

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

KENNETH LINN WALKER,)	MICHAEL S. RICHIE
)	CLERK
Appellant,)	NOT FOR PUBLICATION
)	
vs.)	Case No. F 2003-443
)	
THE STATE OF OKLAHOMA,)	
)	
Appellee,)	

SUMMARY OPINION

LILE, VICE PRESIDING JUDGE:

Appellant, Kenneth Linn Walker, was convicted at jury trial of thirteen (13) counts of First Degree Rape in violation of 21 O.S.2001, §§ 1111 & 1114; nine (9) counts of Forcible Oral Sodomy in violation of 21 O.S.2001, §§ 886 & 888; one (1) count of Sexual Exploitation of a Child in violation of 10 O.S.2001, § 7115; twelve (12) counts of First Degree Rape by Instrumentation in violation of 21 O.S.2001, §§ 1111, 1111.1 & 1114; one (1) count of Indecent or Lewd Acts with a Child under Sixteen in violation of 21 O.S.2001, § 1123, before the Honorable Susan W. Bragg, District Judge, in the District Court of Oklahoma County Case No. CF-2001-1647. In accordance with the jury verdict, Judge Bragg sentenced Appellant to consecutive sentences totaling three hundred

(300) years imprisonment.¹ From this judgment and sentence, Appellant has perfected this appeal.

Appellant raises the following propositions of error in support of his appeal:

1. The Trial Court lacked jurisdiction over the crimes charged as the time frame alleged in the Information went beyond the seven year statute of limitations set forth in Okla. Stat. Tit. 22, § 152 (2001).
2. The Trial Court erred by forcing Mr. Walker to trial absent direct and certain allegations in denial of his right to due process and a full and fair opportunity to prepare and present a defense.
3. Appellant's right to confront witnesses and to fundamental due process was violated by the suppression of evidence under the rape shield statute pursuant to the State's motion in limine filed the day trial began.
4. The State presented insufficient evidence to support Mr. Walker's convictions in violation of the due process clause of the federal and state constitutions.
5. Evidentiary errors deprived Appellant of his fundamental right to present a defense and confront the witnesses against him.
6. Trial errors, when considered in a cumulative fashion, warrant a new trial or a modification of Mr. Walker's conviction.

¹ Appellant was sentenced to ten (10) years on each of the thirteen (13) First Degree Rape convictions (counts 1, 5-7, 9-13, 24-25, and 27-28), five (5) years on each of the nine (9) Forcible Oral Sodomy convictions (counts 2, 14-16 and 30-34), fifteen (15) years on the Sexual Exploitation of a Child conviction (count 4), twenty (20) years on two (2) of the First Degree Rape by Instrumentation convictions (counts 17-18), five (5) years on ten (10) of the First Degree Rape by Instrumentation convictions (counts 19-23 and 35-39), twenty (20) years on the Lewd Acts with Minor conviction. Appellant was found not guilty on count 3; counts 8 and 29 were dismissed prior to trial.

After thorough consideration of the entire record before us on appeal including the original record, transcripts, briefs and exhibits of the parties, we have determined that Appellant's convictions should be **AFFIRMED IN PART** and **REVERSED IN PART**.

In reaching our decision, we find, in proposition one, that prosecution of Appellant for the crimes of rape, forcible sodomy and lewd molestation were commenced within the proscribed statute of limitations. 22 O.S.Supp.1995, § 152. However, there is no evidence to support the notion that the prosecution for the crime of sexual exploitation of a child in violation of 10 O.S.2001, § 7115 was brought before the statute of limitations had expired. *Id.*

In proposition two, we find that the Information sufficiently stated the charges to prevent Appellant from being misled or being tried for the same offense a second time. *Doyle v. State*, 1989 OK CR 85, ¶ 26, 785 P.2d 317, 326; *Kimbro v. State*, 1990 OK CR 4, ¶ 7, 857 P.2d 798, 800

In propositions three and five, we find that the trial court did not abuse its discretion the rulings on the admissibility of evidence. *Welch v. State*, 2000 OK CR 8, 2 P.3d 356, 370; *Mitchell v. State*, 1994 OK CR 70, 884 P.2d 1186, 1198-99; 12 O.S.2001, §§ 2401-02.

In proposition four, we find that, after reviewing the evidence in the light most favorable to the State, the testimony of the victims was not so insubstantial and incredible as to be unworthy of belief. Therefore, his testimony did not require corroboration. The victim's uncorroborated

testimony was sufficient to support the conviction. *Applegate v. State*, 1995 OK CR 49, ¶ 16, 904 P.2d 130, 136.

In proposition six, we find that where there is no individual error, there can be no cumulative error. *Gilson v. State*, 2000 OK CR 14, 8 P.3d 883.

DECISION

The Judgment and Sentence of the trial court is **AFFIRMED** with the exception of the conviction on count four which is **REVERSED** and **REMANDED** with instructions to **DISMISS**.

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OPINION BY: LILE, V.P.J.

JOHNSON, P.J.: CONCURS
LUMPKIN, J.: CONCURS IN RESULTS
CHAPEL, J.: RECUSED
STRUBHAR, J.: CONCURS

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