

APR - 1 2004

MICHAEL S. RICHIE

CLERK

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

T. C. S.,)	
)	
Appellant,)	
)	
-vs-)	No. J-2003-1180
)	
THE STATE OF OKLAHOMA,)	
)	
Appellee.)	

ACCELERATED DOCKET ORDER

The Appellant, T. C. S., has appealed to this Court from a Journal Entry of Adjudication as Delinquent entered by the Honorable Gary Snow, District Judge, in Case No. JF-2003-74 in the District Court of Seminole County. On August 19, 2003, the State filed a Petition alleging Appellant to be a juvenile delinquent by reason of his commission of the criminal offense of Burglary, Second Degree. The crime allegedly occurred on or about July 1, 2003, when Appellant (d.o.b 1/18/87) was sixteen (16) years, five (5) months old. The adjudication hearing was conducted on September 24, 2003, before Judge Snow in a non-jury trial. Judge Snow found from the evidence presented that Appellant committed the crime charged in the Petition, and adjudicated him delinquent. On October 22, 2003, the disposition hearing was conducted before the Honorable Lee Stilwell, Associate District Judge. Judge Stilwell ordered that Appellant be placed in the custody of the Office of Juvenile Affairs, with a review

hearing scheduled for April 7, 2004. Appellant brings this appeal.

Appellant asserts two (2) propositions of error. Appellant first contends that, because there was no evidence to corroborate the testimony of the alleged accomplice of T. C. S., there was insufficient evidence to support the conviction. Appellant also contends the lack of a record or any evidence showing Appellant knowingly and voluntarily waived his right to trial by jury violated Appellant's statutory and constitutional rights.

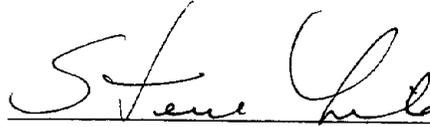
This appeal was automatically assigned to the Accelerated Docket of this Court pursuant to Rule 11.2(A)(3) of the *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2004). The propositions or issues were presented to this Court in oral argument on March 25, 2004, pursuant to Rule 11.2(F). At the conclusion of oral argument, this Court voted three to one (3-1) to reverse the District Court's journal entry adjudicating Appellant as delinquent, and to remand the case for a new trial.

"A conviction cannot be had upon the testimony of an accomplice unless he be corroborated by such other evidence as tends to connect the defendant with the commission of the offense, and the corroboration is not sufficient if it merely show the commission of the offense or the circumstances thereof." 22 O.S.2001, § 742. The only evidence the District Court found to corroborate the testimony of the accomplice was the testimony of a witness who observed Appellant in the same apartment as the accomplice later during the night of the burglary. Such evidence does not sufficiently tend to connect Appellant with the commission of the offense. *Id.*; *L. E. Y. v. State*, 1982 OK CR 4, 639 P.2d 1253.

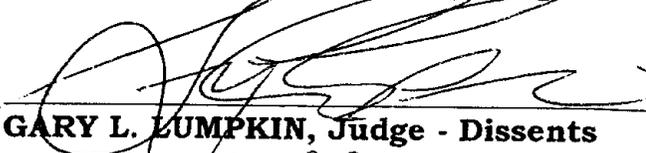
IT IS THEREFORE THE ORDER OF THIS COURT that the journal entry of the District Court of Seminole County adjudicating Appellant as delinquent in Case No. JF-2003-1180 should be, and is hereby, **REVERSED** and **REMANDED** for a new trial.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 1st day of April, 2004.



STEVE LILE, Vice Presiding Judge



GARY L. LUMPKIN, Judge - Dissents



CHARLES S. CHAPEL, Judge



RETA M. STRUBHAR, Judge

ATTEST:



Clerk