

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

**THE STATE OF OKLAHOMA,**

**Appellant,**

**-vs-**

**J. F.,**

**Appellee.**

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**NOT FOR PUBLICATION**

**No. J-2011-514**

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

**OCT 12 2011**

**SUMMARY OPINION**

**A. JOHNSON, PRESIDING JUDGE:**

**MICHAEL S. RICHIE**  
**CLERK**

The State of Oklahoma, Appellant, appeals to this Court from an order, entered by the Honorable Steven L. Stice, Special Judge, granting the motion of the defendant J.F., Appellee herein, for certification as a juvenile in Case No. CF-2011-322 in the District Court of Cleveland County. On March 7, 2011, Appellee was charged as a youthful offender with the crime of Lewd Acts With Child Under Sixteen. The crime allegedly occurred on or about the 28<sup>th</sup> day of January, 2011, when Appellee (d.o.b. 11/17/95) was 15 years and 2 months old. On April 11, 2011, Appellee filed a motion for certification as a juvenile. On May 13, 2011 and June 1, 2011, Judge Stice conducted the preliminary examination and the hearing on the motion for certification as a juvenile. The State presented evidence during the preliminary examination, but presented no other evidence on Appellee's motion for certification as a juvenile. In support of the motion to certify as a juvenile, Appellee presented the testimony of a Juvenile Justice Specialist with OJA, and also admitted three exhibits, a Youthful Offender Study;

an Addendum to the Youthful Offender Study; and a Psychological Reevaluation. After considering the evidence and arguments, Judge Stice granted the motion for certification as a juvenile, and the State appeals.

In its single proposition of error, the State contends “the trial court abused its discretion in certifying Appellee as a juvenile because Appellee failed to meet his burden and show by a preponderance of the evidence that he should be certified as a juvenile.”

This appeal was automatically assigned to the Accelerated Docket of this Court pursuant to Rule 11.2(A)(1) of the *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2011). Oral argument to this Court on the proposition or issue was scheduled at 10:00 am on Thursday, September 15, 2011, pursuant to Rule 11.2(E). After the State failed to appear at oral argument, the Court announced the appeal would be decided on the briefs and record presented.

The State is authorized to appeal the order granting Appellee’s motion for certification to the juvenile system, pursuant to 10A O.S.Supp.2010, § 2-5-206(F)(5). The law is well established that a trial court’s decision granting or denying a defendant’s motion for certification to the juvenile system is reviewed for abuse of discretion. *See K. C. H. v. State*, 1984 OK CR 4, ¶8, 674 P.2d 551, 552. Based upon the evidence presented in this case, and the prosecution of this appeal, we do not find an abuse of discretion.

**DECISION**

The order of the District Court of Cleveland County granting Appellee's motion for certification as a juvenile in Case No. CF-2011-322 is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2011), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF CLEVELAND COUNTY  
THE HONORABLE STEVEN L. STICE, SPECIAL JUDGE

**APPEARANCES AT TRIAL**

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**OPINION BY:** A. JOHNSON, P.J.  
LUMPKIN, J.: Concur  
C. JOHNSON, J.: Concur  
SMITH, J.: Concur

RA/F

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