



ORIGINAL

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

DEC - 5 2019

JOHN D. HADDEN
CLERK

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

MONTE DEAN PERRY,)	<u>NOT FOR PUBLICATION</u>
)	
Appellant,)	
)	
v.)	Case No. F-2018-760
)	
THE STATE OF OKLAHOMA,)	
)	
Appellee.)	

SUMMARY OPINION

LEWIS, PRESIDING JUDGE:

Appellant, Monte Dean Perry, was tried by jury and found guilty of Count 1, assault and battery with a deadly weapon, in violation of 21 O.S.2011, § 652(C); and Count 2, endeavoring to perform an act of violence, in violation of 21 O.S.2011, § 1378(A), in the District Court of Oklahoma County, Case No. CF-2016-3706. The jury sentenced Appellant to thirty (30) years imprisonment in Count 1 and five (5) years imprisonment in Count 2. The Honorable Cindy H. Truong, District Judge, pronounced judgment and ordered

the sentences served concurrently.¹ Mr. Perry appeals in the following proposition of error:

The State's evidence was insufficient to prove beyond a reasonable doubt that Mr. Perry assaulted Mr. Tuttle with a knife.

Appellant argues in Proposition One that the evidence is legally insufficient to support his conviction for assault and battery with a deadly weapon. We review the evidence in the light most favorable to the prosecution to determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Spuehler v. State*, 1985 OK CR 132, ¶ 7, 709 P.2d 202, 203-04. The evidence here is sufficient. Proposition One is denied.

DECISION

The Judgment and Sentence is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

¹ Appellant must serve 85% of his sentence in Count 1 before he is eligible for consideration for parole. 21 O.S.Supp.2015, § 13.1 (5).

**APPEAL FROM THE DISTRICT COURT OF OKLAHOMA COUNTY
HONORABLE CINDY H. TRUONG, DISTRICT JUDGE**

APPEARANCES AT TRIAL

MICHAEL NOLAND
435 N. WALKER, # 105
OKLAHOMA CITY, OK 73102
ATTORNEY FOR DEFENDANT

REBECCA HILL
RACHAEL SMITH
ASST. DISTRICT ATTORNEYS
320 ROBERT S. KERR, # 505
OKLAHOMA CITY, OK 73102
ATTORNEYS FOR STATE

OPINION BY LEWIS, .P.J.
KUEHN, V.P.J.: Concur
LUMPKIN, J.: Concur
HUDSON, J: Concur
ROWLAND, J.: Concur

APPEARANCES ON APPEAL

NANCY WALKER-JOHNSON
P.O. BOX 926
NORMAN, OK 73070-0926
ATTORNEY FOR APPELLANT

MIKE HUNTER
ATTORNEY GENERAL
THEODORE M. PEEPER
ASST. ATTORNEY GENERAL
313 N.E. 21st ST.
OKLAHOMA CITY, OK 73105
ATTORNEYS FOR APPELLEE