

IN THE COURT OF CRIMINAL APPEALS FOR THE STATE OF OKLAHOMA

SENO MCKINLEY SPEED,)	
)	
Petitioner,)	NOT FOR PUBLICATION
)	
v.)	No. C-2004-598
)	
STATE OF OKLAHOMA,)	
)	
Respondent.)	

FILED
 IN COURT OF CRIMINAL APPEALS
 STATE OF OKLAHOMA
 AUG 12 2005
 MICHAEL S. RICHIE
 CLERK

SUMMARY OPINION

A. JOHNSON, J.:

Seno McKinley Speed, Petitioner, entered a guilty plea in the District Court of Comanche County in Case Nos. CF-2003-405 - Possession of a Controlled Substance, CM-2003-1195 - Eluding a police officer, CM-2003-1196 - Resisting an Officer, TR-2003-2799 - Driving Under Suspension, TR-2003-2800 - Reckless Driving, TR-2003-3714 - Driving Under Suspension; and TR-2003-3715 - Failure to Display Lighted Lamps. The Honorable Keith B. Aycock accepted Speed's plea and sentenced him as follows:

CASE NO:
CF-2003-405

SENTENCE:
Three (3) YEARS
IMPRISONMENT PLUS
FINES AND COSTS
TOTALING \$1595.00.

CM-2003-1195

One (1) YEAR
IMPRISONMENT PLUS
\$1,000 FINE.

CM-2003-1196	One (1)	YEAR
	IMPRISONMENT	PLUS
	\$1,000 FINE.	
TR-2003-2799	Thirty (30)	DAYS
	IMPRISONMENT	PLUS \$500
	FINE.	
TR-2003-2800	One (1)	YEAR
	IMPRISONMENT	PLUS \$500
	FINE.	
TR-2003-3714	One (1)	YEAR
	IMPRISONMENT	PLUS
	\$500.00 FINE.	
TR-2003-3715	\$25.00 FINE	

The district court ordered all of the sentences to be served concurrently. Speed now appeals the district court's order denying his motion to withdraw his guilty pleas and asks this court to issue a Writ of Certiorari and allow him to withdraw his pleas of guilty to the misdemeanor cases and proceed to trial.¹

Speed raises three propositions of error in support of his petition for writ of certiorari:

- I. The trial court erred in not allowing Petitioner to withdraw his pleas of guilty to the misdemeanor charges because there was no factual basis to support those convictions;
- II. Petitioner should be allowed to withdraw his pleas of guilty in the misdemeanor cases because they were entered without deliberation as a result of ignorance, inadvertence, confusion, and misunderstanding; and

¹ Speed does not appeal his felony conviction in CF-2003-405.

III. Petitioner's sentence for resisting an officer must be modified because it exceeds the statutory maximum

In Proposition I, Speed argues that he should be allowed to withdraw his guilty pleas to his misdemeanor charges because they were not supported by a factual basis. This Court has held that every plea must be supported by a factual basis. *See Hagar v. State*, 1999 OK CR 35, ¶ 4, 990 P.2d 894, 896-897. The State confesses error and agrees there is no factual basis to support Speed's misdemeanor pleas in this record. The parties agree that Speed should be permitted to withdraw his pleas of guilty to the misdemeanor counts. Based on this record, we grant Speed's petition for a writ of certiorari, remand this matter to the District Court and direct the District Court to allow Speed to withdraw his guilty pleas in CM-2003-1195, CM-2003-1196, TR-2003-2799, TR-2003-2800, TR-2003-3714 and TR-2003-3715 and proceed to trial.²

DECISION

The petition for Writ of Certiorari is **GRANTED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2005), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

² The relief ordered for Proposition I renders the other propositions moot and we do not consider them.

AN APPEAL FROM THE DISTRICT COURT OF COMANCHE COUNTY
THE HONORABLE KEITH B. AYCOCK, DISTRICT JUDGE

**APPEARANCES IN THE
DISTRICT COURT**

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OPINION BY: A. JOHNSON, J.
CHAPEL, P.J.: Concur
LUMPKIN, V.P.J.: Concur
C. JOHNSON, J.: Concur

RB

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