

DEC - 8 2000

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

JAMES W. PATTERSON  
CLERK

KEVIN LAFFIEL RANDLE,

Appellant,

-vs-

STATE OF OKLAHOMA,

Appellee.

No. F-2000-393, 394 & 395

**ACCELERATED DOCKET ORDER**

Appellant has appealed to this Court from the acceleration of his deferred judgments and sentences in Blaine County District Court Case Nos. CF-98-51, CF-98-57 and CF-98-58. In CF-98-51, Appellant pled guilty to Unlawful Delivery of a Controlled Drug (Cocaine) and was given a five (5) year deferred sentence. In CF-98-57, Appellant pled guilty to Unlawful Possession of a Controlled Drug (Cocaine) and was given a five (5) year deferred sentence. In CF-98-58, Appellant pled guilty to Unlawful Delivery of a Controlled Drug (Cocaine) and was given a five (5) year deferred sentence.

On March 6, 2000, the State filed a motion to accelerate judgment and sentencing in all three cases, alleging various violations of rules and conditions of probation. On March 10, 2000, the revocation hearing was held and the District Court found Appellant had violated rules and conditions of probation. Appellant was convicted and sentenced in Case No. CF-98-51 to a term of five (5) years imprisonment, in Case No. CF-98-57 to twenty (20) years imprisonment with all but the first five (5) years suspended, and in Case No. CF-98-58 to twenty (20) years imprisonment with all but the first five (5) years suspended. All sentences were ordered to run concurrently.

In this appeal, Appellant raises two (2) propositions of error. One proposition contends the cases should be remanded to the District Court with

instructions to allow Appellant an opportunity to request that he be allowed to withdraw his pleas of guilty and to hold a hearing on such request. The other proposition contends the District Court's acceleration of Appellant's deferred sentences was excessive under the facts of this case and should be modified.

Pursuant to Rule 11.2(A)(3) of the *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2000), this appeal was automatically assigned to the Accelerated Docket of this Court. The propositions were presented to this Court in oral argument on November 30, 2000, pursuant to Rule 11.2(F). At the conclusion of oral argument, this Court voted four to zero (4-0) to affirm the acceleration of Appellant's judgments and sentences. The Court voted three to one (3-1) to remand the cases to the District Court to advise Appellant of the opportunity to move to withdraw his guilty pleas, and give him ten (10) days within which to file such a motion, if he so chooses.

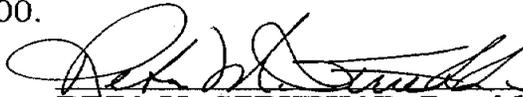
After a review of the evidence presented at the acceleration hearing, this Court finds no abuse of discretion in the District Court's decision to accelerate Appellant's deferred judgments and sentences. *Mack v. State*, 1981 OK CR 160, ¶3, 637 P.2d 1262, 1264. However, the record is also clear that at the time of the acceleration, Appellant was not advised of his right to request leave to withdraw his guilty pleas. *See Gonseth v. State*, 1994 OK CR 9, ¶12, 871 P.2d 51. As such, these cases must be remanded to the District Court for the limited purpose of permitting Appellant the opportunity to move to withdraw his pleas of guilty. Finally, we also note that in sentencing Appellant to twenty (20) years imprisonment in Case No. CF-98-57, the District Court appears to have exceeded the statutory sentencing limit of two to ten years. *See* 63 O.S.Supp.1995, § 2-401(B)(1). Thus, the sentence in Case No. CF-98-57 shall be

modified to ten (10) years imprisonment, with all but five (5) years suspended.

**IT IS THEREFORE THE ORDER OF THIS COURT** that the acceleration of Appellant's deferred Judgments and Sentences in Case Nos. CF-98-51, CF-98-57 and CF-98-58 in the District Court of Blaine County should be, and is hereby, **AFFIRMED**. However, the cases are remanded to the District Court to advise Appellant of the opportunity to move to withdraw his guilty pleas, and give him ten (10) days within which to file such a motion if he so chooses. Finally, the sentence in Case No. CF-98-57 is **MODIFIED** to ten years imprisonment, with all but five (5) years suspended.

**IT IS SO ORDERED.**

**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 8<sup>th</sup> day of December, 2000.



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**RETA M. STRUBHAR, Presiding Judge**



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**CHARLES A. JOHNSON, Judge**



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**CHARLES S. CHAPEL, Judge**



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**STEVE LILE, Judge**

ATTEST:

  
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Clerk