

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

DEWAYNE MICHAEL DATES,
Appellant,
v.
THE STATE OF OKLAHOMA,
Appellee.

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NOT FOR PUBLICATION

No. RE 2014-0189

FILED
IN COURT OF CRIMINAL APPEALS,
STATE OF OKLAHOMA

FEB 11 2015

MICHAEL S. RICHIE
CLERK

SUMMARY OPINION

JOHNSON, JUDGE:

Appellant, Dewayne Michael Dates, pled guilty to Attempted Larceny of Vehicle, a felony, on March 8, 2007, in Ottawa County District Court Case No. CF-2006-277. The Honorable William Culver, Special Judge, sentenced Appellant to ten years, all suspended, with rules and conditions of probation, and fined Appellant \$500.00. Five years of Dates ten year suspended sentence was revoked on December 20, 2007, with the balance to remain suspended.

The State filed a motion to revoke the remaining five year suspended sentence on September 28, 2010. The State alleged Dates (1) was classified as an absconder from supervised probation; (2) was in arrears for court costs; (3) was in arrears for monthly supervision fees; and (4) failed to maintain gainful employment.

Following a revocation hearing on February 26, 2014, Judge Culver found Dates violated the rules and conditions of probation and revoked the five

year suspended sentence, with credit for time served from February 13, 2014.

Dates appeals raising the following propositions of error:

1. whether the revocation must be reversed because the trial court would not recognize Dates' attempt to enter a plea to the State's allegations; and,
2. whether the prosecutor failed to act with due diligence.

We affirm the order of the District Court revoking the five year suspended sentence.

I.

We find no merit to this proposition of error. Dates cites no authority to support his argument that it was reversible error for the trial judge not to recognize and accept his *pro se* written, and mailed from the Missouri Department of Corrections, waiver and plea of guilty, and his recommended sentence to the State's application to revoke. As set forth in Section 514 of Title 22: "Every plea must be oral and must be entered upon the minutes of the court." And, Section 516 of Title 22: "A plea of guilty can in no case be put in, except by the defendant himself, in open court, unless upon an indictment or information against a corporation, in which case it can be put in by counsel."

II.

We find no merit to Dates' second proposition of error. The Interstate Agreement on Detainers does not apply to probation violations. See *White v. State*, 1988 OK CR 253, ¶ 7, 763 P.2d 718. The record does not support Dates' argument that the State failed to act with due diligence. See *Barthiume v.*

State, 1976 OK CR 94, ¶ 3, 549 P.2d 366 (wherein we held that the defendant suffered no prejudice as a result of the revocation hearing being delayed while the defendant was incarcerated as a result of an intervening conviction)

DECISION

The revocation of Dates' suspended sentence in Ottawa County District Court Case No. CF-2006-277 is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2015), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

REVOCAATION APPEAL FROM THE DISTRICT COURT OF OTTAWA COUNTY, THE HONORABLE WILLIAM CULVER, SPECIAL JUDGE

APPEARANCES AT TRIAL

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OPINION BY: JOHNSON, J.

SMITH, P.J.: Concur
LUMPKIN, V.P.J.: Concur
LEWIS, J.: Concur

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