

FILED  
 IN COURT OF CRIMINAL APPEALS  
 STATE OF OKLAHOMA  
 JUL 15 2002  
 JAMES W. PATTERSON  
 CLERK

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

MITCHELL WAYNE PATE,	)	
	)	
Appellant,	)	
	)	
-vs-	)	No. RE-2001-1120
	)	
THE STATE OF OKLAHOMA,	)	
	)	
Appellee.	)	

**SUMMARY ORDER**  
**MODIFYING REVOCATION OF SUSPENDED SENTENCE**

The Appellant, Mitchell Wayne Pate, has appealed to this Court from the partial revocation of his suspended sentence in Case No. CF-2000-60 in the District Court of Pushmataha County, before the Honorable Doyle E. Blythe, Associate District Judge.

On January 17, 2001, Appellant entered a plea of guilty to the offense of Felony Omission to Provide for a Child. He was sentenced to a term of four (4) years, with all except the first six (6) months suspended. On August 22, 2001, the State filed an application to revoke Appellant's suspended sentences. On September 6, 2001, the revocation hearing was conducted before Judge Blythe. Judge Blythe found Appellant had violated probation and entered an order stating "the defendant is sentenced to a term of **THREE (3) YEARS and SIX (6) MONTHS** with all except the first **ONE (1) YEAR and SIX (6) MONTHS Suspended.**" (O.R. 75-76).

In this appeal, Appellant asserts one proposition of error claiming the trial court was without authority to lengthen Appellant's original judgment and sentence by an intervening revocation order which subjected the Appellant to an

additional two months of probation past the time to which he was originally sentenced, therefore, Appellant's case should be modified or remanded to the District Court. The State has responded agreeing that Appellant's proposition has merit and that the sentence should be modified by this Court.

**IT IS THEREFORE THE ORDER OF THIS COURT** that the order of the District Court of Pushmataha County revoking part of Appellant's suspended sentence in Case No. CF-2000-60 should be, and is hereby, **MODIFIED** to simply state that **ONE (1) YEAR and SIX (6) MONTHS** of Appellant's suspended sentence is revoked.

**IT IS SO ORDERED.**

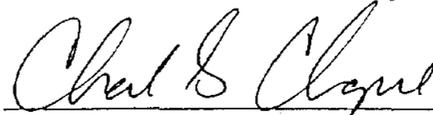
**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 15<sup>th</sup> day of July, 2002.



GARY L. LUMPKIN, Presiding Judge



CHARLES A. JOHNSON, Vice Presiding Judge



CHARLES S. CHAPEL, Judge

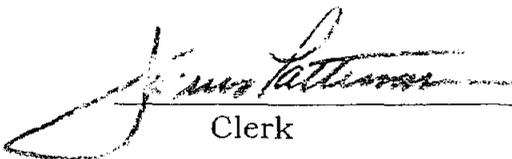


RETA M. STRUBHAR, Judge



STEVE LILE, Judge

ATTEST:



Clerk