

FILED
 IN COURT OF CRIMINAL APPEALS
 STATE OF OKLAHOMA

 MAY 17 2002
 JAMES W. PATTERSON
 CLERK

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

GAVIN LEE HAWKINS,)
)
 Appellant,)
)
 v.)
)
THE STATE OF OKLAHOMA,)
)
 Appellee.)

NOT FOR PUBLICATION

 Case No. F-2001-264

SUMMARY OPINION

LILE, JUDGE:

Gavin Lee Hawkins was convicted at jury trial of Count I, Lewd Molestation and Count III, Lewd Molestation in violation of 21 O.S.1991, § 1123(A) in the District Court of Grady County in Case Number CF-1999-186. The Honorable Richard G. Van Dyck, District Judge, followed the jury verdict and sentenced Appellant to ten (10) years and twenty (20) years imprisonment, respectively, and ordered the sentences to be served consecutively. Appellant has perfected this Appeal.

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

1. THE PROSECUTOR COMMITTED REVERSIBLE MISCONDUCT IN HER CLOSING ARGUMENT.

2. BY FAILING TO FULLY CONSIDER ALL AVAILABLE SENTENCING OPTIONS, THE DISTRICT COURT VIOLATED MR. HAWKINS' DUE PROCESS RIGHTS.

3. THE TRIAL COURT ERRED WHEN IT PROHIBITED MR. HAWKINS FROM CALLING BIANCA THOMAS AS A WITNESS.
4. APPELLANT RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL.

After a thorough consideration of these propositions and the entire record before us on appeal, including the original record, available transcripts and briefs of the parties, we have determined that modification is required under the facts and the law.

Concerning Proposition I, the sentence on Count III should be modified to ten (10) years by reason of an improper prosecutorial closing argument. *Smallwood v. State*, 1995 OK CR 60, 907 P.2d 217; *McCarty v. State*, 1988 OK CR 271, 765 P.2d 1215.

As for Proposition II, there is no evidence that the trial court did not properly fulfill its sentencing duties.

In Proposition III, the trial court did not abuse its discretion by excluding the testimony of Bianca Thomas. *State v. LeFebvre*, 1994 OK CR 38, 875 P.2d 431.

Lastly, in Proposition IV, trial counsel performed below an objective standard of reasonableness, but Appellant suffered no prejudice. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Appellant's Application to Supplement the Record and Application for Evidentiary Hearing are denied.

DECISION

The Judgment of the trial court is **AFFIRMED** as to both counts and the Sentence on Count I is **AFFIRMED**. The Sentence is **MODIFIED** on Count II to ten (10) years imprisonment, with the sentences to run consecutive as ordered by the district court.

ATTORNEYS AT TRIAL

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OPINION BY: LILE, J.

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

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