

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

ROBERT LEROY GORE,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

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NOT FOR PUBLICATION

Case No. F-2015-212

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

MAR 24 2016

MICHAEL S. RICHIE
CLERK

SUMMARY OPINION

JOHNSON, JUDGE:

Appellant Robert Leroy Gore was convicted of Larceny of an Automobile, After Former Conviction of Two or More Felonies (Count 1), in violation of 21 O.S.2011, § 1720, and Knowingly Concealing Stolen Property, After Former Conviction of Two or More Felonies (Count 2), in violation of 21 O.S.2011, § 1713, in the District Court of Pottawatomie County, Case No. CF-2014-542, after a bench trial before the Honorable John G. Canavan, Jr. Judge Canavan sentenced Gore to twenty-five years imprisonment on Count 1 and fifteen years imprisonment on Count 2, and ordered the sentences to be served consecutively. Gore appeals raising the following issues:

- (1) whether the record is insufficient to show a competent, knowing, and intelligent waiver of his constitutional right to trial by jury; and
- (2) whether the sentence imposed by the District Court is excessive and should be modified.

Gore's first claim has merit and requires relief rendering his second claim moot.

Gore argues there is no record of a valid waiver of his right to jury trial in this case. *See Valega v. City of Oklahoma City*, 1988 OK CR 101, ¶ 5, 755 P.2d 118, 119. The State concedes the error and the need to reverse and remand this matter for new trial. We agree.

DECISION

The Judgment and Sentence of the district court is **REVERSED** and **REMANDED** for a new trial. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2016), the **MANDATE** is **ORDERED** issued upon delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF POTTAWATOMIE COUNTY
THE HONORABLE JOHN G. CANAVAN, JR, DISTRICT JUDGE

APPEARANCES AT TRIAL

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ADAM PANTER
ASSISTANT DISTRICT ATTORNEY
331 NORTH BROADWAY
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ATTORNEY FOR STATE

OPINION BY: JOHNSON, J.
SMITH, P.J.: Concur
LUMPKIN, V.P.J.: Concur
LEWIS, J.: Concur
HUDSON, J: Concur

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APPEARANCES ON APPEAL

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