

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

STEVEN CASEY JONES,

Petitioner,

VS.

THE STATE OF OKLAHOMA,

Respondent.

NOT FOR PUBLICATION

No. C-2015-1057

FILED
IN COURT OF CRIMINAL APPEAL
STATE OF OKLAHOMA

OCT 12 2016

MICHAEL S. RICHIE
CLERK

SUMMARY OPINION GRANTING CERTIORARI

SMITH, PRESIDING JUDGE:

Steven Casey Jones pled guilty to Count I, Robbery with a Dangerous Weapon in violation of 21 O.S.2011, § 801, in the District Court of Tulsa County, Case No. CF-2015-4012. In accordance with a negotiated agreement the Honorable Douglas E. Drummond sentenced Jones to fifteen (15) years imprisonment and a fine of \$600. Jones must serve 85% of his sentence before becoming eligible for parole consideration. Jones' timely Motion to Withdraw Plea of Guilty was denied after a hearing on November 23, 2015. Jones filed this Petition for Writ of Certiorari. At this Court's request, the State filed a response brief on September 27, 2016.

Jones raises three propositions of error in support of his petition:

- I. This plea was not knowing and voluntary because Mr. Jones was misadvised regarding the applicable punishment range with and without enhancement under 21 O.S.2011, § 51.1.
- II. In the alternative, Mr. Jones should be allowed to withdraw his guilty plea, because the State failed to fulfill its promise to strike the second page and the plea was entered due to false impressions, misapprehension and frustration.
- III. Mr. Jones was denied his constitutional right to the effective assistance of counsel in considering whether to accept the State's offer, entry of the plea and identifying and presenting valid grounds that justified withdrawal.

After thorough consideration of the entire record before us, including the original record, transcripts, exhibits and briefs, we find that the petition must be granted and the case remanded.

Jones claims that his attorney initially informed him of the incorrect range of punishment, and that this mistake caused him to enter his guilty plea. The State concedes this issue. Jones' attorney mistakenly told him the minimum range of punishment was twenty years. Jones relied on this misstatement of law in deciding to agree to plea to a negotiated sentence of fifteen years – itself several years over the actual minimum sentence.¹ This misstatement of law, combined with Jones' reliance on it, requires reversal. *Hunter v. State*, 1992 OK CR 1, ¶¶ 2-3, 825 P.2d 1353, 1355. Proposition I is granted.

Given our resolution of Proposition I, Propositions II and III are moot.

DECISION

The Petition for Certiorari is **GRANTED**, and the case **REMANDED** to the District Court to allow Jones to withdraw his plea. 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 the delivery and filing of this decision.

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THE HONORABLE DOUGLAS E. DRUMMOND, DISTRICT JUDGE

¹ Jones was originally charged with armed robbery after one former conviction. The minimum sentence for that offense was ten years. There is some evidence in the record, and the State agrees, that the prosecutor dropped the second page in return for Jones' plea. The minimum sentence for armed robbery as a first offense was five years imprisonment.

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OPINION BY: SMITH, P.J.

LUMPKIN, V.P.J.: CONCUR IN RESULT

JOHNSON, J.: CONCUR

LEWIS, J.: CONCUR

HUDSON, J.: CONCUR