

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

**EDWARD DEAN JACKSON,**

**Appellant,**

**v.**

**THE STATE OF OKLAHOMA,**

**Appellee.**

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**NOT FOR PUBLICATION**

**No. RE-2016-401**

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

**JAN 11 2017**

**MICHAEL S. RICHIE**  
**CLERK**

**SUMMARY OPINION**

**SMITH, JUDGE:**

On November 3, 2014, Appellant entered a plea of guilty, in McCurtain County District Court Case No. CF-2014-194, to Count 1 - Unlawful Possession of a Controlled Drug with Intent to Distribute and Count 2 - Burglary in the Second Degree. Appellant was convicted and sentenced to eight years imprisonment, with all but the first three years suspended for both Counts 1 and 2. The sentences were ordered to run concurrently. On January 13, 2016, the State filed an application to revoke Appellant's suspended sentences.

Following a revocation hearing held April 26, 2016, the Honorable Walter Hamilton, Special Judge, found Appellant violated the terms of his suspended sentences. The suspended sentences were revoked in full. Appellant appeals from the revocation of his suspended sentences.

In Appellant's sole proposition of error he argues the District Court lost jurisdiction to hear the State's application to revoke by failing to hold the hearing within twenty days and by failing to secure a timely waiver of the twenty-day rule. Section 991b(A) of Title 22 requires that a hearing on the State's application to

revoke must be held “within twenty (20) days after the entry of the plea of not guilty to the petition, unless waived by both the state and the defendant”. 22 O.S. § 991b.

The record in the present case shows Appellant entered a plea of not guilty on February 1, 2016, and the trial court set the revocation hearing for February 29, 2016, which was twenty-eight days after the entry of the plea. On February 29, 2016, the trial court reset the revocation hearing to April 26, 2016. The record in this case shows a revocation hearing set twenty-eight days after Appellant entered a plea of not guilty without securing a waiver of the twenty-day requirement found in Section 991b(A) of Title 22.

#### **DECISION**

The revocation of Appellant’s suspended sentences in McCurtain County District Court Case No. CF-2014-194 is **REVERSED** and **REMANDED FOR PROCEEDINGS CONSISTENT WITH THIS OPINION**. 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 filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF MCCURTAIN COUNTY  
THE HONORABLE WALTER HAMILTON, SPECIAL JUDGE**

#### **APPEARANCES AT TRIAL**

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**OPINION BY: SMITH, J.**

LUMPKIN, P.J.: CONCUR  
LEWIS, V.P.J.: CONCUR  
JOHNSON, J.: CONCUR  
HUDSON, J.: CONCUR

RA/F