



IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

YORICO RAYSHAWN JONES,) NOT FOR PUBLICATION
Petitioner,)
v.) Case No. C-2016-718
THE STATE OF OKLAHOMA,)
Respondent.)

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
JUN -1 2017

SUMMARY OPINION
GRANTING IN PART, AND DENYING IN PART,
PETITION FOR WRIT OF CERTIORARI

MICHAEL S. RICHIE
CLERK

LEWIS, VICE-PRESIDING JUDGE:

Petitioner, Yorico Rayshawn Jones, entered blind pleas of guilty in the District Court of Tulsa County, to the following charges:

- Case No. CF-2015-6247:
Count 1, robbery with a dangerous weapon;1
Count 2, kidnapping;2
Case No. CF-2015-6608:
Counts 1 and 9, robbery with a dangerous weapon;
Counts 2 and 10, first degree burglary;3
Count 3, assault and battery with a dangerous weapon;4
Counts 4-7, 11-12, kidnapping;
Counts 8, 13, larceny of a motor vehicle;5
Count 14, knowingly concealing stolen property;6
Count 16, obstructing an officer;7
Case No. CF-2015-6815:
Count 1, robbery with a dangerous weapon;
Count 2, kidnapping.

1 21 O.S.2011, § 801.
2 21 O.S.Supp.2012, § 741.
3 21 O.S.2011, § 1435.
4 21 O.S.2011, § 645.
5 21 O.S.2011, § 1720.
6 21 O.S.2011, § 1713.
7 21 O.S.2011, § 540.

The Honorable William J. Musseman, District Judge, accepted Petitioner's plea and sentenced him as follows:

- Case No. CF-2015-6247:
 - Count 1, 26 years imprisonment, with 3 years suspended;
 - Count 2, 20 years imprisonment;
- Case No. CF-2015-6608:
 - Counts 1 and 9, 36 years, with 3 years suspended;
 - Counts 2 and 10, 20 years imprisonment;
 - Count 3, 10 years imprisonment
 - Counts 4-7, 11-12, 20 years imprisonment;
 - Counts 8, 13, 20 years imprisonment;
 - Count 14, 5 years imprisonment;
 - Count 15, 5 years imprisonment;
 - Count 16, 1 year in jail;
- Case No. CF-2015-6815:
 - Count 1, 26 years imprisonment;
 - Count 2, 20 years imprisonment.

The Court ordered all sentences served concurrently.⁸ Petitioner filed a motion to withdraw his pleas, which the trial court denied after evidentiary hearing. He now seeks the writ of certiorari in the following propositions of error:

1. The trial court erred when it sentenced Petitioner for a crime for which he was not charged;
2. Petitioner is entitled to withdraw his pleas because the pleas were not knowingly and voluntarily entered.

In Proposition One, Petitioner alleges, for the first time on appeal, that the judgment and sentence entered against him in Count 15 of Case No. CF-2015-6608, punishes him for a crime for which he was not charged. The record confirms that Count 15 charged a co-defendant with knowingly concealing stolen property, and

⁸ Petitioner must serve 85% of his sentences for robbery with a dangerous weapon and first degree burglary before being eligible for consideration for parole. 21 O.S.Supp.2014, § 13.1(8), (12).

did not name Petitioner as a defendant. The trial court seems to have inadvertently entered judgment against Petitioner on this count for understandable reasons. Because Count 15 of the Information confers insufficient jurisdiction to sustain the judgment and sentence of the court, it is void, and will be vacated. 21 O.S.2011, § 8; *Buis v. State*, 1990 OK CR 28, 792 P.2d 427 (quoting *Albrecht v. United States*, 273 U.S. 1, 47 S.Ct. 250, 252-53, 71 L.Ed. 505 (1927)(a person may not be criminally punished without a formal and sufficient accusation, even after submitting personally to the jurisdiction of the court)). No further relief is required.

In Proposition Two, Petitioner argues that his pleas were not knowing and voluntary. A valid plea “represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” *North Carolina v. Alford*, 400 U.S. 25, 31, 91 S.Ct. 160, 164, 27 L.Ed.2d 162 (1970)). We ordinarily review a ruling on a motion to withdraw of a plea for an abuse of discretion, *Carpenter v. State*, 1996 OK CR 56, ¶ 40, 929 P.2d 988, 998; unless it involves a question of statutory or constitutional interpretation, which we review *de novo*. *Weeks*, 2015 OK CR 16, ¶ 16, 362 P.3d at 654. Petitioner admitted he was seeking to withdraw the plea solely because of his dissatisfaction with the sentence(s) imposed by the trial court. This is not a legal reason for withdrawal of a guilty plea. *Lozoya v. State*, 1996 OK CR 55, ¶ 44, 932 P.2d 22, 34. Proposition Two is therefore denied.

DECISION

The petition for the writ of certiorari is **GRANTED IN PART**, and **DENIED IN PART**. The Judgment and Sentence in Count 15 of Case No. CF-2015-6608 is **VACATED**. The Judgments and Sentences are otherwise **AFFIRMED**. Pursuant to Rule 3.15, Rules of the Oklahoma Court of Criminal Appeals, Title 22, Ch.18, App. (2017), the **MANDATE** is **ORDERED** issued upon delivery and filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY
HONORABLE WILLIAM J. MUSSEMAN, DISTRICT JUDGE**

APPEARANCES AT TRIAL

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NO RESPONSE NECESSARY

OPINION BY LEWIS, V.P.J.
LUMPKIN, P.J.: Concurs
JOHNSON, J.: Not Participating
SMITH, J.: Concurs
HUDSON, J: Concurs