

JUL 25 2000

JAMES W. PATTERSON
CLERK

IN THE COURT OF CRIMINAL APPEALS FOR THE STATE OF OKLAHOMA

JEANICE ANGELICA MITCHELL,)
)
PETITIONER,)
)
-vs-)
)
STATE OF OKLAHOMA,)
)
RESPONDENT.)

NOT FOR PUBLICATION

No. C-2000-215

SUMMARY OPINION
DENYING PETITION FOR WRIT OF CERTIORARI

STRUBHAR, PRESIDING JUDGE:

Petitioner, Jeanice Angelica Mitchell, entered a guilty plea to the crime of Assault and Battery With a Dangerous Weapon, in the District Court of Caddo County, Case No. CF-99-12, before the Honorable David E. Powell. Petitioner was sentenced to ten years imprisonment, with all but five years suspended. Petitioner filed a timely application to withdraw her plea. This application was denied by the district court. Petitioner now appeals from the district court's denial of her application to withdraw the guilty plea.

After thorough consideration of the entire record before us on appeal, including the original record, available transcripts, and Petitioner's brief, we affirm the trial court's denial of Petitioner's application to withdraw her guilty plea. In reaching our decision, we considered the following propositions of error

and determined neither reversal or modification to be required under the record on appeal:

- I. Trial court erred in finding that there was an adequate factual basis for plea.
- II. Trial court erred in finding that Petitioner was properly advised as to the minimum and maximum punishment and potential sentencing alternatives.
- III. Trial court erred in finding that Petitioner was afforded her right to a complete pre-sentence investigation and report.
- IV. Trial court erred in finding the Petitioner's plea represented a voluntary and intelligent choice among alternative courses of action.

DECISION

Petitioner acknowledges in her Petition for Writ of Certiorari that the proceeding in which the plea in this case was taken was not transcribed. The Summary of Facts Form indicates that Petitioner waived her right to have a court reporter make a record of the proceeding. (O.R.48) This Court still adheres to the rule in non-capital cases that the burden is upon the defendant to ensure a complete record for appellate review. *Mooney v. State*, 990 P.2d 875, 884 (Okl.Cr.1999). This Court does not assume error from a silent record. *Welch v. State*, 968 P.2d 1231, 1245 (Okl.Cr.1998). Although Petitioner argues that her claims are supported by the Summary of Facts Form and the transcript of the hearing on the motion to withdraw, the allegations of error raised cannot be fully and adequately assessed without a transcript of the

guilty plea hearing. As Petitioner has not provided a sufficient record the issues raised are not properly preserved for appellate review. The ruling of the trial court is **AFFIRMED**.

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OPINION BY: STRUBHAR, P.J.
LUMPKIN, V.P.J.: CONCUR
JOHNSON, J.: CONCUR
CHAPEL, J.: CONCUR
LILE, J.: CONCUR

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