

SUPREME COURT OF ARKANSAS

Eric Gillette v. City of Fort Smith, Arkansas

Gillette, 2023 Ark. 24 (Ark. 2023) · No. CR-22-120 · Decided March 2, 2023

SUMMARY

The Arkansas Supreme Court held that a district court violated Eric Gillette's due process rights by imposing court costs and probationary conditions without entering a conviction or finding of guilt. The court affirmed dismissal of Gillette's direct appeal under Arkansas Rule of Criminal Procedure 36(a), but reversed and remanded for the circuit court to address his petition to void the illegal district-court sentence under Arkansas Code Annotated section 16-90-111. The court declined to address his illegal-exaction claim in the criminal appeal.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per curiam; opinion identified with Shawn A. Womack, Associate Justice
JURISDICTION	Supreme Court of Arkansas
DECIDED	March 2, 2023
DOCKET	CR-22-120
DISPOSITION	other
PROCEDURAL POSTURE	Gillette was charged in Fort Smith District Court with carrying a weapon in a publicly owned building. After a bench trial, the district court took the case under advisement, required him to pay \$140 in court costs, imposed conditions concerning further violations, and stated that the charge would be dismissed if the conditions were satisfied, without entering a conviction. Gillette appealed to the Sebastian County Circuit Court and separately petitioned to void the district court sentence. The circuit court dismissed the appeal for lack of jurisdiction under Arkansas Rule of Criminal Procedure 36(a). The Supreme Court of Arkansas affirmed the dismissal of the appeal but reversed and remanded for the circuit court to rule on the petition to void the illegal sentence.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Eric Gillette v. City of Fort Smith, Arkansas

TOPICS

criminal procedure

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the circuit court had jurisdiction under Arkansas Rule of Criminal Procedure 36(a) to hear Gillette's appeal from the district court when no conviction had been entered.
2. Whether the district court's imposition of monetary and probationary conditions without a conviction or finding of guilt constituted an illegal sentence and violated due process.
3. Whether the circuit court had jurisdiction under Arkansas Code Annotated section 16-90-111(a) to consider Gillette's petition to void the illegal district-court sentence.
4. Whether Gillette's illegal-exaction claim could be adjudicated as part of the criminal appeal.

HOLDINGS

1. The circuit court correctly dismissed Gillette's appeal because Arkansas Rule of Criminal Procedure 36(a) permits a person convicted of a criminal offense in district court to appeal the judgment of conviction, and no conviction was entered here.
2. The district court imposed a void de facto sentence when it required Gillette to pay court costs and comply with probationary conditions without a conviction or finding of guilt.
3. The circuit court had jurisdiction under Arkansas Code Annotated section 16-90-111(a) to consider Gillette's petition challenging the legality of the de facto sentence.
4. The court declined to address Gillette's illegal-exaction claim because it was not properly before the court as part of the criminal appeal and would require separate filing and adjudication in a circuit court with competent jurisdiction.

KEY QUOTATIONS

"It is evident here that Gillette's due process rights were violated when the district court imposed a sentence that inflicted both monetary and probationary conditions without a conviction or finding of guilt." (2)

"Relying on the ruling in Thomas, that his sentence was void at the time it was imposed, Gillette properly challenged the legality of his de facto sentence and should have been heard on the merits as the court had jurisdiction to hear it in accordance with Ark. Code Ann. § 16-90-111(a)." (3)

FACTUAL BACKGROUND

Gillette was charged with carrying a weapon in a publicly owned building and proceeded to a bench trial in Fort Smith District Court. Rather than entering a conviction or finding of guilt, the district court took the case under advisement for thirty days, required Gillette to pay \$140 in court costs, and conditioned dismissal on payment

and the absence of further violations. Gillette objected to the costs and probationary conditions, paid the costs after his motions were denied, and the charge was dismissed without a conviction.

PROCEDURAL HISTORY

The Fort Smith District Court conducted a bench trial but entered no judgment of conviction. It imposed court costs and probationary conditions, then dismissed the charge after thirty days when Gillette paid the costs and incurred no further violations. The Sebastian County Circuit Court dismissed Gillette's appeal because Rule 36(a) requires a conviction for a district-court appeal and did not rule on his separate petition to void the sentence. The Supreme Court held that the circuit court correctly dismissed the appeal but should have exercised jurisdiction over the petition under Arkansas Code Annotated section 16-90-111(a).

DISPOSITION

other

REMAND INSTRUCTIONS

The circuit court must enter an order on Gillette's motion to void the illegal district-court sentence, reverse and dismiss the district court's order, and declare that order void as an illegal sentence imposed without a finding of guilt. The circuit court's dismissal of Gillette's direct appeal from the district court is affirmed.

CASES CITED

- Thomas v. State, 243 Ark. 147, 418 S.W.2d 792 (1967)
- Jackson v. State, 2018 Ark. 209, 549 S.W.3d 346
- Swift v. State, 2018 Ark. 74, 540 S.W.3d 288
- Redus v. State, 2019 Ark. 44, 566 S.W.3d 469
- Treat v. State, 2019 Ark. 326, 588 S.W.3d 10
- City of North Little Rock v. Pfeifer, 2017 Ark. 113, 515 S.W.3d 593
- Pruitt v. State, 2014 Ark. 258
- Collins v. State, 2021 Ark. 80
- Barner v. State, 2015 Ark. 247, 464 S.W.3d 450
- Williams v. Kelley, 2017 Ark. 200, 521 S.W.3d 104
- Williams v. State, 2016 Ark. 16, 479 S.W.3d 544
- Mister v. State, 2022 Ark. 35, 639 S.W.3d 331
- Ford v. State, 2021 Ark. 112, 622 S.W.3d 635
- City of Little Rock v. Circuit Court of Pulaski County, 2017 Ark. 219, 521 S.W.3d 113
- Wigley v. Hobbs, 2013 Ark. 379
- Bradford v. State, 2011 Ark. 494
- Central Emergency Medical Services, Inc. v. State, 332 Ark. 592, 966 S.W.2d 257 (1998)

