

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

SADE DEANN McKNIGHT,)
)
 Appellant,)
)
v.)
)
THE STATE OF OKLAHOMA,)
)
 Appellee.)

NOT FOR PUBLICATION

Case No. M-2018-1055

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

OCT - 3 2019

SUMMARY OPINION

JOHN D. HADDEN
CLERK

ROWLAND, JUDGE:

Appellant Sade Deann McKnight appeals her Judgment and Sentence from the District Court of Payne County, Case No. CM-2016-1491, for the misdemeanor offenses of Obstructing an Officer, 21 O.S.Supp.2015, § 540 (Count 1) and Resisting an Officer, 21 O.S.1991, § 268 (Count 2). The Honorable R.L. Hert, Special Judge, presided over Appellant's jury trial and sentenced her, in accordance with the jury's verdicts, to a \$500.00 fine for Count 1 and six weeks confinement in the county jail and a \$500.00 fine for Count 2.

FACTS

During a thunderstorm at around midnight on September 9, 2016, Appellant lost control of the car she was driving. The car was

southbound on Interstate 35 when it spun and came to rest against the cable barrier partially blocking the inside lane of the highway. Oklahoma Highway Patrol trooper Ryan Long worked the accident. When Long arrived he found Appellant and her three small children in the back of an ambulance parked just south of the disabled car. The ambulance responded in an abundance of caution; there were no injuries.

The contact between the trooper and Appellant began amicably. Appellant allowed Long to retrieve her driver's license from her car and provided the names and ages of her children and their positions inside the car at the time of the wreck. However, when Appellant learned she would be ticketed for driving too fast for conditions, her demeanor changed. She became uncooperative and argumentative. Rather than telling Long the name of the towing company she called, Appellant persisted on speaking with her mother on the phone. When, after numerous inquiries, the trooper informed Appellant that *he* would call for a wrecker – and retrieved his radio from his duty belt to do so – Appellant began screaming that Long had pulled his gun and implored her mother to “record this.”

The situation worsened when Appellant learned the contents of her car would be inventoried prior to the wrecker's arrival. Long testified Appellant became "hostile."

As Appellant became increasingly agitated, she left the ambulance and attempted to get in her car. In doing so, she ignored Long's requests to return to the ambulance. Long testified that after Appellant ignored multiple requests to return to the ambulance he told her he was "going to take [her] to the ambulance." When Long placed his hands on Appellant's arm in an attempt to "escort" her to the ambulance, Appellant shouted, "get off me," and struck the trooper in the chest with her elbow. Long testified: "She then tried to hit me in the face with her fist, which had her phone in it." Long dodged the blow, took Appellant's phone and dropped it on the ground. When Long told Appellant she was being arrested for obstruction, a struggle ensued during which Appellant resisted being handcuffed.

Appellant brings this appeal raising three propositions of error: 1) whether the evidence was sufficient to support the conviction for obstructing an officer; 2) whether the conviction for resisting an officer should be reversed because Appellant was resisting an

unlawful arrest; and 3) whether the sentences imposed are excessive.

We affirm.

ANALYSIS

In her first proposition of error, Appellant contends the evidence presented at trial was insufficient to prove she obstructed an officer. We disagree. Appellant's jury received OUJI-CR 6-48 which required the prosecution to prove: 1) willfully; 2) obstructed or delayed; 3) an Oklahoma Highway Patrolman; 4) known by the defendant to be an Oklahoma Highway Patrolman; 5) in the discharge of any duty of his office.

The test to be applied in determining the sufficiency of the evidence is whether, when viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime charged beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789, 61 L.Ed.2d 560 (1979); *Spuehler v. State*, 1985 OK CR 132, ¶ 7, 709 P.2d 202, 203-04.

Long testified his duties included maintaining safety at the scene of the accident and, due to its location, it was particularly dangerous to approach the disabled car because it was close to traffic

traveling at highway speeds on a wet roadway. Long was concerned for his safety as well as the safety of Appellant and passing motorists. For these reasons, Long directed Appellant nine times to return to the ambulance and she ignored his commands. Long's testimony is sufficient to prove the requisite elements beyond a reasonable doubt. Proposition I is without merit.

In Proposition Two, Appellant argues she was permitted to resist her arrest because the arrest was unlawful. This argument was not raised in the district court and therefore it is reviewed for plain error. Plain error requires Appellant to show: 1) the existence of an actual error (i.e., deviation from a legal rule); 2) that the error is plain or obvious; and 3) that the error impacted her substantial rights, meaning the error affected the outcome of the proceeding. *Simpson v. State*, 1994 OK CR 40, ¶¶ 3, 11, 23, 876 P.2d 690, 694-95, 698. If these elements are met, we will correct plain error only if the error "seriously affect[s] the fairness, integrity or public reputation of the judicial proceedings" or otherwise represents a "miscarriage of justice." *Id.* at ¶ 30, 876 P.2d at 701. We find no error, plain or otherwise.

While there are circumstances that permit resistance to an unlawful arrest, see *State v. Nelson*, 2015 OK CR 10, ¶ 28, 356 P.3d 1113, 1121, here the arrest was not unlawful. A trooper is permitted to make a warrantless arrest of a person for a misdemeanor committed in his presence. 22 O.S.Supp.2014, §196(1). For reasons discussed in Proposition One, Long had at least probable cause to believe Appellant had committed the misdemeanor offense of obstructing an officer. Accordingly, Appellant's arrest was not unlawful. Proposition Two is without merit.

In her final proposition of error, Appellant contends her sentences are excessive. We disagree. A sentence within the statutory range will not be modified on appeal unless it shocks the conscience. *Rea v. State*, 2001 OK CR 28, ¶ 5, 34 P.3d 148, 149. Appellant's sentences do not meet this standard. Proposition Three is denied.

DECISION

The Judgment and Sentence of the district court 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 delivery and filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF PAYNE COUNTY
THE HONORABLE R.L. HERT, SPECIAL JUDGE**

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OPINION BY: ROWLAND, J.

LEWIS, P.J.: Concur
KUEHN, V.P.J.: Concur
LUMPKIN, J.: Concur in Results
HUDSON, J.: Concur

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