

revoke was not filed until April 2010; thus, the District Court had no jurisdiction to hear the issue let alone revoke sentences that had already been completely served and had expired. We agree. A trial court has the judicial power and authority to hear and determine the issue of revocation only if an application to revoke the suspended sentence is filed before the expiration of the sentence. See *Bewley v. State*, 1987 OK CR 160, ¶ 4, 742 P.2d 29, 31. The application to revoke in this case was filed one year after the expiration of Appellant's suspended sentence on Counts 1 and 3 and the trial court was without jurisdiction to revoke Appellant's completed sentences on these counts.

In Appellant's final proposition of error he argues the revocation of Appellant's entire sentence was excessive and should be modified. The decision to revoke a suspended sentence in whole or in part is within the sound discretion of the trial court and such decision will not be disturbed absent an abuse thereof. *Jones v. State*, 1988 OK CR 20, ¶ 8, 749 P.2d 563, 565. "An 'abuse of discretion' has been defined by this Court as a 'clearly erroneous conclusion and judgment, one that is clearly against the logic and effect of the facts presented in support of and against the application'." *Walker v. State*, 1989 OK CR 65, ¶5, 780 P.2d 1181. Appellant has not shown an abuse of discretion.

DECISION

The revocation of Appellant's suspended sentences in Tulsa County District Court Case No. CF-2002-2120 on Counts 4 and 6 is **AFFIRMED**. The revocation on Counts 1 and 3 is **REVERSED** and **REMANDED** with instructions to **DISMISS**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal*

Appeals, Title 22, Ch.18, App. (2011), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

REVOCATION APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY, THE HONORABLE TOM C. GILLERT, DISTRICT JUDGE

APPEARANCES AT TRIAL

CHRIS GAULT
Public Defender's Office
423 South Boulder, Suite 300
Tulsa, Oklahoma 74103
COUNSEL FOR APPELLANT

ERIK GRAYLESS
District Attorney's Office
Tulsa County Courthouse
500 South Denver
Tulsa, Oklahoma 74103
COUNSEL FOR THE STATE

APPEARANCES ON APPEAL

CURTIS M. ALLEN
Assistant Public Defender
Tulsa County Public Defender's Office
423 S. Boulder Ave., Suite 300
Tulsa, Oklahoma 74103
COUNSEL FOR APPELLANT

E. SCOTT PRUITT
Attorney General of Oklahoma
THEODORE M. PEEPER
Assistant Attorney General
313 N.W. 21st Street
Oklahoma City, Oklahoma 73105
COUNSEL FOR THE STATE

OPINION BY: LEWIS, V.P.J.

A. JOHNSON, P.J.: Concur
LUMPKIN, J.: Concur
C. JOHNSON, J.: Concur
SMITH, J.: Concur

RA