

FILED  
 IN COURT OF CRIMINAL APPEALS  
 STATE OF OKLAHOMA  
 FEB - 1 2001  
 JAMES W. PATTERSON  
 CLERK

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

MICHAEL WAYNE HOBBS, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 STATE OF OKLAHOMA, )  
 )  
 Appellee. )

No. RE-1999-1556

**ACCELERATED DOCKET ORDER**

Appellant, represented by counsel, pled guilty to Injury to a Minor Child in Case No. CF-97-14D in the District Court of Creek County. Appellant was sentenced to three (3) years, all suspended. On August 11, 1998, the State filed an application to revoke Appellant's suspended sentence. On November 15, 1999, Appellant's suspended sentence was revoked in full. From this Judgment and Sentence, Appellant appeals.

On appeal Appellant raised three propositions of error:

1. The revocation court abused its discretion by revoking Mr. Hobbs' suspended sentence for failure to perform community service, which the original judge had ruled timely and satisfactorily completed;
2. The revocation of Mr. Hobbs' suspended sentence, based on his failure to pay costs, fines and fees must be vacated because his family's sole source of income was supplemental security income for his mental disability; and
3. The revocation of Mr. Hobbs' suspended sentence should be reversed because the trial court revoked Appellant's suspended sentence in its entirety based on a ground not stated in the application to revoke.

Pursuant to Rule 11.2(A)(2), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2000) this appeal was automatically assigned to the Accelerated Docket of this Court. The propositions or issues were presented to this Court in oral argument January 18, 2001, pursuant to Rule 11.2(F). At the conclusion of oral argument, the parties were advised of the decision of this Court.

The State confesses that it was error for the District Court to revoke Appellant's suspended sentence for failure to complete community service when file documentation indicates that Appellant satisfactorily completed his community service and was discharged from that obligation. As to Appellant's claim that the trial court abused its discretion in revoking his suspended sentence for failure to pay costs, fines and fees, we disagree. We do not find that the trial court abused its discretion in revoking Appellant's suspended sentence, based on the appeal record presented to this Court. *Harris v. State*, 1989 OK CR 10, ¶ 3, 772 P.2d 1329, 1331; *Crowels v. State*, 1984 OK CR 29, ¶ 6, 675 P.2d 451, 453; *Cooper v. State*, 1979 OK CR 85, ¶ 16, 599 P.2d 419, 422-23. We affirm the revocation of Appellant's suspended sentence. However, Appellant's sentence is modified to time served which includes satisfaction of all fines, fees and costs associated with Appellant's conviction.

**IT IS THEREFORE THE ORDER OF THIS COURT**, by a five (5) to zero (0) vote, that the order of the District Court of Creek County revoking Appellant's

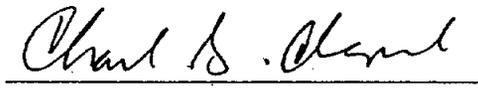
suspended sentence in Case No. CF-97-14D is **AFFIRMED**. However, Appellant's sentence is modified to time served which includes satisfaction of all fines, fees, and costs associated with Appellant's conviction.

**IT IS SO ORDERED.**

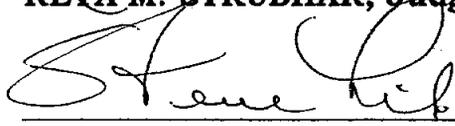
**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 1<sup>st</sup> day of February, 2001.

  
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**GARY L. LUMPKIN, Presiding Judge**

  
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**CHARLES A. JOHNSON, Vice Presiding Judge**

  
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**CHARLES S. CHAPEL, Judge**

  
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**RETA M. STRUBHAR, Judge**

  
\_\_\_\_\_  
**STEVE LILE, Judge**

ATTEST:

  
Clerk