

SUPREME COURT OF OKLAHOMA

J.H. v. Kirby

213 P.3d 545 (Okla. 2008) · Decided December 9, 2008

SUMMARY

The Oklahoma Supreme Court held that a positive drug test, standing alone, does not establish direct contempt of court when the alleged contemnors did not engage in disorderly, insolent, disruptive, or obstructive behavior in the court's presence. The court concluded that any violation of the judge's prior order prohibiting the presence of drugs in the parents' systems would constitute, if properly proved, indirect rather than direct contempt. Because the trial court denied the parents the procedures applicable to indirect contempt, including notice and the right to a jury trial, the court reversed the judgments and vacated the Court of Appeals' decision.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Edmondson, Vice Chief Justice; Edmondson, V.C.J.; Hargrave, J.; Opala, J.; Kauger, J.; Watt, J.; Colbert, J.; Reif, J.
JURISDICTION	Oklahoma
DECIDED	December 9, 2008
DISPOSITION	reversed
PROCEDURAL POSTURE	On certiorari, the Oklahoma Supreme Court reviewed a Court of Appeals decision affirming a trial court's summary direct-contempt judgments against the parents.
STANDARD OF REVIEW	De novo review of the legal sufficiency and statutory classification of the contempt judgments
PRECEDENTIAL VALUE	binding
PARTIES	J.H. and co-appellant parent v. Kirby

TOPICS

- family law procedure
- due process
- procedural due process
- statutory interpretation
- evidence

PRACTICE AREAS

- family law
- juvenile law
- contempt proceedings
- constitutional law
- evidence

QUESTIONS PRESENTED

1. Whether a positive drug test, without proof of disruptive or obstructive courtroom conduct, supports a finding of direct contempt under Oklahoma law.
2. Whether an alleged violation of a prior court order occurring outside the court's presence may be prosecuted as direct contempt rather than indirect contempt.
3. Whether the trial court violated the appellants' statutory and constitutional protections by denying the procedures applicable to indirect penal contempt, including written notice, a reasonable opportunity for defense, and a jury trial upon demand.

HOLDINGS

1. A positive drug test alone does not support a finding of direct contempt because Oklahoma's statutory definition requires contemptuous conduct occurring in the court's immediate view and presence, such as disorderly or insolent behavior, disturbance, or willful obstruction of judicial proceedings.
2. An alleged violation of the court's July order based on drug ingestion outside the court's presence could constitute, if properly charged and proved, indirect contempt rather than direct contempt.
3. When indirect contempt is penal rather than remedial, the accused is entitled to the applicable federal due-process protections, including proof beyond a reasonable doubt and a jury trial unless knowingly and competently waived, in addition to Oklahoma's statutory and constitutional protections.

KEY QUOTATIONS

“The issue in this case is whether a positive drug test alone supports the trial court's finding that appellants were in direct contempt of court.” (at 545)

“However, a positive drug test result alone is not a sufficient basis to sustain a finding of direct contempt under our statutes.” (at 549)

“The trial court's order does not conform to the law and denied appellants' constitutional and statutory protections.” (at 549)

FACTUAL BACKGROUND

The appellants were parents of three children adjudicated deprived and placed in the custody of the Oklahoma Department of Human Services. As part of their treatment and service plan, they agreed to drug and alcohol testing, and both tested positive for cocaine before an October 2007 pretrial conference. Although they had previously been warned not to appear in court with alcohol or illegal drugs in their systems, they exhibited no disorderly, insolent, disruptive, disrespectful, or obstructive behavior at the conference. The trial judge conducted an immediate contempt hearing without witnesses and imposed two-day jail sentences based solely on the positive test results.

PROCEDURAL HISTORY

The parents appeared at a juvenile deprived-case pretrial conference after submitting to drug tests requested by the Department of Human Services. Based solely on positive cocaine-test results, the trial judge summarily

found them in direct contempt and sentenced each to two days in jail, denying their requests for a jury trial and a different judge. The Court of Appeals affirmed; the Oklahoma Supreme Court granted certiorari, vacated the Court of Appeals' opinion, and reversed the trial court's judgments.

DISPOSITION

reversed

CASES CITED

- In re Mental Health of D.B.W., 1980 OK 125, 616 P.2d 1149 (Okla. 1980)
- Best v. Evans, 1956 OK 119, 297 P.2d 379 (Okla. 1956)
- Fulreader v. State of Oklahoma, 1965 OK 187, 408 P.2d 775 (Okla. 1965)
- Autry v. State of Oklahoma, 2007 OK CR 41, 172 P.3d 212 (Okla. Crim. App. 2007)
- Gilbert v. State of Oklahoma, 1982 OK CR 100, 648 P.2d 1226 (Okla. Crim. App. 1982)
- Henry v. Schmidt, 2004 OK 34, 91 P.3d 651 (Okla. 2004)
- Young v. Woodson, 1974 OK 54, 522 P.2d 1035 (Okla. 1974)
- M.W. v. Lofthiem, 855 So. 2d 683 (Fla. 2d DCA 2003)
- Cameron v. Maryland, 102 Md. App. 600, 650 A.2d 1376 (1994)