

now appeals from the trial court's denial of his motion to withdraw plea.

Petitioner raises the following propositions of error in his Petition for Writ of Certiorari:

- I. Petitioner was denied his right to effective assistance of counsel because his trial counsel offered no reasonable ground in support of Petitioner's Motion to Withdraw Pleas of Guilty; and
- II. Petitioner's plea to Count I and IV were not knowingly and voluntarily made because Petitioner was not advised of the correct range of punishment. This constitutes fundamental error.

After thoroughly considering these propositions and the entire record before us, we find the Petition for Writ of Certiorari should be granted, as set forth below.

We find proposition one has some merit but entitles Petitioner to no further relief beyond that addressed below. With respect to proposition two, the record indicates the trial attorneys did not consider statutory amendments to 21 O.S.2001, § 51.1, when filling out the plea paperwork. Those amendments require the minimum sentences on Counts I and IV to be reduced to six (6) years and nine (9) years respectively, rather than twenty (20) years.

Because Petitioner waived transcription of the plea hearing, we cannot conclusively find the amendments were not discussed or considered. Under the circumstances, however, the sentences on Counts I and IV should be modified.

DECISION

The Petition for Writ of Certiorari is hereby **GRANTED**. Petitioner's

would not seek to revoke suspended sentences in that county.

convictions are **AFFIRMED**, as are his sentences on Counts II, III, and V. His sentence on Count I (2nd Degree Burglary) is **MODIFIED** to six (6) years imprisonment, and his sentence on Count IV (Larceny of an Automobile) is **MODIFIED** to nine (9) years. All sentences shall run consecutively.

AN APPEAL FROM THE DISTRICT COURT OF MURRAY COUNTY
THE HONORABLE TIMOTHY K. COLBERT, ASSOCIATE DISTRICT JUDGE

APPEARANCES AT TRIAL

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OPINION BY: LUMPKIN, P.J.
JOHNSON, V.P.J.: CONCUR
CHAPEL, P.J.: CONCUR
STRUBHAR, J.: CONCUR
LILE, J.: CONCUR

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