

Following a hearing, the Honorable David Stephens, Special Judge, denied Appellant's motion and granted the State's motion.¹

From this order Appellant appeals, raising the following issues:

1. THE TRIAL COURT ABUSED ITS DISCRETION BY DENYING CERTIFICATION OF S.M.W.B. AS A JUVENILE; and
2. THE TRIAL COURT ABUSED ITS DISCRETION BY GRANTING APPELLEE'S MOTION TO CERTIFY AS AN ADULT.[sic]

Pursuant to Rule 11.2(A), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019), this appeal was automatically assigned to the accelerated docket of this Court. Oral argument was held November 21, 2019, pursuant to Rule 11.2(E). At the conclusion of oral argument, the parties were advised of the decision of this Court. After a review of the record before this Court and hearing oral argument, we find the record does not support the propositions of error raised by Appellant.

The question before this Court is whether the trial court abused its discretion by denying Appellant's motion for certification as a juvenile and granting the State's motion to impose adult sentencing.

¹ The hearing was a combined preliminary hearing and juvenile certification hearing that took place on two different days: May 8, 2019, and July 30, 2019.

An “abuse of discretion” has been defined by this Court as a clearly erroneous conclusion and judgment, one that is clearly against the logic and effect of the facts presented in support of and against the application....The trial court’s decision must be determined by the evidence presented on the record, just as our review is limited to the record presented.

A.R.M. v. State, 2011 OK CR 25, ¶ 7, 279 P.3d 797, 799. Appellant argues that both the denial of his motion and the granting of the State’s motion were an abuse of discretion. By operation of law, the accused is treated as a youthful offender and the burden to sustain these motions is on the respective parties. *G.G. v. State*, 1999 OK CR 7, ¶ 12, 989 P.2d 936, 939; 10A O.S.Supp.2018, §§ 2-5-206(A)(9), (F)(1)(b); 10A O.S.Supp.2018, § 2-5-209(B)(1). Judge Stephens considered the criteria dictated by Sections 2-5-206 and 2-5-208 of Title 10A and the record is more than sufficient to support his decision. The record does not support Appellant’s argument that the trial court abused its discretion.

DECISION

The order of the District Court of Caddo County denying Appellant’s motion for certification as a juvenile and granting the State’s motion for imposition of adult sentencing is **AFFIRMED**. The State’s motion requesting permission to file a properly verified

response brief is **GRANTED** and the Amended Response to Application for Accelerated Docket is ordered to be **FILED** by the Clerk of this Court. 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 filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF CADDO COUNTY,
THE HONORABLE DAVID STEPHENS, SPECIAL JUDGE**

APPEARANCES AT TRIAL

APPEARANCES ON APPEAL

MARK OSBY
P.O. BOX 850126
YUKON, OK 73085
COUNSEL FOR APPELLANT

MARK OSBY
P.O. BOX 850126
YUKON, OK 73085
COUNSEL FOR APPELLANT

ANDREW BENEDICT
ABBIE WILBURN
CADDO CO. ASST. DIST. ATTY.
110 S.W. 2ND ST. SUITE
ANADARKO, OK 73005
COUNSEL FOR THE STATE

ANDREW BENEDICT
CADDO CO. ASST. DIST. ATTY.
110 S.W. 2ND ST. SUITE
ANADARKO, OK 73005
COUNSEL FOR THE STATE

OPINION BY: HUDSON, J.

LEWIS, P.J.: CONCUR IN RESULTS
KUEHN, V.P.J.: CONCUR
LUMPKIN, J.: CONCUR
ROWLAND, J.: CONCUR