

**ORIGINAL**



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

**JULIUS LAMAR WRIGHT,**

**Appellant,**

**v.**

**THE STATE OF OKLAHOMA,**

**Appellee.**

**NOT FOR PUBLICATION**

**No. RE 2018-0144**

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

**JUL 11 2019**

**JOHN D. HADDEN  
CLERK**

**SUMMARY OPINION**

**LEWIS, PRESIDING JUDGE:**

Appellant, Julius Lamar Wright, entered a plea of guilty in the District Court of Oklahoma County, Case No. CF-2009-228, to Count 1 – Possession of a Controlled Dangerous Substance With Intent to Distribute (Marijuana) and Count 2 – Possession of Drug Paraphernalia. On April 28, 2009, Appellant received a five year deferred sentence on each count. On March 6, 2012, Appellant pled guilty to the State's allegations in the application to accelerate his deferred sentences. He was sentenced to ten years suspended except for the first five years on Count 1 and one year in the Oklahoma County Jail on Count 2. The sentences were ordered to run concurrently with each other and with CF-2011-1457.

Appellant was charged with Domestic Abuse by Strangulation on December 9, 2015, in Oklahoma County District Court Case No. CF-2015-8860. Appellant entered a plea of no contest and was given a ten year suspended sentence with rules and conditions of probation. The sentence was ordered to run concurrent with CF-2009-228 and CF-2011-1457, with credit for time served. The State's motion to revoke Appellant's suspended sentence in Case No. CF-2009-228 based upon the new charge in Case No. CF-2015-8860 and Appellant's failure to pay restitution, was dismissed on June 28, 2016, as part of the plea agreement in Case No. CF-2015-8860.

On June 29, 2017, the State filed a motion to revoke Appellant's suspended sentences in Case Nos. CF-2009-228 and CF-2015-8860 alleging Appellant committed the new crime of Possession of a Controlled Dangerous Substance as alleged in Oklahoma County District Court Case No. CF-2017-2733. Following a revocation hearing on January 31, 2018, Appellant's suspended sentences in both cases were revoked in full.

Appellant appeals the revocation of his suspended sentences raising the following propositions of error:

1. The evidence presented during Appellant's revocation hearing should have been excluded as it was obtained by the egregious conduct of the police and in violation of Appellant's Fourth Amendment right against unreasonable searches and seizures; the trial court's reliance on this evidence violated the fundamental fairness requirement for revocation hearing.
2. The trial court abused its discretion by revoking Appellant's sentence in full in violation of his due process rights resulting in an excessive sentence.

We affirm the order of the District Court revoking Appellant's suspended sentences in full.

Appellant's first argument was not made at the revocation hearing. We, therefore, review for plain error. *Hogan v. State*, 2006 OK CR 19, ¶ 38, 139 P.3d 907, 923. To be entitled to relief under the plain error doctrine, Appellant must prove: 1) the existence of an actual error (i.e., deviation from a legal rule); 2) that the error is plain or obvious; and 3) that the error affected his substantial rights, meaning the error affected the outcome of the proceeding. *Id.*; 20 O.S.2011, §§ 3001.1. In this case no plain error occurred and the trial judge did not abuse his discretion by finding Appellant violated the rules and conditions of his suspended sentences.

Appellant's final argument claims the trial court abused its discretion by revoking Appellant's suspended sentences in full. The

decision to revoke a suspended sentence in whole or in part is within the sound discretion of the trial court and such decision will not be disturbed absent an abuse thereof. *Tilden v. State*, 2013 OK CR 10, ¶ 10, 306 P.3rd 554, 557. “An ‘abuse of discretion’ has been defined by this Court as a ‘clearly erroneous conclusion and judgment, one that is clearly against the logic and effect of the facts presented in support of and against the application’.” *Walker v. State*, 1989 OK CR 65, ¶ 5, 780 P.2d 1181, 1183. Appellant has not shown an abuse of discretion.

### **DECISION**

The revocation of Appellant’s suspended sentences in Oklahoma County District Court Case Nos. CF-2009-228 and CF-2015-8860 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 filing of this decision.

**REVOCATION APPEAL FROM THE DISTRICT COURT OF  
OKLAHOMA COUNTY, THE HONORABLE RAY C. ELLIOTT,  
DISTRICT JUDGE**

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**OPINION BY: LEWIS, P.J.:**

KUEHN, V.P.J.: Concur  
LUMPKIN, J.: Concur  
HUDSON, J.: Concur  
ROWLAND, J.: Concur

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