



punishment and he was never advised of the possibility of a fine as to either offense. Therefore, the district court abused its discretion in denying Reid's request to withdraw his pleas of guilty.

After thorough consideration of the entire record before us on appeal, including the original record, transcripts, exhibits and briefs, we find that Reid's fines must be vacated. We find in Proposition I that the trial court did not abuse its discretion in accepting Reid's plea, which was knowingly, intelligently and voluntarily entered.<sup>2</sup> We find in Proposition II that Reid was not prejudiced by any error in informing him of the range of punishment.<sup>3</sup>

We further find in Proposition II that nothing in the record suggests Reid was informed that a fine could be imposed as part of his sentence, and the record does not reflect that a fine was part of the negotiated plea. Despite this the trial court imposed a \$500 fine on each count. If the trial court imposed a fine which was not included in the negotiated plea, that would change the plea terms; a defendant has the right to be informed of any statutory sentencing provision which creates a material consequence as the result of entering a

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<sup>2</sup> *Lewis v. State*, 2009 OK CR 30, ¶ 4, 220 P.3d 1140, 1142; *Cox v. State*, 2006 OK CR 51, 152 P.3d 244, 251. The record does not support Reid's claim that he did not have time to evaluate the charges against him, or that his discussions with counsel were hurried and inadequate. Both Reid and plea counsel testified that he knew and understood what he was doing. Reid admitted that he sat in the courtroom, talking with his attorney, and watched his co-defendants plead guilty. He testified that he told his attorney to see whether the State would reduce the charge and avoid the 85% Rule, but the State refused due to his prior offenses. He admitted that he understood the State was offering 20 years, concurrent, for a plea to Counts IV and V, that he knew he could get up to life in prison on each of Counts I, II, IV and V at trial, and that he agreed to take the 20 years.

<sup>3</sup> 20 O.S. 2001, § 3001.1. The plea form states the range of punishment as ten years to life imprisonment, when the minimum sentence was actually twenty years. Reid clearly testified at the hearing on his motion to withdraw that he understood the State was offering 20 years, and that the State refused to offer ten years or anything less than 20 years. As Reid understood and agreed to the offered sentence, which reflected the actual range of punishment, he was not prejudiced by any error.

plea.<sup>4</sup> As the record does not show Reid agreed to pay a fine as part of his negotiated plea, we vacate the fine imposed by the trial court.<sup>5</sup>

### Decision

The Petition for Writ of Certiorari is **GRANTED**. The decision of the District Court denying the Motion to Withdraw Plea is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2010), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

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#### OPINION BY: CHAPEL, J.

C. JOHNSON, P.J.:	CONCUR
A. JOHNSON, V.P.J.:	CONCUR
LUMPKIN, J.:	CONCUR IN RESULTS
LEWIS, J.:	CONCUR IN RESULTS

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NO RESPONSE REQUIRED

<sup>4</sup> *Lewis*, 2009 OK CR 30, ¶ 5, 220 P.3d 1140, 1142.

<sup>5</sup> *Hunter v. State*, 1992 OK CR 1, 825 P.2d 1353, 1355.