

SEP 30 2004

MICHAEL S. RICHIE  
CLERK

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

JOE DEAN MEADOWS,	)	
	)	NOT FOR PUBLICATION
Appellant,	)	
v.	)	Case No. F 2003-196
	)	
THE STATE OF OKLAHOMA,	)	
	)	
Appellee.	)	

**SUMMARY OPINION**

**JOHNSON, PRESIDING JUDGE:**

Appellant, Joe Dean Meadows, was tried by a jury in Oklahoma County District Court, Case No. CF 2001-2972, for First Degree Murder, in violation of 21 O.S.2001, § 701.7(A).<sup>1</sup> Jury trial was held on January February 10<sup>th</sup> – 18<sup>th</sup>, 2003, before the Honorable Jerry Bass, District Judge. The jury found Appellant guilty and set punishment at life imprisonment.<sup>2</sup> Appellant was formally sentenced in accordance with the jury's verdict on February 21, 2003. From the Judgment and Sentence imposed, Appellant filed this appeal.

Appellant raises five (5) propositions of error:

1. The evidence was insufficient to prove the elements of First Degree Murder beyond a reasonable doubt;
2. The trial court erred in denying Appellant's motion to suppress his videotaped statements to the police, because they were made as a result of an illegal arrest and were taken in violation of his *Miranda* rights;

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<sup>1</sup> Appellant was tried along with co-defendant James Dean Meadows. Co-defendant Juan Antonio Lopez was tried separately.

<sup>2</sup> The jury also found codefendant James Meadows guilty and set his punishment at life imprisonment.

3. Appellant was denied his right of cross-examination, protected by the Sixth Amendment to the United States Constitution, by the admission of his codefendant's confession incriminating him;
4. Appellant was denied the reasonably effective assistance of counsel guaranteed him by the Sixth Amendment; and,
5. The accumulation of error in this case deprived Appellant of due process of law in violation of the Fourteenth Amendment to the United States Constitution and Article II, § 7 of the Oklahoma Constitution.

After thorough consideration of the entire record before us on appeal, including the original record, transcripts, briefs and exhibits of the parties, we have determined that Appellant's conviction for First Degree Murder must be reversed and remanded for a new trial for the reasons set forth below.

In Proposition Three, Appellant complains he was denied his right of confrontation, guaranteed him by the Sixth Amendment to the United States Constitution, when the trial court allowed the admission of his codefendant's confession and we agree. Admission of a codefendant's confession which implicates the defendant, in a joint trial, violates the right of confrontation. *Bruton v. United States*, 391 U.S. 123, 126, 88 S.Ct. 1620, 1622, 20 L.Ed.2d 476 (1968); see also *Lilly v. Virginia*, 527 U.S. 116, 136-137, 119 S.Ct. 1887, 1990, 144 L.Ed.2d 117 (1999)(admission of nontestifying codefendant's confession to convict defendant violated confrontation clause); *Crawford v. Washington*, 124 S.Ct. 1354 (2004)(admission of codefendant's statement as evidence of guilt of the defendant on trial, absent opportunity by the defendant to cross-examine the declarant, is a violation of the Sixth Amendment).

We also find merit in Proposition Two. The totality of the circumstances surrounding the police contact with Appellant and his subsequent detention

and transport to the police station for an interview shows Appellant was in a custodial situation and *Miranda* warnings were required.<sup>3</sup> *Kaupp v. Texas*, 538 U.S. 626, 123 S.Ct. 1843, 1847, 155 L.Ed.2d 814 (2003); *Gilbert v. State*, 1997 OK CR 71, ¶ 42, 951 P.2d 98, 111, *cert. denied*, 525 U.S. 890, 119 S.Ct. 207, 142 L.Ed.2d 170 (1998). This record does not support the trial court's ruling that Appellant's statements were voluntarily given and they should have been suppressed.

Here, trial counsel challenged the admission of Appellant's statements on other grounds and failed to object to the admission of James Meadows' statement. In Proposition Four, Appellant submits these failings constitute ineffective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674 (1984). Appellant was clearly harmed by the admission of his codefendant's confession and by the admission of his own statements.

We review the errors identified in Propositions Two and Three for plain error because they were not properly preserved for review by appropriate objection. We find the improper admission of Appellant's confession and the admission of the codefendant's statement/confession constitutes plain error. While these errors viewed in isolation might be found harmless, viewed in combination, we cannot find them harmless beyond a reasonable doubt.

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<sup>3</sup> In accordance with *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966), a defendant's statement obtained during a custodial interrogation is not admissible unless the defendant is advised of certain rights.

*Chapman v. California*, 386 U.S. 18, 24, 87 S.Ct. 824, 828, 17 L.Ed.2d 705, 710-711 (1967).

Because we reverse and remand for a new trial for the reasons set forth above, the remaining propositions of error need not be addressed.

**DECISION**

The Judgment and Sentence imposed in Oklahoma County District Court, Case No. CF 2001-2972, against Joe Dean Meadows is hereby  
**REVERSED AND REMANDED FOR A NEW TRIAL**

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**OPINION BY: JOHNSON, P.J.**  
LILE, V.P.J.: CONCURS IN  
PART/DISSENTS IN PART  
LUMPKIN, J.: CONCURS IN RESULTS  
CHAPEL, J.: CONCURS  
STRUBHAR, J.: CONCURS

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**LILE, VICE-PRESIDING JUDGE: CONCURRS IN PART / DISSENTS IN PART**

The Bruton violation requires retrial. However, I dissent concerning the suppression of the Appellant's confession. The trial court exhaustively considered the voluntariness of the confession and properly found it admissible. I would affirm the trial court on this issue and would allow the confession on retrial.