

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

SEAN EDDIE HOWLAND,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

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No. RE 2014-0706

FILED
IN COURT OF CRIMINAL APPEALS,
STATE OF OKLAHOMA
MAY 12 2015

SUMMARY OPINION

MICHAEL S. RICHIE
CLERK

HUDSON, JUDGE:

Appellant, Sean Eddie Howland, pled guilty on July 17, 2009, to Count 1 – Possession of Stolen Vehicle and Count 2 – Obstructing Officer in Rogers County District Court Case No. CF-2008-558. He was given three years suspended except for six months and a \$300 fine on Count 1, and sixty days in the Rogers County Jail and a \$100.00 fine on Count 2. Counts 1 and 2 were ordered to run concurrent with credit for time served and with rules and conditions of probation.

The State filed an application to revoke Appellant’s suspended sentence on March 10, 2010, alleging Appellant failed to contact his DOC probation officer after being released from prison in New Mexico on February 10, 2010. On March 7, 2011, Appellant confessed the State’s application to revoke. The Honorable Terrell S. Crosson, Special Judge, gave Appellant ninety days to be in compliance with the rules and conditions of probation. Appellant failed to appear at the ninety-day review hearing. Following a revocation hearing on August 4, 2014, Judge Crosson revoked the balance of 2-1/2 years on Count 1.

Appellant appeals, raising the following issues:

1. Appellant was denied the effective assistance of counsel to which he was entitled in the revocation proceedings in violation of the 6th and 14th Amendments to the United States Constitution, art. II, §§ 7 and 20, of the Oklahoma Constitution, and 22 O.S. § 991b.
2. Unwarranted delay in the revocation proceedings combined with the failure to honor the terms of a previously imposed lawful sentencing order denied Appellant due process to his prejudice in violation of the 14th Amendment to the United States Constitution and art. II, § 7, of the Oklahoma Constitution.

In the State's Brief filed in this Court on April 7, 2015, the State answers that the unwarranted delay in prosecuting the application to revoke denied Appellant due process of law, that the prosecution in this case failed to exercise due diligence in prosecuting the application to revoke in a timely manner thereby precluding Appellant's sentences from being served concurrently as was ordered by the Tulsa County Court in Case No. CF-2012-3349. *See Cheadle v. State*, 1988 OK CR 226, ¶ 4, 762 P.2d 995. After reviewing the record on appeal, we agree.¹

DECISION

The revocation of Appellant's suspended sentence in Rogers County District Court Case No. CF-2008-558 is **REVERSED** and **REMANDED** to the District Court with instructions to **DISMISS**. 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 filing of this decision.

¹ Because Appellant's second proposition of error requires relief, the first proposition of error will not be addressed.

**REVOCATION APPEAL FROM THE DISTRICT COURT OF ROGERS
COUNTY, THE HONORABLE TERRELL S. CROSSON, SPECIAL JUDGE**

APPEARANCES AT TRIAL

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OPINION BY: HUDSON, J.

SMITH, P.J.: CONCUR
LUMPKIN, V.P.J.: CONCUR IN RESULTS
JOHNSON, J.: CONCUR
LEWIS, J.: CONCUR

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