

**IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF
OKLAHOMA**

PARRAN LAVON BURRUS,

)
) **NOT FOR PUBLICATION**
)

Appellant,

) Case No. F-2018-1137
)

v.

STATE OF OKLAHOMA

)
)
) Appellee.

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

DEC - 5 2019

JOHN D. HADDEN
CLERK

S U M M A R Y O P I N I O N

LUMPKIN, JUDGE:

Appellant Parron Lavon Burrus was tried by jury and found guilty of Conspiracy to Distribute a Controlled Dangerous Substance – Methamphetamine (Count I) (63 O.S.Supp.2012, §§ 2-401 & 2-408) and Possession of a Controlled Dangerous Substance with Intent to Distribute (Count II) (63 O.S.Supp.2012, § 2-401), both counts After Former Conviction of Two or More Felonies, in the District Court of Caddo County, Case No. CF-2017-319. The jury recommended as punishment imprisonment for thirty (30) years and a \$5,500.00 fine in Count I and twenty-five (25) years in prison and a \$5,500.00 fine in Count II. The trial court sentenced accordingly, ordering the

sentences to be served consecutively. It is from this judgment and sentence that Appellant appeals.

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

- I. Appellant's term of incarceration is excessive and should be modified.

After thorough consideration of this proposition and the entire record before us on appeal including the original record, transcripts, and briefs of the parties, we have determined that under the law and the evidence no relief is warranted.

In his sole proposition of error, Appellant contends that his sentences are excessive and should be modified. He argues that while his offenses "were inextricably intertwined" and "separate convictions might stand, consecutive sentences should not." In addition, he argues the trial court was prejudiced against him as the judge said that any testimony Appellant might give at sentencing had to be under oath, and because the judge had previously prosecuted him on other matters when the judge was an Assistant District Attorney.

"This Court will not modify a sentence within the statutory range 'unless, considering all the facts and circumstances, it shocks

the conscience.” *Pullen v. State*, 2016 OK CR 18, ¶ 16, 387 P.3d 922, 928. Appellant’s sentences are within the statutory ranges of punishment providing for sentences of six (6) years to life in prison. See 63 O.S.Supp.2012, §§ 2-401 & 2-498; 21 O.S.2011, § 51.1(C).

There is no absolute constitutional or statutory right to receive concurrent sentences. 22 O.S.2011, § 976. In fact, sentences are to run consecutively unless the trial judge, in his or her discretion, rules otherwise. *Id.* See also *Neloms v. State*, 2012 OK CR 7, ¶ 35, 274 P.3d 161, 170. “An abuse of discretion is any unreasonable or arbitrary action taken without proper consideration of the facts and law pertaining to the matter at issue.” *Id.*

Appellant’s attempt to frame his convictions as part of the same criminal episode is not supported by the evidence. The record shows two separate offenses on two separate dates were committed. That the offenses were part of a continuing criminal enterprise to supply methamphetamine to the Anadarko area does not warrant a modification of Appellant’s sentences.

Modification of his sentence is also not warranted based upon the trial judge’s requirement that any statements made by Appellant at sentencing must be made under oath on the witness stand.

Appellant has not shown any error in this ruling. *See Malone v. State*, 2002 OK CR 34, ¶ 7, 58 P.3d 208, 209-10; 22 O.S.2011, §§ 973 & 975.

Further, Appellant has not shown that the fact that the trial judge may have prosecuted Appellant in a previous case contributed to an excessive sentence. *See Engles v. State*, 2015 OK CR 17, ¶ 9, 366 P.3d 311, 314. Here, Appellant never moved to have the trial court disqualified or sought the court's recusal based on the court's previous involvement in prior prosecutions.

After a thorough review of the record, we find Appellant has not shown that under the facts and circumstances of his case, that his sentences were excessive or that the trial court abused its discretion in ordering the sentences of this repeat offender to be served consecutively. This proposition is denied.

Accordingly, this appeal is denied.

DECISION

The **JUDGMENT and SENTENCE is AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019), the **MANDATE is ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF CADDO COUNTY
THE HONORABLE WYATT HILL, ASSOCIATE DISTRICT JUDGE

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OPINION BY: LUMPKIN, J.
LEWIS, P.J.: Concur
KUEHN, V.P.J.: Concur in Result
HUDSON, J.: Concur
ROWLAND, J.: Concur

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