

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

MICHELLE MARIE MESPLAY,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

NOT FOR PUBLICATION

No. RE-2019-155

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

FEB 13 2020

**JOHN D. HADDEN
CLERK**

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

HUDSON, JUDGE:

Appellant appeals from the revocation of her suspended sentences in Ottawa County District Court Case No. CF-2015-134.

Appellant, by and through counsel, entered a plea of no contest on October 2, 2015, to Child Neglect, in violation of 21 O.S.Supp.2014, § 843.5(C) in Case No. CF-2015-134. The trial court accepted Appellant's plea, withheld a finding of guilt, and delayed proceedings for a period of ten years. On December 23, 2016, the State filed an Application to Accelerate Deferred Judgment. Appellant stipulated to the application and the trial court accelerated Appellant's deferred sentence to a conviction and sentenced Appellant to ten years imprisonment, with all ten years suspended.

On May 3, 2018, the State filed a Motion to Revoke Suspended Sentence alleging Appellant failed to pay supervision fees, failed to pay court costs, repeatedly used methamphetamine, repeatedly failed to report, and that Appellant's current whereabouts were unknown. Appellant stipulated to the motion to revoke and the Honorable Robert Haney, District Judge, revoked seven and a half years of Appellant's remaining ten-year suspended sentence.

In her sole proposition, Appellant maintains this revocation order was excessive and claims it should be modified. She argues revocation of seven and a half years was an abuse of discretion. Appellant's claims are without merit.

"A suspended sentence is a matter of grace." *Demry v. State*, 1999 OK CR 31, ¶ 12, 986 P.2d 1145, 1147. The State must only prove one violation of probation in order to revoke Appellant's suspended sentence in full. *Tilden v. State*, 2013 OK CR 10, ¶ 10, 306 P.3d 554, 557 (citing *McQueen v. State*, 1987 OK CR 162, ¶ 2, 740 P.2d 744, 745). Here Appellant stipulated she violated the rules and conditions of her suspended sentence.

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. *Jones v. State*, 1988 OK CR 20, ¶ 8, 749 P.2d 563, 565. In this case, the State filed a petition setting forth the grounds for the revocation and competent evidence justifying the revocation was presented to the trial court. 22 O.S.Supp.2018, § 991b(A). Appellant has not shown an abuse of discretion. *Jones*, 1988 OK CR 20, ¶ 8, 749 P.2d at 565.

DECISION

The revocation of Appellant's suspended sentences in Ottawa County District Court Case No. CF-2015-134 is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2020), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF
OTTAWA COUNTY, THE HONORABLE ROBERT HANEY,
DISTRICT JUDGE**

APPEARANCES AT REVOCATION APPEARANCES ON APPEAL

ANDREW MELOY
2 N. MAIN, STE. 509
MIAMI, OK 74354
COUNSEL FOR DEFENDANT

MARK HOOVER
P. O. BOX 926
NORMAN, OK 73070
COUNSEL FOR APPELLANT

ROGER HUGHES
ASST. DISTRICT ATTORNEY
102 E. CENTRAL AVE.
MIAMI, OK 74354
COUNSEL FOR STATE

MIKE HUNTER
OKLA. ATTORNEY GENERAL
CAROLINE HUNT
ASST. ATTORNEY GENERAL
313 N.E. 21st STREET
OKLAHOMA CITY, OK 73105
COUNSEL FOR APPELLEE

OPINION BY: HUDSON, J.

LEWIS, P.J.: CONCUR
KUEHN, V.P.J.: CONCUR
LUMPKIN, J.: CONCUR
ROWLAND, J.: CONCUR

RA/F