

probation reports; failed to report his arrest for public intoxication; moved back into Oklahoma without reporting it to the district court; committed the new crimes of Possession of a Controlled Drug, Marijuana, Within 2000 Feet of a School or Park, With the Intent to Distribute, in violation of 63 O.S.Supp.2012, § 2-401(B)(2) (Count 1); and Possession of CDS Without a Tax Stamp Affixed, in violation of 68 O.S.2011, § 450.8(B) as alleged in Texas County District Court Case No. CF-2018-58 (Count 2). Following a hearing on the application Judge Parsley revoked Appellant's remaining suspended sentence in full.

Appellant alleges in Proposition I the trial court erred when it assessed him attorney fees in the amount of \$500. Appellant claims this assessment exceeded the amount allowed by statute for attorney fees. At Proposition II, Appellant argues he cannot be assessed the costs of his incarceration because he is mentally ill. These claims are outside the scope of a revocation appeal.

The consequence of judicial revocation is to execute a penalty previously imposed in the judgment and sentence. *Marutzky v. State*, 1973 OK CR 398, ¶ 5, 514 P.2d 430, 431. The scope of review in a revocation appeal is limited to the validity of the revocation order

executing the previously imposed sentence. See Rule 1.2(D)(4), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2019); *Nesbitt v. State*, 2011 OK CR 19, ¶ 5, 255 P.3d 435, 437; *Grimes v. State*, 2011 OK CR 16, ¶ 17, 251 P.3d 749, 755.

As this Court has noted on numerous occasions, the arguments regarding both attorney fees and incarceration costs are administrative in nature and are not properly presented as part of the appeal of an order revoking a suspended sentence. Rule 1.2(D)(4), *Rules, supra*; *Nesbitt*, 2011 OK CR 19, ¶ 25, 255 P.3d at 441; *Grimes*, 2011 OK CR 16, ¶ 17, 251 P.3d at 755. Because these issues do not concern the validity of the revocation order issued in this case, we decline to further address them in this appeal. *Id.* Propositions I and II are denied.

In his third proposition of error Appellant objects to this revocation order including post-imprisonment supervision. The State concedes the point but argues this issue is moot because Judge Parsley entered an amended revocation order on January 17, 2019,

deleting post-imprisonment supervision from the revocation order.¹ We agree. Based on the trial court's amended revocation order, this proposition is moot.

The decision to revoke a suspended sentence in whole or in part is within the sound discretion of the trial court and such decision will not be disturbed absent an abuse thereof. *Jones v. State*, 1988 OK CR 20, ¶ 8, 749 P.2d 563, 565. "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.'" *Walker v. State*, 1989 OK CR 65, ¶ 5, 780 P.2d 1181, 1183. Appellant has not established that Judge Parsley abused his discretion.

DECISION

The revocation of Appellant's suspended sentence in Texas County District Court Case No. CF-2015-1 is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title

¹ The State attached a certified copy of this Corrected Judgment and Sentence on Amended Application to Revoke to its brief as Exhibit A. It was filed with the clerk of the district court on January 17, 2019.

22, Ch.18, App. (2019), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

**AN APPEAL FROM THE DISTRICT COURT OF TEXAS COUNTY,
THE HONORABLE JON PARSLEY, DISTRICT JUDGE**

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OPINION BY: LUMPKIN, J.

LEWIS, P.J.: Concur
KUEHN, V.P.J.: Concur
HUDSON, J: Concur
ROWLAND, J: Concur

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