

OCT - 4 1999

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

JAMES W. PATTERSON
CLERK

CRYSTAL MARIE NEWNAM,)

Appellant,)

v.)

THE STATE OF OKLAHOMA,)

Appellee.)

No. F 98-1197

ACCELERATED DOCKET ORDER

Appellant pled no contest on October 16, 1997, to Unlawful Delivery of Controlled Drug in the District Court of Okmulgee County, Case No. CRF-97-121, and received a deferred sentence with rules and conditions of probation. The State filed an Application to Accelerate Judgment and Sentence on February 13, 1998. Following a hearing June 11, 1998, the trial court found Appellant had violated the rules and conditions of probation. Sentencing was delayed for 120 days and Appellant was ordered to the Delayed Sentencing Program under the custody of the Department of Corrections and then confinement with the Department of Corrections to participate in the F.O.R.T. Program. Having failed the F.O.R.T. Program, Appellant was sentenced on October 6, 1998, to twenty years imprisonment. Appellant appeals from the acceleration of her deferred sentence.

Pursuant to Rule 11.2, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (1998), the appeal was automatically assigned to the Accelerated Docket of this Court. Appellant raised the following propositions of error on appeal:

1. This case should be remanded to the District Court with instructions to allow Appellant an opportunity to request that she be allowed to withdraw her plea of guilty and to hold a hearing on such request.
2. The District Court's revocation of Appellant's suspended sentence in full was excessive under the facts of the case and should be modified.

Oral argument was held September 23, 1999, pursuant to Rule 11.2(F). At the conclusion of oral argument, the parties were advised of the decision of this Court.

Based upon a review of the facts and circumstances of this case, we find no merit to Appellant's first proposition. However, as for Appellant's second proposition, based upon the facts of this case and after hearing oral argument, we find that Appellant's twenty (20) year sentence should be modified to ten (10) years.

IT IS THEREFORE THE ORDER OF THIS COURT, by a three (3) to two (2) vote, after hearing oral argument, that the acceleration of Appellant's deferred sentence in the District Court of Okmulgee County in Case No. CF-99-121 is **AFFIRMED**, but the sentence is **MODIFIED** from twenty (20) years to ten (10) years.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 4th day of October, 1999.



RETA M. STRUBHAR, Presiding Judge



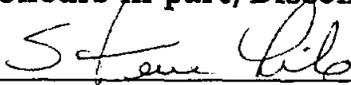
GARY L. LUMPKIN, Vice Presiding Judge



CHARLES A. JOHNSON, Judge
Concurs in part/Dissents in part



CHARLES S. CHAPEL, Judge
Concurs in part/Dissents in part



STEVE LILE, Judge

ATTEST:


Clerk