

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

STEVEN RANDEL HARGROVE, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 THE STATE OF OKLAHOMA, )  
 )  
 Appellee. )

NOT FOR PUBLICATION

Case No. F-2004-666

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

JUN 8 2005

MICHAEL S. RICHIE  
CLERK

**SUMMARY OPINION**

**C. JOHNSON, JUDGE:**

Appellant, Steven Randel Hargrove, was convicted by a jury in Comanche County District Court, Case No. CF-2003-399, of Failure to Register as a Sex Offender (57 O.S.2001, § 587). On June 3, 2004, the Honorable C. Allen McCall, District Judge, sentenced Appellant to five years imprisonment, in accordance with the jury's recommendation. Appellant then timely lodged this appeal.

Appellant raises the following propositions of error:

1. The evidence was insufficient to convict Appellant, in violation of the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article 2, §§ 7 and 20 of the Oklahoma Constitution.
2. Appellant received ineffective assistance of counsel in violation of the Sixth and Fourteenth Amendments to the United States Constitution, and Article 2, § 20 of the Oklahoma Constitution.
3. Appellant received an excessive sentence in violation of the Eighth and Fourteenth Amendments to the United States Constitution, and Article 2, § 9 of the Oklahoma Constitution.
4. The accumulation of errors deprived Appellant of a fair trial, in violation of the Fifth and Fourteenth Amendments to the United States Constitution, and Article 2, § 7 of the Oklahoma Constitution.

After thorough consideration of the propositions, and the entire record before us on appeal, including the original record, transcripts, and briefs of the parties, we find **AFFIRM** Appellant's conviction, but **MODIFY** the sentence imposed. As to Proposition 1, whether or not Appellant's failure to register as a sex offender was willful, was seriously called into question at trial. While a rational juror might have concluded that Appellant's failure to register was not willful, the evidence, taken as a whole and in a light most favorable to the State, could also support the opposite conclusion. *Jackson v. Virginia*, 443 U.S. 307, 318-19, 99 S.Ct. 2781, 2788-89, 61 L.Ed.2d 560 (1979); *Wyatt v. State*, 1988 OK CR 58, ¶ 10, 752 P.2d 1131, 1133-34. We decline to substitute our judgment for the jury's under these circumstances. Proposition 1 is denied. However, we agree that the details of Appellant's prior sex offenses (including the fact that the sentences were largely suspended) had no proper place in the trial, that defense counsel's failure to seek exclusion of this information from the jury constituted deficient performance, and that the jury's recommendation of the maximum sentence for the offense might well have been influenced by this information. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); *Stringfellow v. State*, 1987 OK CR 233, ¶ 5, 744 P.2d 1277, 1279-80); *Baker v. State*, 1967 OK CR 178, ¶ 9, 432 P.2d 935, 938. We therefore **MODIFY** Appellant's sentence to two years imprisonment. *Bean v. State*, 1964 OK CR 59, ¶¶ 7-12, 392 P.2d 753, 755-56. Our disposition of Proposition 2 renders the remaining claims moot.

### **DECISION**

The Judgment of the district court is **AFFIRMED**. The Sentence is **MODIFIED** to two years imprisonment. Pursuant to Rule 3.15, Rules of the Oklahoma Court of Criminal Appeals, Title 22, Ch.18, App. (2005), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF COMANCHE COUNTY  
THE HONORABLE C. ALLEN McCALL, DISTRICT JUDGE

**APPEARANCES AT TRIAL**

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**OPINION BY C. JOHNSON, J.**

CHAPEL, P.J.:	DISSENTS
LUMPKIN, V.P.J.:	CONCURS
A. JOHNSON, J.:	CONCURS

**APPEARANCES ON APPEAL**

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RB

**CHAPEL, PRESIDING JUDGE, DISSENTING:**

I would reverse as I find the evidence was insufficient to prove that Appellant intentionally failed to register as a sex offender.