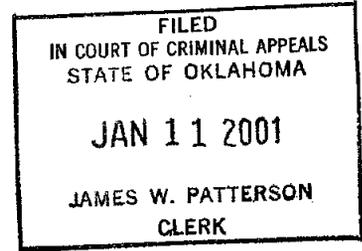


IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

M.G.,)
)
Appellant,)
)
v.)
)
THE STATE OF OKLAHOMA,)
)
Appellee.)

NOT FOR PUBLICATION

Case No. J 2000-690



SUMMARY OPINION

LILE, JUDGE:

Appellant, M. G., was adjudicated delinquent after a jury trial in Grady County District Court, Case No. JF-2000-55, before the Honorable Richard G. Van Dyck, District Judge. It was found that Appellant had committed acts which would constitute the misdemeanor crime of disturbing a meeting and assault and battery. Judge Van Dyck continued the case so that a disposition order could be entered at a later date. The order had not been entered at the time of the appeal. From the finding of delinquency, M.G. has perfected this appeal.

Appellant raises the following propositions of error in support of the appeal:

1. Because Appellant's mother was not served with the Petition, the trial court did not have jurisdiction to try Appellant, therefore, the order finding appellant to be delinquent should be vacated.

2. To expand the scope of the statute which prohibits disturbing a "meeting" to include disturbing school classes would be to make the statute unconstitutionally vague and overbroad, therefore, Appellant's adjudication as a juvenile should be vacated.
3. The evidence was insufficient to support a conviction for assault and battery, because the State did not prove that Appellant attempted to do a corporal hurt to another.
4. Oklahoma's statutory procedure for adjudicating a juvenile as a delinquent is unconstitutional and violates due process.
5. There was insufficient evidence to support the conviction for disturbing the peace.

It must be noted that Appellee, The State of Oklahoma, did not file a response to the propositions of error raised in Appellant's brief. Furthermore, the Appellee did not respond to the order giving it the opportunity to show cause why this appeal should not be submitted for decision without the filing of a response brief. Therefore, this case was submitted for decision without a response from Appellee having been filed pursuant to Rule 7.5(D), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (1999).

After thorough consideration of the entire record before us on appeal including the original record, transcripts, Appellant's brief and exhibits of the parties, we have determined that the trial court's adjudication of delinquency shall be reversed.

In reaching our conclusion, we find that the error raised in proposition one requires this case to be reversed and remanded to the trial court for a new hearing and determination after proper notice is issued and served on those

parties entitled by statute to be served. *G.J.I. v. State*, 1989 OK CR 45, ¶ 10, 778 P.2d 485, 488. Our holding in *G.J.I.* is applicable to the current statutes providing for the determination of the delinquency of a juvenile, particularly those statutes dealing with service, 10 O.S.Supp.1999, §§ 7303-1.6, 7303-2.1. These current statutes are not substantially different from the ones construed in *G.J.I.* Due process and Oklahoma Statutes require that a custodial parent, legal guardian or court designee be served with the summons and petition. We hold that the proceedings had in this matter are void for lack of service or a judicial finding service was not necessary. This finding renders the remaining propositions raised by Appellant moot; therefore, we will not discuss them.

DECISION

The adjudication of delinquency entered by the trial court in this case is **REVERSED** and **REMANDED** to the trial court with instructions to hold a new hearing and determination after proper notice is issued and served on those parties entitled by statute to be served.

ATTORNEYS AT TRIAL

JEFF COE
SUITE 710
2200 CLASSEN BLVD.
OKLAHOMA, OK 73106
ATTORNEY FOR DEFENDANT

ROBERT BEAL
ASSISTANT DISTRICT ATTORNEY
GRADY COUNTY COURTHOUSE
CHICKASHA, OK 73018
ATTORNEY FOR STATE

ATTORNEYS ON APPEAL

THOMAS PURCELL
APPELLATE DEFENSE COUNSEL
INDIGENT DEFENSE SYSTEM
1623 CROSS CENTER DRIVE
NORMAN, OK 73109
ATTORNEY FOR APPELLANT

RESPONSE NOT FILED

OPINION BY: LILE, J.

STRUBHAR, P.J.: CONCURS

LUMPKIN, V.P.J.: CONCURS

JOHNSON, J.: CONCURS

CHAPEL, J.: CONCURS

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