



On March 23, 2016, the State filed a motion to revoke Appellant's suspended sentences alleging Appellant was charged with two counts of Placing Bodily Fluids on Police Officer, a felony, and Public Intoxication, a misdemeanor, in Logan County District Court Case No. CF-2016-73. The State's motions to revoke were amended on September 29, 2016, to include the new charges filed in Logan County Case No. CF-2016-296, Burglary in the First Degree (AFCFX2) and Aggravated Assault and Battery (AFCFX2) and the new charges filed in Logan County Case No. CF-2016-313, Grand Larceny (Over \$500), (AFCFX2).

Following a revocation hearing for both cases on April 25, 2018, before the Honorable Louis A. Duel, Associate District Judge, the State's motions to revoke were sustained. Appellant's suspended sentences, twenty years on each count in each case, were revoked in full, with credit for time served, and the sentences were ordered to run concurrently. Judge Duel also ordered post-imprisonment supervision upon revoking Appellant's suspended sentences.

Appellant appeals the revocation of his suspended sentences. In an Order issued May 18, 2018, Appeal No. RE 2018-457 (District Court Case No. CF-2015-56) and RE 2018-458 (District Court Case

No. CF-2015-131) were consolidated for review on appeal. On appeal, Appellant raises the following propositions of error:

1. The trial court was without legal authority to modify and extend Mr. Tucker's sentences by adding post-imprisonment supervision at the time of revocation; and,
2. The Judgment and Sentence After Revocation filed in Logan County District Court Case No. CF-2015-56 and that filed in Logan County District Court Case Number CF-2015-131 with respect to Count 1 do not reflect accurately the sentences imposed and executed by the District Court.

Answering Appellant's first proposition of error, the State agrees that the trial court lacked authority to impose a term of post-imprisonment supervision at the conclusion of the revocation hearing which was not part of the original Judgment and Sentence. We agree. *See Friday v. State*, 2016 OK CR 16, ¶¶ 4-6, 387 P.3d 928.

Appellant's second proposition of error argues that the Judgment and Sentence After Revocation issued in both cases do not accurately reflect the sentences imposed and executed by the District Court. While the Judgment and Sentence After Revocation in each case is consistent with the formal Judgment and Sentence issued in each case and is consistent with the Court Minute issued in both cases, they are not consistent with the handwritten Plea of Guilty Summary of Facts.

Therefore, the matter is remanded to the District Court with instructions to address the inconsistencies and Appellant's request for issuance of an order *nunc pro tunc* as presented in Proposition Two of this appeal. *See Sears v. State*, 2019 OK CR 8, ¶ 8, \_\_\_ P.3d \_\_\_\_.

### **DECISION**

The revocation of Appellant's suspended sentences in Logan County District Court Case Nos. CF-2015-56 and CF-2015-131 is **AFFIRMED**, but the matter is **REMANDED** to the District Court for further proceedings consistent with this Opinion. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**REVOCAATION APPEAL FROM THE DISTRICT COURT OF LOGAN  
COUNTY, THE HONORABLE LOUIS A. DUEL, ASSOCIATE  
DISTRICT JUDGE**

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**OPINION BY: HUDSON, J.:**

LEWIS, P.J.: CONCUR  
KUEHN, V.P.J.: CONCUR  
LUMPKIN, J.: CONCUR  
ROWLAND, J.: CONCUR

RB