

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

RONNIE RAY SHELTON,

Appellant,

-vs-

THE STATE OF OKLAHOMA,

Appellee.

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)  
) **NOT FOR PUBLICATION**  
)

) Case No. RE-2006-1312  
)

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

**SUMMARY OPINION**

JUN 05 2008

**A. JOHNSON, JUDGE:**

MICHAEL S. RICHIE  
CLERK

On September 28, 1998, Appellant, Ronnie Ray Shelton, entered a plea of nolo contendere to Robbery by Force in Bryan County District Court Case No. CF-1997-513. He was sentenced to ten years incarceration, with all but three years suspended, pursuant to rules and conditions of probation.

On July 3, 2006, the State filed an Application to Revoke Shelton's suspended sentence alleging he had violated the rules and conditions of probation. The State specifically alleged Shelton had committed the new crimes of Domestic Assault and Battery by Strangulation, Possession of a Controlled Substance and Unlawful Possession of Drug Paraphernalia in Bryan County District Court Case No. CF-2006-524.

A hearing on the application was held on December 18, 2006, before the Honorable Rocky Powers, Associate District Judge. Shelton was represented by counsel. At the conclusion of the hearing, the court found Shelton violated the terms and conditions of his probation by committing the crime of Domestic Assault and Battery and revoked in full his suspended sentence.<sup>1</sup> From that

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<sup>1</sup> The trial court sustained Shelton's demurrers to charges of Possession of a Controlled

order of revocation, Shelton has perfected this appeal.

In his only assignment of error, Shelton contends the trial court abused its discretion in revoking his sentence in full. This Court's review of an appeal from the revocation of a suspended sentence is limited to the validity of the revocation order. See Rule 1.2(D)(4), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2008). A violation of a suspended sentence need only be proven by a preponderance of the evidence. *Robinson v. State*, 1991 OK CR 44, ¶ 3, 809 P.2d 1320, 1322. A District Court's decision to revoke a suspended sentence in whole or in part is reviewable under the abuse of discretion standard. *Crowels v. State*, 1984 OK CR 29, ¶ 6, 675 P.2d 451, 453.

Reviewing the evidence in the light most favorable to the State, we find the preponderance of the evidence established Shelton committed the crime of Domestic Assault and Battery. A revocation is proper even if only one violation is proved. *McQueen v. State*, 1987 OK CR 162, 740 P.2d 744. We find no abuse of discretion.<sup>2</sup>

Shelton's Judgment and Sentence in Case No. CF-1997-513 reflects he was sentenced to ten years incarceration, with all but three years suspended. The District Court's order of revocation states Shelton received a ten year sentence, with all but the first seven years suspended. The State concedes Shelton's argument that the order revoking his suspended sentence should be corrected to reflect the actual Judgment and Sentence. This is obviously a

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Substance and Unlawful Possession of Drug Paraphernalia.

<sup>2</sup> Shelton cites no authority in support of his argument he should have been given credit for all incarceration time he had served. See Rule 3.5(A)(5), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2008). Therefore, it will not be considered.

clerical error and we **DIRECT** the trial court to enter an order nunc pro tunc, reflecting Shelton's correct Judgment and Sentence.

### **DECISION**

The order of the District Court of Bryan County revoking Ronnie Ray Shelton's suspended sentence in Case No. CF-1997-513 is **AFFIRMED**. This matter is **REMANDED** to the District Court with instructions to enter an order nunc pro tunc to correct the revocation order by properly reflecting Shelton's Judgment and Sentence. Pursuant to Rule 3.15, Rules of the Oklahoma Court of Criminal Appeals, Title 22, Ch. 18, App. (2008), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

#### **ATTORNEYS AT TRIAL**

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#### **OPINION BY: A. JOHNSON, J.**

LUMPKIN, P.J.: Concur  
C. JOHNSON, V.P.J.: Concur  
CHAPEL, J.: Concur  
LEWIS, J.: Concur