

November 6, 2002). Costs of incarceration are authorized by Section 979a(A) of Title 22 and may be assessed only “upon conviction or receiving a deferred sentence”. We will not reconsider that decision here. The consequence of a judicial revocation proceeding is to execute a penalty previously imposed in the Judgment and Sentence. *Marutzky v. State*, 1973 OK CR 398, ¶ 5, 514 P.2d 430.

Appellant also argues that the District Court’s revocation of his suspended sentence in full was excessive under the facts and should be modified in the interests of justice. The decision to revoke a suspended sentence in whole or only in part lies within the discretion of the trial court whose decision will not be disturbed absent an abuse of discretion. *Jones v. State*, 1988 OK CR 20, ¶ 8, 749 P.2d 563. Finding no abuse of discretion, we decline to modify Judge Franklin’s decision to revoke Appellant’s suspended sentence in full.

DECISION

The revocation of Appellant’s suspended sentence in Garfield County District Court Case No. CF-2007-446 is **AFFIRMED** but the order directing the defendant pay \$626.55 jail costs entered at the revocation hearing is **VACATED**.

Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2010), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**REVOCATION APPEAL FROM THE DISTRICT COURT OF GARFIELD
COUNTY, THE HONORABLE RONALD G. FRANKLIN, DISTRICT JUDGE**

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OPINION BY: A. JOHNSON, V.P.J.

C. JOHNSON, P.J.: Concur
LUMPKIN, J.: Concur in Results
CHAPEL, J.: Concur
LEWIS, J.: Concur

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