

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

SUNDAY D. GARCIA,
Appellant,
-vs.-
THE STATE OF OKLAHOMA,
Appellee.

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No. RE-2002-580

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
SEP 12 2003
MICHAEL S. RICHIE
CLERK

SUMMARY ORDER REVERSING ACCELERATION OF DEFERRED SENTENCING AND REMANDING MATTER FOR FURTHER PROCEEDINGS

On March 9, 2001, in the District Court of Garfield County, Case No. CF-2000-86, Appellant entered a plea of guilty to one felony count of Obtaining Money, Property, or Valuable Thing by Means of False or Bogus Check. On that same date and pursuant to a plea agreement, the Honorable Ronald G. Franklin, District Judge, deferred Appellant's sentencing for a period of five years conditioned upon written terms of probation. One-and-a-half months after Appellant was placed on probation, the State, on April 25, 2001, filed an Application to Accelerate Sentence.

On July 3, 2001, Appellant appeared without counsel before Judge Franklin on the Application to Accelerate. At this July 3rd appearance, Judge Franklin ordered a competency evaluation performed upon Appellant at the Wheatland Mental Health Center.

On July 10, 2001, Appellant reappeared before Judge Franklin who reviewed the competency evaluation report from Wheatland. The evaluation indicated Appellant was competent to understand the proceedings and to assist in her defense. Judge Franklin apparently determined that Appellant was competent to proceed, and then appointed counsel for Petitioner and re-

docketed the matter for a determination of the merits of the State's Application to Accelerate.


On April 22, 2002, Appellant appeared with counsel, and an adjudicatory hearing upon the merits of the Application to Accelerate was conducted. At such hearing, Judge Franklin found Appellant violated her probation and that the violations warranted accelerating Appellant's deferred sentencing. Having so found, Judge Franklin proceeded with sentencing and imposed a term of one-year in the County Jail and a fine of \$2,500.00 against Appellant.

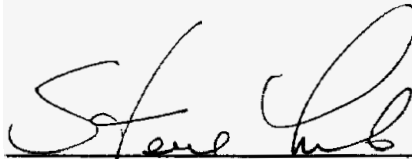
From the April 22, 2002, order terminating her probation and accelerating her sentencing, Appellant brings this appeal. On appeal, Appellant claims that error occurred at the July 10th hearing when the District Court accepted the ordered competency evaluation and resumed the acceleration proceedings, and that it did so without first having assured Appellant was represented by counsel and without having conducted the post-evaluation competency hearing required by 22 O.S.2001, § 1175.4. We agree.

The trial court's order accelerating Appellant's deferred sentence is reversed, and Appellant's matter remanded for further proceedings consistent with this Order. The trial court shall ensure Appellant is represented by counsel, and it shall comply with the provisions of 22 O.S.2001, § 1175.4 et seq., and proceed accordingly.

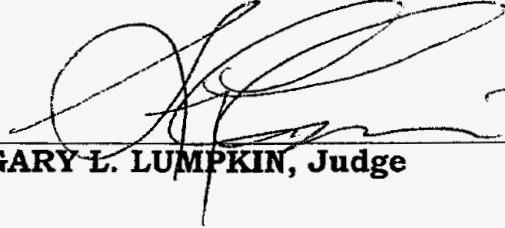
IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 12th day
of September, 2003.


CHARLES A. JOHNSON, Presiding Judge



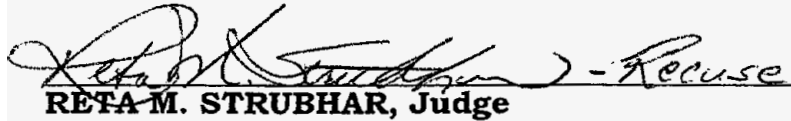
STEVE LILE, Vice Presiding Judge



GARY L. LUMPKIN, Judge

NOT PARTICIPATING

CHARLES S. CHAPEL, Judge



RETA M. STRUBHAR, Judge

ATTEST:



Clerk

RC