

APR 27 2005

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE  
CLERK

SARAH MAE JONES, )  
 )  
 Appellant, )  
 )  
 v. ) No. RE-2004-584  
 )  
 THE STATE OF OKLAHOMA, )  
 )  
 Appellee. )

1 OPINION  
AFFIRMING OF SUSPENDED SENTENCE  
BUT MODIFYING SENTENCE REVOKED

On October 18, 2001, Appellant entered a plea of guilty in Stephens County District Court Case No. CF-2001-298 to Possession of a Controlled Dangerous Substance (Cocaine). The Honorable George W. Lindley, District Judge, sentenced Appellant to three (3) years incarceration, all suspended.

On September 18, 2002, the State filed an Application to Revoke Appellant's suspended sentence alleging Appellant had violated the terms and conditions of her probation. A revocation hearing on the State's application was held on February 20, 2003. At the conclusion of that hearing, Judge Lindley ordered sixty (60) days of Appellant's suspended sentence be revoked. Appellant did not appeal Judge Lindley's order.

On March 9, 2004, the State filed a second Application to Revoke Appellant's suspended sentence alleging Appellant had committed various violations of her probation.<sup>1</sup> A revocation hearing was held on May 13, 2004, again before Judge Lindley. At the conclusion of the hearing, Judge Lindley revoked Appellant's suspended sentence in full.

Appellant raises two propositions of error on appeal. First, Appellant

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<sup>1</sup> The application alleged Appellant had not reported in person as directed by her probation officer, had changed her address without notifying her probation officer, had not maintained gainful employment or provided written verification thereof, had possessed and consumed illegal drugs, had communicated with persons having a criminal record, had not promptly and truthfully answered all inquiries from law enforcement personnel, had failed to attend AA/NA

argues there was insufficient evidence to support the revocation of her sentence. After a review of the record, we FIND, even assuming Appellant's argument is correct regarding the lack of a state witness with direct, personal contact with Appellant, Appellant's own admissions of her rule violations supported the trial court's order of revocation.

It is well settled that a violation of a suspended sentence need only be proven by a preponderance of the evidence. *Robinson v. State*, 1991 OK CR 44, ¶ 3, 809 P.2d 1320, 1322. Further, a District Court's decision to revoke a suspended sentence is reviewable under the abuse of discretion standard. *Crowels v. State*, 1984 OK CR 29, ¶ 6, 675 P.2d 451, 453. After a review of the evidence presented to the District Court, and admissions by Appellant at the revocation hearing, we find no abuse of discretion in the court's decision to revoke Appellant's suspended sentence.

In her second proposition of error, Appellant asserts the revocation of her suspended sentence in full, without credit for time already served, is excessive. The State confesses error on this proposition. After a review of the record, we agree that the order of revocation in CF-2001-298 should be modified to reflect a revocation of two years and ten months, i.e., the remaining portion of Appellant's suspended sentence.

IT IS THEREFORE THE ORDER OF **THIS** COURT that the order of the Stephens County District Court revoking Appellant's suspended sentence in Case No. CF-2001-298 is **AFFIRMED**, but the order of revocation is hereby

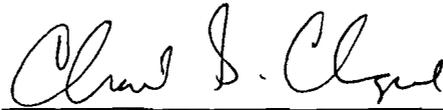
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meetings and provide verification of attendance, and had failed to pay her supervision fees.

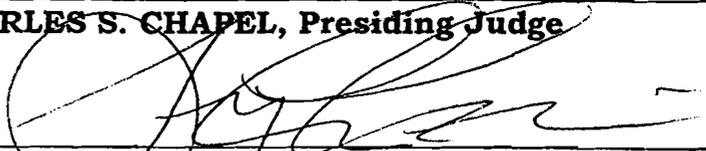
**MODIFIED** to two years and ten months.

**IT IS SO ORDERED.**

**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 37<sup>th</sup> day  
of April, 2005.



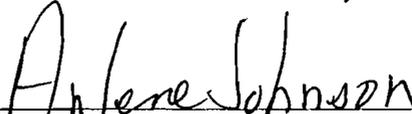
**CHARLES S. CHAPEL, Presiding Judge**



**GARY L. LUMPKIN, Vice Presiding Judge**



**CHARLES A. JOHNSON, Judge**



**ARLENE JOHNSON, Judge**

**ATTEST:**



Clerk