

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

**SEAN EDDIE HOWLAND,**  
**Appellant,**

**v.**

**THE STATE OF OKLAHOMA,**  
**Appellee.**

)  
)  
)  
)  
)  
)  
)  
)  
)

**No. RE 2014-0706**

**FILED**  
**IN COURT OF CRIMINAL APPEALS,**  
**STATE OF OKLAHOMA**  
**MAY 12 2015**  
**MICHAEL S. RICHIE**  
**CLERK**

**SUMMARY OPINION**

**HUDSON, JUDGE:**

Appellant, Sean Eddie Howland, pled guilty on July 17, 2009, to Count 1 – Possession of Stolen Vehicle and Count 2 – Obstructing Officer in Rogers County District Court Case No. CF-2008-558. He was given three years suspended except for six months and a \$300 fine on Count 1, and sixty days in the Rogers County Jail and a \$100.00 fine on Count 2. Counts 1 and 2 were ordered to run concurrent with credit for time served and with rules and conditions of probation.

The State filed an application to revoke Appellant’s suspended sentence on March 10, 2010, alleging Appellant failed to contact his DOC probation officer after being released from prison in New Mexico on February 10, 2010. On March 7, 2011, Appellant confessed the State’s application to revoke. The Honorable Terrell S. Crosson, Special Judge, gave Appellant ninety days to be in compliance with the rules and conditions of probation. Appellant failed to appear at the ninety-day review hearing. Following a revocation hearing on August 4, 2014, Judge Crosson revoked the balance of 2-1/2 years on Count 1.

Appellant appeals, raising the following issues:

1. Appellant was denied the effective assistance of counsel to which he was entitled in the revocation proceedings in violation of the 6<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution, art. II, §§ 7 and 20, of the Oklahoma Constitution, and 22 O.S. § 991b.
2. Unwarranted delay in the revocation proceedings combined with the failure to honor the terms of a previously imposed lawful sentencing order denied Appellant due process to his prejudice in violation of the 14<sup>th</sup> Amendment to the United States Constitution and art. II, § 7, of the Oklahoma Constitution.

In the State's Brief filed in this Court on April 7, 2015, the State answers that the unwarranted delay in prosecuting the application to revoke denied Appellant due process of law, that the prosecution in this case failed to exercise due diligence in prosecuting the application to revoke in a timely manner thereby precluding Appellant's sentences from being served concurrently as was ordered by the Tulsa County Court in Case No. CF-2012-3349. *See Cheadle v. State*, 1988 OK CR 226, ¶ 4, 762 P.2d 995. After reviewing the record on appeal, we agree.<sup>1</sup>

### **DECISION**

The revocation of Appellant's suspended sentence in Rogers County District Court Case No. CF-2008-558 is **REVERSED** and **REMANDED** to the District Court with instructions to **DISMISS**. 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.

---

<sup>1</sup> Because Appellant's second proposition of error requires relief, the first proposition of error will not be addressed.

**REVOCATION APPEAL FROM THE DISTRICT COURT OF ROGERS  
COUNTY, THE HONORABLE TERRELL S. CROSSON, SPECIAL JUDGE**

**APPEARANCES AT TRIAL**

ANDREW MELOY  
ATTORNEY AT LAW  
177 W. DELAWARE AVENUE  
VINITA, OKLAHOMA 74301  
COUNSEL FOR DEFENDANT

REAGAN REININGER  
ASSISTANT DISTRICT ATTORNEY  
200 S. LYNN RIGGS BLVD.  
CLAREMORE, OKLAHOMA 74017  
COUNSEL FOR THE STATE

**APPEARANCES ON APPEAL**

TERRY J. HULL  
APPELLATE DEFENSE COUNSEL  
P. O. BOX 926  
NORMAN, OKLAHOMA 73070  
COUNSEL FOR APPELLANT

E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA  
THOMAS LEE TUCKER  
ASSISTANT ATTORNEY GENERAL  
313 N.W. 21<sup>st</sup> STREET  
OKLAHOMA CITY, OKLAHOMA 73105  
COUNSEL FOR THE STATE

**OPINION BY: HUDSON, J.**

SMITH, P.J.: CONCUR  
LUMPKIN, V.P.J.: CONCUR IN RESULTS  
JOHNSON, J.: CONCUR  
LEWIS, J.: CONCUR

RD