

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

LARRY EUGENE JAMES,

Appellant,

v.

STATE OF OKLAHOMA,

Appellee.

)
) **NOT FOR PUBLICATION**
)

) Case No. F-98-654
)
)

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

JUL 22 1999

JAMES W. PATTERSON
CLERK

SUMMARY OPINION

CHAPEL, JUDGE:

Larry Eugene James was tried by jury and convicted of Count I, Unlawful Possession of a Controlled Dangerous Substance (Methamphetamine) in violation of 63 O.S.1991, § 2-402(B)(2), after former conviction of two or more felonies, and Count II, Obstructing an Officer in violation of 21 O.S.1991, § 540, in the District Court of Bryan County, Case No. CF-97-491. In accordance with the jury's recommendation the Honorable Rocky L. Powers sentenced James to thirty (30) years imprisonment (Count I) and one year in the county jail (Count II). James appeals from these convictions and sentences.

James raises three propositions of error in support of his appeal:

- I. The evidence was insufficient to support the charges;
- II. Prosecutorial misconduct denied James a fair trial; and
- III. The sentences are excessive.

After thorough consideration of the entire record before us on appeal including the original record, transcripts, briefs and exhibits, we have

determined that James's misdemeanor conviction for obstructing an officer must be reversed with instructions to dismiss, but the remaining propositions warrant neither reversal nor modification. We find in Proposition I that the State presented no evidence James obstructed Officer Woodruff; as the officer knew James personally and stopped him for outstanding warrants, the fact James gave a false name in no way affected Woodruff's performance of his duties.¹ We further find in Proposition I that any rational trier of fact could find beyond a reasonable doubt that James possessed the methamphetamine found in the pocket of the coat James wore when arrested.² We find in Proposition II that the prosecutor's apparently inadvertent factual error in questioning was cured on redirect examination, and statements in closing argument did not prejudice James. We find in Proposition III that James's 30-year sentence for possession of methamphetamine, after two or more felonies, is not excessive or disproportionate, and James was not prejudiced by any error in admitting evidence about a prior Texas conviction.

Decision

The Judgment and Sentence of the District Court as to Count I is **AFFIRMED**. The Judgment and Sentence of the District Court as to Count II is **REVERSED** with instructions to **DISMISS**.

¹ 21 O.S.1991, § 540; *Trent v. State*, 777 P.2d 401, 402-03 (Okl.Cr.1989); *Knoff v. State*, 18 Okl.Cr. 36, 192 P. 596, 597 (1920). James was not charged with false personation, a felony, and this Court cannot modify the misdemeanor conviction to reflect that crime. 21 O.S.1991, § 1531; *Barkus v. State*, 926 P.2d 312 (Okl.Cr.1996).

² *Spuehler v. State*, 709 P.2d 202, 203-04 (Okl.Cr.1985).

APPEARANCES AT TRIAL

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OPINION BY: CHAPEL, J.

STRUBHAR, P.J.:	CONCUR
LUMPKIN, V.P.J.:	CONCUR
JOHNSON, J.:	CONCUR
LILE, J.:	CONCUR

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