

SUPREME COURT OF ARKANSAS

State of Arkansas v. Michael Aud

351 Ark. 531 (2003) (Ark. 2003) · No. CR 02-479 · Decided January 23, 2003

SUMMARY

The Supreme Court of Arkansas dismissed the State's appeal from Michael Aud's acquittal on a driving-while-intoxicated charge. The court held that the appeal concerned the trial court's fact-specific assessment of breathalyzer evidence and witness credibility, rather than an issue involving the correct and uniform administration of criminal law under Rule 3. Two justices dissented, concluding that the case presented a significant statutory-interpretation issue concerning the effect of a 0.10% breathalyzer reading.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Ray Thornton, Justice; Tom Glaze, Justice; Annabelle Clinton Imber, Justice
JURISDICTION	Arkansas
DECIDED	January 23, 2003
DOCKET	CR 02-479
DISPOSITION	dismissed
PROCEDURAL POSTURE	The State appealed Michael Aud's acquittal following a bench trial for driving while intoxicated under Rule 3 of the Arkansas Rules of Appellate Procedure—Criminal.
STANDARD OF REVIEW	Under Rule 3(c), the Supreme Court accepts a State appeal in a criminal case only when review is important to the correct and uniform administration of criminal law; State appeals are generally limited to narrow issues involving interpretation of law with widespread ramifications and are not permitted merely to demonstrate trial-court error.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; majority disposition is precedential as to the Rule 3(c) limitation on State criminal appeals.
PARTIES	State of Arkansas v. Michael Aud

TOPICS

appellate procedure

criminal procedure

evidence

statutory interpretation

PRACTICE AREAS

criminal procedure

appellate procedure

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QUESTIONS PRESENTED

1. Whether the State's appeal from Aud's acquittal presented an issue involving interpretation of criminal law or criminal rules with widespread ramifications and therefore qualified for review under Rule 3(c).
2. Whether the trial court's acquittal rested on a broad legal determination that breathalyzer results are unreliable or instead on its fact-specific evaluation of the evidence and witness credibility.

HOLDINGS

1. The State's appeal was not properly reviewable because it involved only the trial court's fact-specific consideration of the evidence rather than an issue of legal interpretation with widespread ramifications affecting the correct and uniform administration of criminal law.

KEY QUOTATIONS

"Because resolution of this matter does not present an issue of interpretation of our criminal rules with widespread ramifications, we hold that this appeal does not involve the correct and uniform administration of the law." (95 S.W.3d at 788)

"Accordingly, we dismiss the appeal." (95 S.W.3d at 788)

FACTUAL BACKGROUND

Aud was arrested on October 11, 1998, for driving while intoxicated, and a breathalyzer indicated a blood-alcohol reading of 0.10%. At his bench trial, the court heard evidence concerning possible contamination of the breath sample, the accuracy and permissible variance of the breathalyzer, the circumstances of the traffic stop, field-sobriety tests, and witness credibility. The court regarded the breathalyzer as generally accurate but found that the State had not proved guilt beyond a reasonable doubt because the reading was close to the statutory line and the evidence presented credibility and contamination issues.

PROCEDURAL HISTORY

Aud was arrested for driving while intoxicated and tried in a bench trial in November 2001. The trial court considered the breathalyzer result, possible contamination of the breath sample, the machine's accuracy, field-sobriety evidence, and witness credibility, then acquitted Aud for insufficient proof beyond a reasonable doubt. The State appealed, arguing that the trial court erred as a matter of law by acquitting Aud based on the alleged inaccuracy of the breathalyzer.

DISPOSITION

dismissed

CASES CITED

- State v. Hulum, 349 Ark. 400, 78 S.W.3d 111 (2002)
- State v. Banks, 322 Ark. 344, 909 S.W.2d 634 (1995)
- State v. Harris, 315 Ark. 595, 868 S.W.2d 488 (1994)
- State v. Stephenson, 330 Ark. 594, 955 S.W.2d 518 (1997)
- State v. Spear and Boyce, 123 Ark. 449, 185 S.W. 788 (1916)
- Lovell v. State, 283 Ark. 425, 678 S.W.2d 318 (1984)

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