

- I. Because defense counsel induced Petitioner to enter her plea by promising a suspended sentence, Petitioner's plea cannot be considered voluntarily entered;
- II. Defense counsel's failure to present a case for a suspended sentence deprived Petitioner of the right to the effective assistance of counsel; and
- III. Because there was no factual basis on which the trial court could make a finding that Petitioner was guilty of first-degree murder, the trial court erred when it accepted the plea.

After a thorough consideration of these propositions and the entire record before us, including the original record, transcripts, and briefs of the parties, we find the Petition for Writ of Certiorari should be granted, as set forth below.

With respect to proposition one, we find the trial judge did not abuse her discretion in refusing to allow Petitioner to withdraw her plea. *Carpenter v. State*, 929 P.2d 988, 998 (Okl.Cr.1996); *Hagar v. State*, 990 P.2d 894, 896 (Okl.Cr.1999). With respect to proposition two, we find Petitioner has failed, under this record, to adequately substantiate her allegations that her trial counsel's representation was outside the wide range of professionally competent counsel or that the outcome of this case would have been different but for his actions. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674 (1984). With respect to proposition three, we find there was a sufficient factual basis in the record for the trial court to accept Petitioner's plea. *Hagar*, 990 P.2d at 897.

Nevertheless, this Court has collectively struggled with this case and finds, the sentence to be excessive, therefore, Petitioner's sentence should be

modified to life imprisonment with the possibility of parole.

DECISION

The Petition for Writ of Certiorari is hereby **GRANTED**. Petitioner's conviction for First Degree Murder is **AFFIRMED**, but her sentence is **MODIFIED** from life without the possibility of parole to a life sentence. This matter is therefore **REMANDED** to the District Court of Oklahoma for the entry of a judgment and sentence consistent with this Court's modification of sentence.

AN APPEAL FROM THE DISTRICT COURT OF OKLAHOMA COUNTY
THE HONORABLE TAMMY BASS-JONES, DISTRICT JUDGE

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OPINION BY: LUMPKIN, P.J.
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CHAPEL, P.J.: CONCUR IN RESULTS
STRUBHAR, J.: CONCUR
LILE, J.: CONCUR

RB