

After thorough consideration of the propositions raised, the Original Record, transcripts, and briefs of the parties, we find Appellant's conviction should be reversed and remanded with instructions to dismiss.

Appellant challenges the sufficiency of the evidence relating to his conviction for First Degree Manslaughter in Proposition One. The test for reviewing the sufficiency of the evidence is whether, after reviewing the evidence in the light most favorable to the State, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Spuehler v. State*, 1985 OK CR 132, ¶ 7, 709 P.2d 202, 203-204. Under the very unique facts of this case, even in a light most favorable to the State, we find the evidence was insufficient to sustain the jury's verdict on Count 1. Accordingly, Appellant's conviction for First Degree Manslaughter is reversed and remanded with instructions to dismiss. Our decision on Proposition One renders the issues raised in Propositions Two and Four Moot. We find the evidence sufficient to sustain Appellant's conviction for Leaving the Scene of an Accident with Death. *Spuehler, id.*, and Proposition Three is denied.

DECISION

The Judgment and Sentence imposed in Creek County District Court, Case No. BCF-2002-058, for Count 1 - First Degree Manslaughter – is hereby **REVERSED AND REMANDED WITH INSTRUCTIONS TO DISMISS**. The Judgment and Sentence imposed on Count 2 is hereby **AFFIRMED**.

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