

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

FRANK MERRITT THOMPSON,)
)
 Petitioner,) NOT FOR PUBLICATION
)
 v.) Case No. C-2015-59
)
 THE STATE OF OKLAHOMA,)
)
 Respondent.)

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
MAY 21 2015

SUMMARY OPINION DENYING CERTIORARI

JOHNSON, JUDGE:

MICHAEL S. RICHIE
CLERK

Petitioner Frank Merritt Thompson entered a blind plea of guilty in the District Court of Rogers County, Case No. CF-2013-71, to two counts of Lewd Molestation, in violation of 21 O.S.Supp.2003 & 2006, § 1123. The Honorable J. Dwayne Steidley accepted Thompson's plea. After review of Thompson's presentence investigation, Judge Steidley sentenced him to twenty years imprisonment with six years suspended and a fine of \$750.00 on each count, to be served concurrently.¹ Thompson filed a timely motion to withdraw plea that was denied. Thompson appeals the denial of his motion claiming the failure to advise him of the correct range of punishment rendered his plea unknowing and involuntary.

We find reversal is not required and affirm the Judgment and Sentence of the district court.

¹ Under 21 O.S.Supp.2011, § 13.1, Thompson must serve 85% of the sentence imposed before he is eligible for parole.

The State alleged Thompson committed the crimes in this case between April 2006 and August 2006. On June 7, 2006, Title 21 O.S.Supp.2006, § 1123 went into effect and changed the range of punishment for lewd molestation from one to twenty years imprisonment to three to twenty years imprisonment. Thompson claimed, and the record supports, that he was advised only of the three to twenty year range of punishment. He was not advised of the lesser range of punishment with the one year minimum sentence that applied to any act(s) he committed between April 2006 and June 7, 2006. We agree, however, with the district court that any error in failing to inform Thompson of this other range of punishment did not affect the validity of his plea. The record shows the court and plea counsel discussed a sentence on a blind plea and that Thompson entered his plea with the understanding from these conversations that he would receive a split sentence with somewhere between 11 and 14 years to serve. The district court imposed a split sentence with 14 years to serve after reviewing Thompson's presentence investigation. The minimum sentence—whether it was one or three years—did not affect Thompson's decision to enter his guilty plea. The district court did not abuse its discretion in denying Thompson's motion to withdraw plea. *See Cox v. State*, 2006 OK CR 51, ¶ 18, 152 P.3d 244, 251.

DECISION

The Petition for a Writ of Certiorari is **DENIED**. 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. (2015), the

MANDATE is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF ROGERS COUNTY
THE HONORABLE J. DWAYNE STEIDLEY, DISTRICT JUDGE

**APPEARANCES IN THE
DISTRICT COURT**

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ATTORNEY FOR STATE

OPINION BY: JOHNSON, J.
SMITH, P.J.: Concur
LUMPKIN, V.P.J.: Concur
LEWIS, J.: Concur
HUDSON, J.: Concur

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