

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

MICHAEL G. RICHIE
CLERK

RICHARD WAYNE ROBBINS, JR.,)
)
Appellant,)
)
v.)
)
THE STATE OF OKLAHOMA,)
)
Appellee.)

NOT FOR PUBLICATION

Case No. F-2007-807

SUMMARY OPINION

LUMPKIN, PRESIDING JUDGE:

Appellant, Richard Wayne Robbins, Jr., was tried by jury and convicted of Indecent Exposure (21 O.S. 2001, § 1121), Case No. CF-2006-5498, in the District Court of Tulsa County. The jury recommended as punishment six (6) year imprisonment and a five hundred dollar (\$500.) fine. The trial court sentenced Appellant to the six year prison term but declined to impose the fine. It is from this judgment and sentence Appellant now appeals.

Appellant raises the following propositions of error in this appeal:

- I. The trial court abused its discretion in refusing Appellant's proposed jury instruction on sex offender registration and in refusing to allow defense counsel to discuss registration during closing arguments.
- II. The State presented insufficient evidence at trial and at Preliminary Examination to prove that Appellant committed the crime of Indecent Exposure.
- III. The sentence is excessive under the facts of this case and must be modified.

After thorough consideration of these propositions and the entire record

before us, including the original record, transcripts, and briefs of the parties, we find neither reversal nor modification is not required.

In the first proposition of error, we find the trial court did not abuse its discretion in denying the requested jury instruction on sex offender registration. *See Ciprano v. State*, 2001 OK CR 25, ¶ 14, 32 P.3d 869, 873. Sexual offender registry is automatic upon conviction. *See* 57 O.S.Supp.2002, § 581, *et seq.* Therefore, it is not within the jury's province of determining guilt or innocence and an appropriate punishment. Jurors should not be apprised of "issues broader than the guilt or innocence of the accused under the controlling law." *Cooper v. State*, 1978 OK CR 96, ¶ 13, 584 P.2d 234, 238. To hold otherwise would reap dire consequences upon the criminal justice system. *Johnson v. State*, 1971 OK CR 459, ¶ 2, 490 P.2d 1130, 1131. The consequences resulting from registration as a sexual offender are collateral and tangential effects of a conviction and not within the jury's control.

In Proposition II, we find the evidence sufficiently proved that the crime of indecent exposure was committed and that Appellant committed that crime. *See Woodruff v. State*, 1993 OK CR 7, ¶ 32, 846 P.2d 1124, 1135; 22 O.S.1991, § 264. Therefore, Appellant was properly bound over for trial.

Reviewing the evidence presented at trial, in the light most favorable to the prosecution, we find any rational trier of fact could have found the essential elements of the crime of indecent exposure beyond a reasonable doubt. *Easlick v. State*, 2004 OK CR 21, ¶ 15, 90 P.3d 556, 559.

In Proposition III, we find Appellant's sentence was within statutory range

and appropriate based upon the evidence. Under a review of the facts and circumstances of this case, we find the sentence does not shock the conscience of the Court and the request for modification is denied. *See Rea v. State*, 2001 OK CR 28, ¶ 4, 34 P.3d 148, 149.

Accordingly, this appeal is denied.

DECISION

The judgment and sentence are hereby **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2005), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY
THE HONORABLE CLANCY SMITH, DISTRICT JUDGE.

APPEARANCES AT TRIAL

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OPINION BY: LUMPKIN, P.J.
C. JOHNSON, V.P.J.: CONCUR
CHAPEL, J.: DISSENT
A. JOHNSON, J.: CONCUR
LEWIS, J.: CONCUR IN RESULTS

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CHAPEL, J., DISSENTING:

I dissent. See my special concur in Edmonds v. State, Case No. F-2006-220.