



Court Case No. CF-2009-3424. On September 18, 2009, the State filed an amended application to revoke Appellant's suspended sentence adding alleged violations that he had failed to refrain from entering or loitering around beer taverns, and that he had been discharged from and failed to complete sex offender treatment due to non-compliance. The hearing on the applications to revoke was held before Judge Smith on December 21, 2009. After hearing the evidence and arguments, Judge Smith found Appellant had violated probation, and revoked five years of his suspended sentence.

Appellant asserts one proposition of error in this appeal. Appellant claims the District Court erred in revoking Appellant's suspended sentence for five years. The State agrees that Appellant's sentence must be modified.

The Youthful Offender Act requires that Appellant be given day-for-day credit for the time spent in the custody or under the supervision of the Office of Juvenile Affairs. 10 O.S.Supp.2008, § 7306-2.10(D)<sup>1</sup> (now 10A O.S.Supp.2010, § 2-5-210(D)). Appellant was either in the custody or under the supervision of the Office of Juvenile Affairs on his Youthful sentence from December 1, 2005, until December 22, 2008. When given credit for those three years and twenty-one days against his eight year sentence, Appellant's adult suspended sentence

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<sup>1</sup> The full text of Subsection D of Section 7306-2.10 provides "[t]he court shall grant time-served credits against the adult sentence imposed for any youthful offender transferred to the Department of Corrections. For the purpose of calculating time served to be applied toward any sentence imposed upon a youthful offender, in the event a youthful offender has been placed in the custody or under the supervision of the Office of Juvenile Affairs, the offender shall receive day-for-day credit for the time spent in the custody or under the supervision of the Office of Juvenile Affairs. Upon commitment to the Department of Corrections, a youthful offender shall also receive other credits as provided by law for an adult inmate.

totaled four years and three hundred forty-four days. Thus, he cannot be revoked for a full five years.

**DECISION**

This Court finds that the revocation of five years of Appellant's suspended sentence in Case No. CF-2005-5009 in the District Court of Tulsa County should be, and is hereby, **MODIFIED** to revocation of four years and three hundred forty-four days. The District Court is directed to enter a revised Order Revoking Suspended Sentence in accordance with this opinion.

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 TULSA COUNTY  
THE HONORABLE CLANCY SMITH, DISTRICT JUDGE

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**OPINION BY:** LUMPKIN, J.  
A. JOHNSON, P.J.: CONCUR  
LEWIS, V.P.J.: CONCUR  
C. JOHNSON, J.: CONCUR  
SMITH, J.: RECUSE

RB/F