

FILED
 IN COURT OF CRIMINAL APPEALS
 STATE OF OKLAHOMA

 NOV 21 2001
 JAMES W. PATTERSON
 CLERK

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

JAMES LINDEN KEELIN,)
)
 Appellant,)
)
 v.)
)
 THE STATE OF OKLAHOMA,)
)
 Appellee.)

No. M-2000-1482

ACCELERATED DOCKET ORDER

Appellant was convicted by jury of Unlawful Transportation of an Opened Container of Alcoholic Beverage in Beckham County District Court, Case No. CF-2000-36, before the Honorable Charles L. Goodwin, District Judge. Following the jury's recommendation, Appellant was sentenced to six (6) months in the county jail, and assessed court costs, fees and assessments of \$1,010.85.

Pursuant to Rule 11.2(A)(1), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2000), this appeal was automatically assigned to the Accelerated Docket of this Court. The propositions of error were presented in oral argument November 8, 2001, pursuant to Rule 11.2(F). At the conclusion of oral argument, the parties were advised of the decision of this Court.

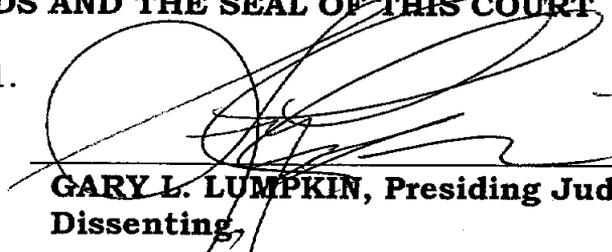
In Appellant's first proposition of error, he contends the evidence presented at trial was insufficient to support his conviction for unlawful transportation of an opened container of alcoholic beverage. We agree and **FIND** this case must be **REVERSED** and **REMANDED** with instructions to **DISMISS**. A review of the record reveals insufficient evidence was presented at trial to satisfy the required elements of "upon a public highway, street or alley". In other

words, there is no record evidence Appellant had transported an *opened*, alcoholic beverage while upon a public highway, street or alley. See *State v. Haws*, 1994 OK CR 11, 889 P.2d 1290, 1291.

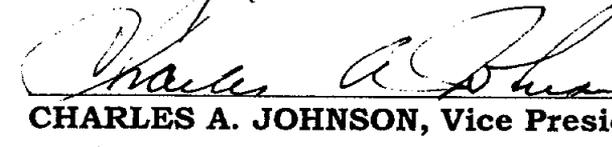
IT IS THEREFORE THE ORDER OF THIS COURT, by a vote of 4 - 1, that the Judgment and Sentence in Beckham County District Court Case No. CF-2000-36 is **REVERSED** and **REMANDED** with instructions to **DISMISS**.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT, this 21st day of November, 2001.



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



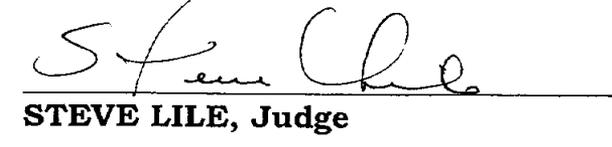
CHARLES A. JOHNSON, Vice Presiding Judge



CHARLES S. CHAPEL, Judge



RETA M. STRUBHAR, Judge



STEVE LILE, Judge

ATTEST:



Clerk