

FEB 17 2004

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE
CLERK

WALTER LACURTIS JONES,)
)
 Appellant,)
)
 v.)
)
 THE STATE OF OKLAHOMA,)
)
 Appellee.)

NOT FOR PUBLICATION

Case No. F 2003-193

SUMMARY OPINION

LILE, VICE PRESIDING JUDGE:

Appellant, Walter Lacurtis Jones, was convicted after a bench trial of Domestic Abuse, second and subsequent offense, in violation of 21 O.S.2001, § 644(C), in Stephens County Case No. CF-2002-258, before the Honorable George W. Lindley, District Judge. Judge Lindley sentenced Appellant to two years imprisonment and a fifteen hundred dollar fine. Appellant has perfected his appeal to this Court.

Jones raises the following propositions of error in support of his appeal:

1. The evidence is insufficient to support a conviction for domestic abuse.
2. The sentence of two years' imprisonment exceeded the statutory limitation of one year and is therefore excessive and unauthorized by law.

After thorough consideration of Appellant's propositions of error and the entire record before us on appeal, including the original record, transcripts, and briefs, we have determined that the judgment of the trial court shall be affirmed, but the sentence shall be modified.

In reaching our decision, we find, in proposition one, that the evidence presented at trial was sufficient to show that Appellant was guilty of domestic abuse. *Spuehler v. State*, 1985 OK CR 132, 709 P.2d 202. In proposition two, we find that the sentence in this case exceeds the range of punishment provided for in 21 O.S.2001, § 644(C); therefore, the sentence should be modified.

The judgment of the district court shall be **AFFIRMED**. The sentence shall be **MODIFIED** to imprisonment in the county jail for one year and a fine of fifteen hundred dollars (\$1,500.00).

APPEARANCES AT TRIAL

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OPINION BY: LILE, V.P.J.

JOHNSON, P.J.: CONCURS
LUMPKIN, J.: CONCURS IN RESULTS
CHAPEL, J.: CONCURS
STRUBHAR, J.: CONCURS

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