

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

STEPHEN A. HACKER, )  
 )  
Appellant, )  
 )  
v. )  
 )  
THE STATE OF OKLAHOMA, )  
 )  
Appellee. )

NOT FOR PUBLICATION  
Case No. F-2014-976

**FILED**  
IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA  
JAN - 5 2016

**SUMMARY OPINION**

**JOHNSON, JUDGE:**

MICHAEL S. RICHIE  
CLERK

Appellant Stephen A. Hacker was tried by jury and convicted in the District Court of Okmulgee County, Case No. CF-2013-109, of Aggravated Possession of Child Pornography (Count 1) in violation of 21 O.S.2011, § 1040.12a and Using a Computer to Violate Oklahoma Statutes (Count 2) in violation of 21 O.S.2011, § 1958. The jury assessed punishment at four years imprisonment and a \$5,000.00 fine on Count 1 and two years imprisonment and a \$5,000.00 fine on Count 2. The Honorable Kenneth E. Adair, who presided at trial, sentenced Hacker accordingly and ordered the sentences to be served consecutively.<sup>1</sup>

Before the Court is Hacker's direct appeal raising a single issue. Hacker claims his punishment for both Aggravated Possession of Child Pornography and Using a Computer to Violate Oklahoma Statutes is prohibited because it violates the prohibition against multiple punishment for a single act. We

<sup>1</sup> Under 21 O.S.2011, § 13.1, Hacker must serve 85% of the sentence imposed on Count 1 before he is eligible for parole.

disagree and find reversal is not required and the Judgment and Sentence of the district court should be affirmed. Because Hacker's acts of possessing in excess of 100 images of child pornography and his use of a computer to access child pornography were separate and distinct acts in this case, his convictions in Counts 1 and 2 do not violate the statutory prohibition against double punishment. *See Davis v. State*, 1999 OK CR 48, ¶ 13, 993 P.2d 124, 126; 21 O.S.2011, § 11.

**DECISION**

The Judgment and Sentence of the district court 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 delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF OKMULGEE COUNTY  
THE HONORABLE KENNETH E. ADAIR, DISTRICT JUDGE

**APPEARANCES AT TRIAL**

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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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