

FILED  
IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA

FEB - 8 2001

JAMES W. PATTERSON  
CLERK

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

CHARLIE HULSEY,

Appellant,

-vs-

STATE OF OKLAHOMA,

Appellee.

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) No. RE-2000-841  
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**ACCELERATED DOCKET ORDER**

The State of Oklahoma, Appellee, has filed a Motion to Confess Error in this appeal from the revocation of Appellant's suspended sentences in Case Nos. CF-96-199 and CF-96-230 in the District Court of Garfield County. In Case No. CF-96-199, Appellant pled guilty to the offense of Assault and Battery With a Dangerous Weapon, After Former Conviction of a Felony. He was sentenced to a term of ten (10) years with all except the first six (6) years suspended, to be served concurrently with Case No. CF-96-230. In Case No. CF-96-230, Appellant entered an Alford plea to Count I - Unauthorized Use of a Motor Vehicle, After Former Conviction of a Felony, and Count II - Assault and Battery. He was sentenced on Count I to a term of ten (10) years with all except the first six (6) years suspended, to be served concurrently with Count II and with Case No. CF-96-199. He was sentenced on Count II to a term of

ninety (90) days in the County Jail, to be served concurrently with Count I and with Case No. CF-96-199.

The State filed applications to revoke the suspended portions of Appellant's sentences. On May 18, 2000, the District Court found Appellant had committed violations of probation, revoked his four (4) year suspended sentences in Case Nos. CF-96-199 and CF-96-230, and ordered that the revoked sentences would run consecutively to each other. (CF-96-199 O.R.49-50; CF-99-230 O.R.37-38).

Appellant filed this appeal from the order of the District Court revoking his suspended sentences in Case Nos. CF-96-199 and CF-96-230. Appellant asserts one proposition of error claiming the trial court erred in ordering the revoked sentences to run consecutively, when the original plea agreement stipulated that the terms ran concurrently. In its motion to confess error, the State requests this Court find in Appellant's favor as to his proposition of error. In a revocation hearing, the trial court is only making a determination of whether the terms of the suspended sentence have been violated, and whether a penalty previously imposed in the judgment and sentence should be executed. *Marutzky v. State*, 1973 OK CR 398, ¶5, 514 P.2d 430, 431; *Carlile v. State*, No. RE-99-460 (Okl.Cr. January 18, 2000) (not for publication).

**IT IS THEREFORE THE ORDER OF THIS COURT** that the order of the District Court of Garfield County directing that Appellant's revoked four (4) year suspended sentences in Case No. CF-96-199 and CF-96-230 should run

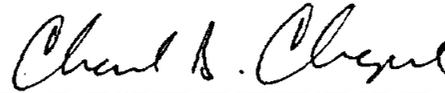
consecutively should be, and is hereby, **REVERSED** and **REMANDED** to the District Court with instructions to run the revoked suspended sentences concurrently.

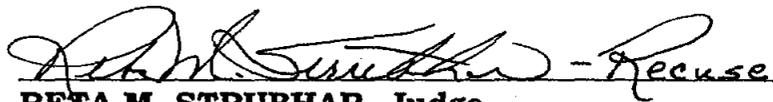
**IT IS SO ORDERED.**

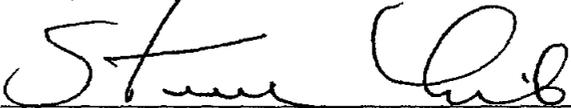
**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 8<sup>th</sup> day of February, 2001.

  
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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**

  
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**STEVE LILE, Judge**

ATTEST:

  
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Clerk