

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
NOV 27 2001
JAMES W. PATTERSON
CLERK

No. RE-2000-1470

Pursuant to Rule 11.2(A)(3), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2000) this appeal was automatically assigned to the Accelerated Docket of this Court. The propositions or issues were presented to this Court in oral argument November 8, 2001, pursuant to Rule 11.2(F). At

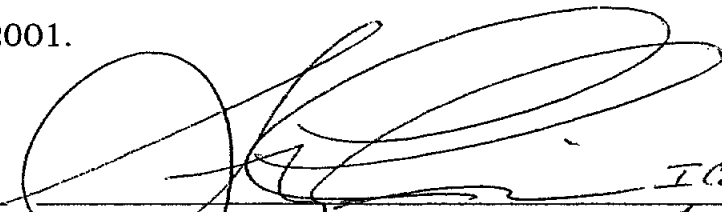
the conclusion of oral argument, the parties were advised of the decision of this Court.

Appellant's suspended sentence was properly revoked. However, we find merit in Appellant's claim that the District Court should have specified whether Appellant's sentence was to be served consecutively or concurrently, and that the decision of how the sentence was to be served should not have been left to the discretion of the Department of Corrections. *Custer v. State*, 727 P.2d 973, 975 (1986); 22 O.S. § 976.

IT IS THEREFORE THE ORDER OF THIS COURT, by a vote of three (3) to one (1), that the order of the District Court of Garfield County revoking Appellant's suspended sentence in Case No. CF-98-544 is **AFFIRMED**, however the matter is **REMANDED** to the District Court for entry of an order specifying whether Appellant's sentence is to be served concurrently or consecutively with his subsequent offenses.

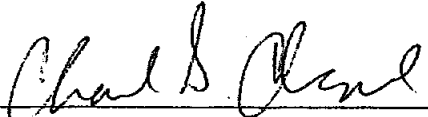
IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 27th day of November, 2001.

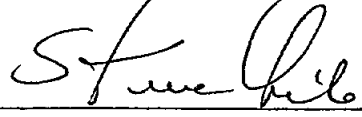

GARY L. LUMPKIN, Presiding Judge


CHARLES A. JOHNSON, Vice Presiding Judge

*I Concur in affirming
the decision, however
I dissent to the remand.*



CHARLES S. CHAPEL, Judge



STEVE LILE, Judge

ATTEST:



Clerk