

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

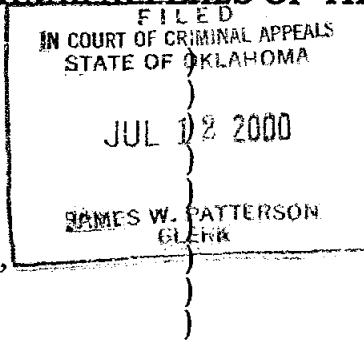
K.R.J.,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.



No. J-2000-481

ACCELERATED DOCKET ORDER

Appellant has appealed to this Court seeking reversal of an Oklahoma County District Court order granting the State's Motion for Imposition of Adult Sentence in Case No. CF-99-3005. On appeal, Appellant raises two propositions of error:

1. The State failed to produce evidence to meet their burden of "clear and convincing evidence" that Appellant would not reasonably complete a plan of rehabilitation or the public would not be adequately protected if Appellant was sentenced as a Youthful Offender; and
2. The trial court abused its discretion in sustaining the State's motion to impose sentence as an adult.

Pursuant to Rule 11.2(A)(1), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (1999), this appeal was automatically assigned to the Accelerated Docket of this Court. The propositions of error were presented in oral argument July 6, 2000, pursuant to Rule 11.2(F). At the conclusion of oral argument, this Court voted, four to zero (4 - 0), to reverse the order of the trial court and remand this matter for a new Youthful Offender hearing.

A review of the record reveals the State failed to present any evidence in support its motion for imposition of adult sentencing. The only evidence admitted at the April 4, 2000, Youthful Offender hearing shows K.R.J. could complete a plan of rehabilitation and would not pose a threat to the public if placed in a secured facility. Since the State failed to present any evidence in

support of its motion, we find it failed to meet its statutory burden of establishing by clear and convincing evidence that K.R.J. is not amenable to rehabilitation or that the public could not be adequately protected. Finally, because the State failed to meet its burden of proof, we find it was an abuse of discretion by the trial court to sustain the State's motion. See *C.G. v. State*, 1999 OK CR 7, ¶ 10, 989 P.2d 936.


IT IS THEREFORE THE ORDER OF THIS COURT, by a vote of 4 - 0, that the order of the District Court of Oklahoma County granting the State's motion for Imposition of Adult Sentence in Case No. CF-99-3005 is **REVERSED** and this case is **REMANDED** with instructions that a new Youthful Offender hearing be conducted. **IT IS FURTHER ORDERED** that the Oklahoma County Public Defender's Office's Motion to File Amicus Curiae Brief is **DENIED**.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 12th day of July, 2000.



RETA M. STRUBHAR, Presiding Judge



GARY L. LUMPKIN, Vice Presiding Judge



CHARLES S. CHAPEL, Judge



STEVE LILE, Judge CER

ATTEST:



Clerk