

On appeal Appellant argues the District Court lacked jurisdiction to impose the period of deferral and lacked jurisdiction to accelerate sentencing on Count 1. We agree the District Court lacked jurisdiction to accelerate Appellant's deferred sentence on Count 1.

Anderson v. State, 1973 OK CR 323, ¶ 17, 512 P.2d 1387, sets forth that a deferred sentence begins to run on the date the sentence is imposed. Appellant was sentenced on April 8, 2005. The judgment and sentence was deferred "for five years, until April 9, 2010, 9:00 a.m." The five year deferred period expired at the end of the day on April 8, 2010. The State did not file an application to accelerate Appellant's deferred sentence until April 9, 2010. Therefore, even though the sentencing was scheduled for April 9, 2010, at 9:00 a.m., the period of time for the State to file an application to accelerate expired at the end of the day on April 8, 2010. Title 22 O.S.Supp.2005, § 991c(A) directs that the court may defer further proceedings "not to exceed a five-year period."

DECISION

The acceleration of Appellant's deferred sentence in Logan County District Court Case No. CF-2004-96 is **REVERSED** and **REMANDED** for further proceedings consistent with this Order. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2011), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF LOGAN COUNTY
THE HONORABLE DONALD L. WORTHINGTON,
DISTRICT JUDGE**

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ACCELERATION HEARING**

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OPINION BY: LEWIS, V.P.J.

A. JOHNSON, P.J.: Concur
LUMPKIN, J.: Concur in Results
C. JOHNSON, J.: Concur
SMITH, J.: Concur

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