

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

GLENN DALE BRIGGS,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

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) **NOT FOR PUBLICATION**
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No. RE-2014-238

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

APR 21 2015

SUMMARY OPINION

JOHNSON, JUDGE:

MICHAEL S. RICHIE
CLERK

On August 25, 2006, Appellant entered a plea of guilty in Ottawa County District Court Case No. CF-2005-0465 to Count 1, Possession of a Controlled Substance Within the Presence of a Minor Child; Count 2, Driving a Motor Vehicle While Under the Influence of Drugs; Count 3, Unlawful Possession of Drug Paraphernalia; and Count 4, Failure to Carry an Insurance Verification Form. Appellant was sentenced to ten years imprisonment with all but the first year suspended on Count 1, one year imprisonment on Count 2 and fines on Counts 3 and 4. The sentences were ordered to run concurrently.

On October 22, 2013, the State filed an amended motion to revoke Appellant's Case No. CF-2005-465 suspended sentence alleging that Appellant failed to pay fines, fees and costs; committed the new crime of Possession of Controlled Dangerous Substance with Intent to Distribute in Jasper County Missouri; tested positive for methamphetamine; failed to report; changed his address without notifying his probation officer; failed to provide verification of employment; and failed to provide proof of a drug and alcohol assessment.

Following a revocation hearing, the Honorable Robert G. Haney, District Judge, found Appellant had violated the rules and conditions of his probation and revoked six years of Appellant's remaining nine-year suspended sentence. Appellant appeals from the revocation of his suspended sentence.

In Appellant's sole proposition of error, he argues that Judge Haney abused his discretion by including one year of post-imprisonment supervision in the revocation order. Appellant argues that ordering one year of post-imprisonment supervision is impermissible in this case. The State concedes this proposition and agrees that the period of post-imprisonment supervision should be vacated. We agree. This case deals with Appellant's nine-year suspended sentence. Appellant's suspended sentence was pursuant to 63 O.S.Supp.2004, § 2-402. This statute does not provide for post-imprisonment supervision. Further, 22 O.S.Supp.2012, § 991a-21, the more general statute allowing for imposition of post-imprisonment supervision in certain cases, was not effective until November 1, 2012.

DECISION

The revocation of Appellant's suspended sentence in Ottawa County District Court Case No. CF-2005-0465 is **AFFIRMED**; the one year of post-imprisonment supervision is **VACATED** and the case is **REMANDED** for issuance of a revocation order consistent with this opinion. 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.

**REVOCATION APPEAL FROM THE DISTRICT COURT OF
OTTAWA COUNTY, THE HONORABLE ROBERT G. HANEY,
DISTRICT JUDGE**

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OPINION BY: JOHNSON, J.

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

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