



parties, we have determined that neither reversal nor modification of sentence is warranted under the law and the evidence.

In his sole proposition of error, Appellant contends that the District Court erred when it permitted the State to refile the charges after the case was dismissed at preliminary hearing. He argues that pursuant to *Jones v. State*, 1971 OK CR 27, 481 P.2d 169, the State is required to show either newly discovered evidence or good cause to justify the refiling of charges following dismissal at preliminary hearing. As the magistrate did not discharge Appellant based upon an adverse ruling on the merits, we find that the circumstances of the present case are distinguishable from *Jones*. *Reynolds v. State*, 1987 OK CR 56, ¶¶ 3-4, 735 P.2d 564, 565; *Blades v. State*, 1979 OK CR 147, ¶ 31, 619 P.2d 875, 881; *Lampe v. State*, 1975 OK CR 166, ¶¶ 11-12, 540 P.3d 590, 594-95.

Appellant further asserts that pursuant to 22 O.S.2011, § 812.2(C) the case could not be refiled unless the state showed newly discovered evidence. However, the magistrate did not dismiss the case based upon a violation of the time limit to begin trial set out in 22 O.S.2011, § 812.1. Therefore, we find that the provisions of § 812.2(C) were not applicable to Appellant's case.

Since the magistrate dismissed the case because the State was not ready to proceed, the dismissal did not bar the refiling of the charges. 22 O.S.2011, § 817. The State was not required to show additional evidence or prove the existence of other good cause to properly refile the charges. *Lampe*, 1975 OK CR 166, ¶¶ 11-12, 540 P.3d at 594-95. Appellant has not shown that error occurred.

Within this proposition of error, Appellant argues that the State violated his right to a fast and speedy trial as guaranteed by both the Constitution of the United States and the Constitution of the State of Oklahoma. It appears that Appellant simply intended this argument to serve the purpose of establishing prejudice. We note that Petitioner did not set out this claim as a separate proposition of error in his brief, failed to support the claim with citations to the record, and did not cite any authority in support of this argument. Therefore, to the extent that Appellant's argument could be interpreted as a claim of error, we find the issue is waived pursuant to Rule 3.5(A)(5), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2015); *Murphy v. State*, 2012 OK CR 8, ¶ 23, 281 P.3d 1283, 1291 (refusing to review contention not supported with argument or authority as required by Rule 3.5); *Harmon v. State*, 2011 OK CR 6, ¶ 90, 248 P.3d 918, 946 (finding issue waived under Rule 3.5 where appellant provides no argument or authority); *Armstrong v. State*, 1991 OK CR 34, 811 P.2d 593, 599 (finding issue waived where under Rule 3.5 where appellant failed to provide citation to record).

Accordingly, this appeal is denied.

### **DECISION**

The Judgment and Sentence of the District Court is hereby **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 delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF MCINTOSH COUNTY  
THE HONORABLE JAMES R. PRATT, ASSOCIATE DISTRICT JUDGE

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**OPINION BY:      LUMPKIN, V.P.J.**

SMITH, P.J.: Concur  
JOHNSON, J.: Concur  
LEWIS, J.: Concur  
HUDSON, J.: Concur