

STATE OF OKLAHOMA

NOV 27 2000

JAMES W. PATTERSON
CLERK

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

KEVIN ANTWAIN WRIGHT,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

No. F-2000-456

ACCELERATED DOCKET ORDER

On August 26, 1998, Appellant entered a plea of guilty in Lincoln County District Court Case No. CF-98-133, Unauthorized Use of a Motor Vehicle, Count I, Eluding a Police Officer, Count II, and Unlawful Possession of Marijuana, Count III. Pursuant to a plea agreement, Appellant was sentenced to five (5) years deferred on Count I, and one (1) year deferred each on Counts II and III, all sentences to run concurrently. Appellant received a \$250.00 fine and a Victims Compensation Assessment of \$100.00 in Count I; a \$50.00 fine and a Victims Compensation Assessment of \$50.00 in Count II; and a \$100.00 fine, a Victims Compensation Assessment of \$50.00, a \$150.00 lab fee and a Mental Health Assessment of \$150.00 on Count III. (O.R. 33).

On September 29, 1999, the State filed an Application to Accelerate Appellant's deferred sentence. (O.R. 35) On March 29, 2000, the acceleration hearing was commenced in the District Court and Appellant stipulated to the State's application. At the conclusion of the hearing, the trial court ordered Appellant's sentence in Count I be accelerated and sentenced Appellant to five years incarceration. On May 31, 2000, a hearing was held on the State's Motion to Settle Judgment and Sentence. Despite the fact the sentence in Count I was the only sentence accelerated, the trial court ordered that the fines and assessments in Counts II and III be incorporated into Appellant's accelerated Judgment and Sentence in Count I. (O.R. 83)

In his sole assignment of error on appeal, Appellant contends the District Court was without authority to include and incorporate the fines and costs in Counts II and III, which were not accelerated, into the accelerated Judgment and Sentence for Count I. The State has confessed error. We agree. Because the District Court only accelerated Count I of Appellant's sentence, the fines and assessments relating to Counts II and III may not be incorporated into the accelerated Judgment and Sentence for Count I. Until accelerated, the fines and costs of Counts II and III remain deferred. See Okla. Stat. tit. 21, § 8.

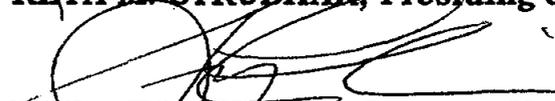
IT IS THEREFORE THE ORDER OF THIS COURT that the order of the District Court incorporating the fines and costs associated with Counts II and III is **REVERSED** and this matter is **REMANDED** to the court with directions that the Judgment and Sentence accelerated in Count I of Case No. CF-98-133, be corrected to reflect the proper fines and costs.

IT IS SO ORDERED.

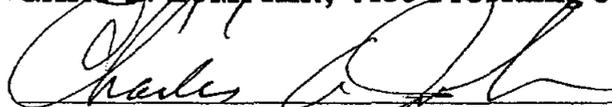
WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 21st day of November, 2000.



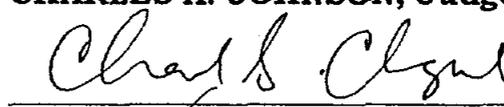
RETA M. STRUBHAR, Presiding Judge



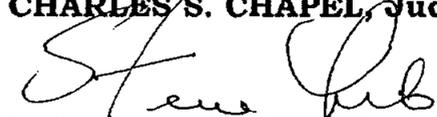
GARY D. LUMPKIN, Vice Presiding Judge



CHARLES A. JOHNSON, Judge



CHARLES S. CHAPEL, Judge



STEVE LILE, Judge

ATTEST:


Clerk