

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

JUL 12 2018

**IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA**

M. T. G.,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

) **NOT FOR PUBLICATION**
) **APPROVED FOR RELEASE**
) **TO THE PUBLIC**

) **No. J-2018-402**

SUMMARY OPINION

LUMPKIN, PRESIDING JUDGE:

The Appellant, M. T. G., appeals from an order entered by the Honorable Walter Hamilton, Special Judge, granting the State's motion to sentence juvenile as an adult in Case No. JDL-2017-24 in the District Court of McCurtain County.

On December 15, 2017, the State filed a Delinquent Petition charging Appellant as a delinquent child within the purview of the Oklahoma Juvenile Code with one count of Trafficking in Illegal Drugs. The State also filed a Verified Affidavit for Jurisdiction in the Juvenile Division of the McCurtain County District Court. The crime allegedly occurred on October 6, 2017, when Appellant was

17 years, 9 months old.

Also on December 15, 2017, the State filed a Motion to Certify Juvenile as an Adult, pursuant to 10A O.S.2011, § 2-2-403. On March 15, and March 29, 2018, the prosecutive merit hearing was held before Judge Hamilton. On April 9, 2018, Judge Hamilton granted the State's motion to sentence Appellant as an adult.

This Court will only discuss Appellant's first proposition of error in this appeal because the State has confessed error on that proposition. Appellant contends that the trial court did not have jurisdiction to consider the State's motion to certify Appellant as an adult, because Appellant should have been charged as a youthful offender, and not as a juvenile.

"Any person sixteen (16) or seventeen (17) years of age who is charged with . . . [t]rafficking in or manufacturing illegal drugs . . . shall be held accountable for such acts as a youthful offender." 10A O.S.2011, § 2-5-206(B)(5). Appellant was seventeen years and nine months old when he was caught with trafficking amounts of methamphetamine. The State filed a Delinquent Petition charging Appellant as a delinquent child within the purview of the Oklahoma Juvenile Code and under the jurisdiction of the Juvenile Division of

the McCurtain County District Court. Appellant should have been charged in this case as a youthful offender, and not as a juvenile.

Id.

DECISION

The order of the District Court of McCurtain County granting the State's motion to sentence juvenile as an adult in Case No. JDL-2017-24 should be, and is hereby, **REVERSED** and the case is **REMANDED** to the District Court. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2018), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

The oral argument in this Accelerated Docket matter, scheduled for 11:00 A.M. on Thursday, July 12, 2018, in the courtroom of this Court should be, and is hereby, **STRICKEN**.

AN APPEAL FROM THE DISTRICT COURT OF MCCURTAIN
COUNTY

THE HONORABLE WALTER HAMILTON, SPECIAL JUDGE

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OPINION BY: LUMPKIN, P.J.
LEWIS, V.P.J.: Concur
HUDSON, J.: Concur
KUEHN, J.: Concur
ROWLAND, J.: Concur

RC/F

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