

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

CLIFFORD EUGENE TEEL,

Petitioner,

v.

THE STATE OF OKLAHOMA,

Respondent.

**NOT FOR PUBLICATION**

Case No. C-2014-139

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

**JAN 28 2015**

**SUMMARY OPINION GRANTING CERTIORARI**

**MICHAEL S. RICHIE  
CLERK**

**LEWIS, JUDGE:**

Petitioner, Clifford Eugene Teel, entered a blind plea of *nolo contendere* to Counts 1 and 4, lewd molestation, in violation of 21 O.S.2001, § 1123; Count 2, forcible sodomy, in violation of 21 O.S.2001, § 888; and Count 5, indecent exposure, 21 O.S.2001, § 1021, in the District Court of Pontotoc County, Case No. CF-2006-282. The Honorable Thomas C. Landrith, District Judge sentenced Petitioner to twenty (20) years imprisonment in Counts 1, 2, and 4, and ten (10) years imprisonment in Count 5,<sup>1</sup> to be served concurrently with Count 1. The remaining terms were ordered to run consecutively.

Petitioner timely moved to withdraw his plea after being granted a post-conviction appeal out of time by this Court, following other procedural missteps and delays. Following an evidentiary hearing, the district court denied the

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<sup>1</sup> The Court originally sentenced Petitioner to twenty (20) years imprisonment in Count 5 at the time of his 2006 plea, but corrected this error at the hearing on Petitioner's motion to withdraw his plea. Counts 1, 2, and 4 are 85% crimes. 21 O.S.Supp.2002, 13.1(15, 18).

motion to withdraw. Petitioner raises the following propositions of error on certiorari:

1. Plain error occurred when Mr. Teel was made to believe that the maximum punishment on the charged counts was life imprisonment, when in truth it was twenty years or ten years imprisonment, rendering his plea not knowing and voluntary;
2. Mr. Teel failed to receive the effective assistance of trial counsel to which he was entitled when his trial counsel made him believe he faced life sentences on Counts One, Two, and Four, and he failed to receive any advice on Count Five.

Petitioner alleged in his motion to withdraw the plea that he was incorrectly advised that the ranges of punishment in Counts 1, 2, and 4 carried a maximum of life imprisonment, when the correct maximum punishment was, at that time, twenty (20) years imprisonment.<sup>2</sup> He further alleged that he received no advice at all on the range of punishment for Count 5. The plea summary of facts form supports Petitioner's claim. The transcript of the plea shows that the trial court gave no further advice to the Petitioner on the ranges of punishment for any count, or otherwise ensured his awareness of the minimum and maximum ranges of punishment.

At the hearing on the motion to withdraw the plea, the trial court correctly noted that the plea colloquy established Petitioner fully understood "that he was getting 60 years" for his pleas to Counts 1, 2, and 4; but the court did not otherwise address the crux of Petitioner's claim that he received

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<sup>2</sup> The current punishment for lewd molestation of a child under the age of 12 is not less than twenty-five (25) years imprisonment. 21 O.S.Supp.2014, § 1123(A)(5).

inaccurate information, or in the case of Count 5, no information, about the ranges of punishment.

We review the denial of a motion to withdraw a guilty plea for abuse of discretion. This review is limited to two inquiries: (1) whether the guilty plea was made knowingly and voluntarily; and (2) whether the district court accepting the guilty plea had jurisdiction. *Cox v. State*, 2006 OK CR 51, ¶ 18, 152 P.3d 244, 251. After this Court directed a response, the Attorney General filed a brief confessing error in Proposition One based on the trial court's failure to advise the Petitioner of the correct range of punishment in all counts. *Hunter v. State*, 1992 OK CR 1, ¶ 4, 825 P.2d 1353, 1355 (trial court must advise defendant of possible sentence before accepting plea). Proposition Two is therefore moot. We find the writ of certiorari must be granted and this case remanded with instructions to allow Petitioner to withdraw his pleas of *nolo contendere* and enter new pleas in each of Counts 1, 2, 4, and 5.

### **DECISION**

The Judgment and Sentence of the District Court of Pontotoc County is **REVERSED** and **REMANDED** for further proceedings. Pursuant to Rule 3.15, Rules of the Court of Criminal Appeals, Title 22, Ch. 18, App. (2015), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF PONTOTOC COUNTY  
THE HONORABLE THOMAS S. LANDRITH, DISTRICT JUDGE**

**APPEARANCES AT TRIAL**

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(PLEA)

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(PLEA WITHDRAWAL)  
ATTORNEYS FOR DEFENDANT

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OPINION BY LEWIS, J.  
SMITH, P.J.: Concurs in Results  
LUMPKIN, V.P.J.: Concurs  
A. JOHNSON, J.: Concurs

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