

Corley on October 24, 2013. After hearing the evidence and arguments, Judge Corley stated that he was revoking the balance of Appellant's suspended sentence. On October 31, 2013, the District Court filed a Judgment and Sentence After Revocation, which stated that the Court now revokes the remaining balance of Appellant's suspended sentence. On November 7, 2013, the District Court filed a 1st Amended Judgment and Sentence After Revocation, which stated that the "Court now revokes 4 years and 335 days" of Appellant's suspended sentence; and also stated that "upon release from DOC, Defendant is to be supervised for 1 year."

Appellant filed this appeal from Judge Corley's revocation order asserting the following propositions of error:

- I. THE WRITTEN FIRST AMENDED JUDGMENT AND SENTENCE AFTER REVOCATION REVOKED MORE TIME THAN THE REMAINING BALANCE OF MR. JAY'S SUSPENDED SENTENCE AND MUST BE REMANDED TO MODIFY THE LENGTH OF TIME REVOKED TO COMPORT TO THE COURT'S ORAL ORDERS.
- II. THE TRIAL COURT LACKED AUTHORITY TO IMPOSE POST-IMPRISONMENT SUPERVISION UPON REVOCATION OF MR. JAY'S AUGUST 26, 2011, CONVICTION AND SENTENCE.

ANALYSIS

In his first proposition, Appellant argues, and the State agrees, that when Judge Corley issued the 1st Amended Judgment and Sentence After Revocation, he only gave Appellant credit for 30 days of time served on the suspended sentence. Both parties agree that Appellant should have been credited for serving 183 days, from February 25, 2011, to August 26, 2011, as

part of the Delayed Sentencing Program for Youthful Offenders. Therefore, the 1st Amended Judgment and Sentence After Revocation must be reversed and remanded to the District Court to correct the amount of time revoked from “4 years & 335 days” to ‘4 years and 182 days.’

In proposition two, Appellant argues, and the State also agrees, that the 1st Amended Judgment and Sentence After Revocation must also be corrected by deleting the provision stating that “upon release from DOC, Defendant is to be supervised for 1 year.” The District Court was trying to impose post-imprisonment supervision on Appellant, pursuant to 22 O.S.Supp.2012, § 991a-21(A). However, Section 991a-21(A) specifically states that it shall apply to “persons convicted and sentenced on or after November 1, 2012.” *Id.* Appellant was convicted and sentenced on August 26, 2011, prior to enactment of Section 991a-21. Therefore, the 1st Amended Judgment and Sentence After Revocation must be reversed and remanded to the District Court to delete the provision stating that “upon release from DOC, Defendant is to be supervised for 1 year.”

DECISION

The 1st Amended Judgment and Sentence After Revocation, entered by the District Court of Payne County in revoking Appellant’s suspended sentence in Case No. CF-2010-517 is **REVERSED** and **REMANDED** to the District Court (1) to correct the amount of time revoked from “4 years & 335 days” to ‘4 years and 182 days’; and (2) to delete the provision stating that “upon release from DOC, Defendant is to be supervised for 1 year.” Pursuant to Rule 3.15, *Rules*

of the Oklahoma Court of Criminal Appeals, Title 22, Ch.18, App. (2014), the

MANDATE is ORDERED issued upon the filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF PAYNE COUNTY
THE HONORABLE PHILLIP CORLEY, DISTRICT JUDGE

APPEARANCES IN DISTRICT COURT

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OPINION BY: LEWIS, J.
SMITH, P.J.: Concur
LUMPKIN, J.: Concur
JOHNSON, J.: Concur

RC /F

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