignment and the date of the revocation hearing; and

2. Appellant was denied his statutory and constitutional right to due process when the State failed to give Appellant notice of the allegations against him until the day of the revocation hearing.

Pursuant to Rule 11.2(A)(2), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (1999) this appeal was automatically assigned to the Accelerated Docket of this Court. The propositions or issues were presented to this Court in oral argument February 17, 2000, pursuant to Rule 11.2(F). At the conclusion of oral argument, the parties were advised of the decision of this Court.

We find merit in Appellant's arguments presented to this Court.

IT IS THEREFORE THE ORDER OF THIS COURT, by a five (5) to zero (0) vote, that the order of the District Court of Cleveland County revoking Appellant's suspended sentence in Case No. CF-96-831, is **REVERSED** and **REMANDED** with instructions to dismiss.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 2nd day of March, 2000.



RETA M. STRUBHAR, Presiding Judge



GARY L. LUMPKIN, Vice Presiding Judge

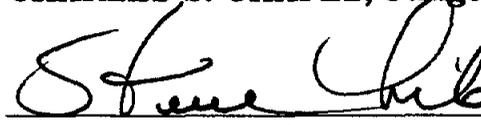
Since the reversal is based on a violation of the 20 day rule, the order should also set out it not a bar to file to comply with the rule.



CHARLES A. JOHNSON, Judge

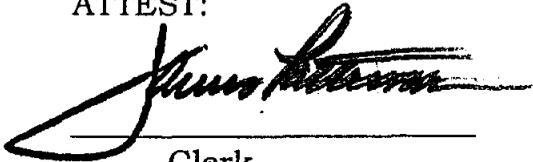
*Charles S. Chapel Special Counsel - The state can't
refile based upon
new allegations
violations.*

CHARLES S. CHAPEL, Judge



STEVE LILE, Judge

ATTEST:



Clerk