

COURT OF CRIMINAL APPEALS OF ALABAMA

Clarence Williams, alias v. State

340 So. 2d 1144 (Ala. Crim. App. 1976) · No. 6 Div. 188 · Decided October 19, 1976

SUMMARY

The Alabama Court of Criminal Appeals held that the State failed to present sufficient evidence that Clarence Williams knowingly possessed amphetamines or marijuana found in another person's apartment. The court reversed the convictions and remanded for a new trial, concluding that mere presence and the surrounding circumstances did not establish actual or constructive possession at the time the motion to exclude was made.

CASE DETAILS

COURT	Court of Criminal Appeals of Alabama
WRITING FOR THE COURT	Bookout, Judge; Cates, Presiding Judge; Tyson, Judge; Harris, Judge; DeCarlo, Judge
JURISDICTION	Alabama
DECIDED	October 19, 1976
DOCKET	6 Div. 188
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Following convictions for possession of amphetamines and possession of marijuana, the defendant appealed the trial court's denial of his motion to exclude the State's evidence and his convictions.
STANDARD OF REVIEW	The appellate court reviewed whether the State presented sufficient evidence of possession to survive the defendant's motion to exclude and support submission of the charges to the jury.
PRECEDENTIAL VALUE	Published precedential opinion of the Alabama Court of Criminal Appeals
PARTIES	Clarence Williams, alias v. State

TOPICS

- criminal procedure
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the State presented sufficient evidence of Williams's actual or constructive possession of the marijuana and amphetamines to withstand his motion to exclude.
2. Whether evidence introduced after the State rested and after the motion to exclude was made could be considered in determining whether the motion should have been granted.
3. Whether the prosecutor's closing argument contained improper and prejudicial remarks.

HOLDINGS

1. The State's evidence was insufficient to establish that Williams possessed the marijuana or amphetamines because it did not show actual possession, knowledge of the drugs, ownership or control of the apartment, or the attributes necessary for constructive possession.
2. In reviewing whether the trial court properly denied the motion to exclude, the appellate court could consider only the evidence presented before the motion was made; testimony introduced afterward could not be used to support the verdict or cure the State's failure to establish a prima facie case.
3. The prosecutor's challenged comments were within the range of permissible argument because the evidence supported reasonable inferences concerning the quantity of drugs and the apartment's circumstances.

KEY QUOTATIONS

"No actual possession was shown; no evidence was presented from which a jury could infer that the appellant knew of the presence of the drugs; and no constructive possession was shown." (340 So. 2d at 1145)

"Possession must be shown by three attributes: (1) Actual or potential control; (2) Intention to exercise dominion; and (3) External manifestation of intent and control." (340 So. 2d at 1145)

"The motion to exclude should have been granted. The appellant is due a new trial. REVERSED AND REMANDED." (340 So. 2d at 1145)

FACTUAL BACKGROUND

Police executed a search warrant at an apartment leased by Anna Duncan, where Clarence Williams was present. They found marijuana and amphetamine tablets in bedrooms and other areas, but found no drugs on Williams's person or clothing and presented no evidence that he owned or controlled the apartment. Williams retrieved his shoes and jacket from a bedroom, and the State also introduced evidence concerning a wallet, men's clothing, and a note addressed to Williams. The majority concluded that these circumstances did not establish actual or constructive possession or knowledge of the drugs.

PROCEDURAL HISTORY

Police searched an apartment pursuant to a warrant and found marijuana and amphetamines. The defendant was present but was not shown to own or control the apartment. After the State rested, the defendant moved to

exclude the evidence for failure to establish possession; the trial court overruled the motion, and the jury convicted him. The Court of Criminal Appeals reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for a new trial.

CASES CITED

- Radke v. State, 292 Ala. 290, 293 So. 2d 314 (1974)
- Radke v. State, 52 Ala. App. 397, 293 So. 2d 312 (1974)
- Garsed v. State, 51 Ala. App. 622, 288 So. 2d 161 (1973)
- DeGruy v. State, 56 Ala. App. 521, 323 So. 2d 406 (1975), cert. denied, 295 Ala. 399, 323 So. 2d 411
- Livingston v. State, 44 Ala. App. 559, 216 So. 2d 731 (1968)
- Tooson v. State, 56 Ala. App. 613, 324 So. 2d 327 (1975), cert. denied, 295 Ala. 426, 324 So. 2d 333
- Rueffert v. State, 46 Ala. App. 36, 237 So. 2d 520
- Womack v. State, 34 Ala. App. 487, 41 So. 2d 429
- Parks v. State, 46 Ala. App. 722, 248 So. 2d 761
- Waters v. State, 55 Ala. App. 646, 318 So. 2d 342
- Carr v. State, 56 Ala. App. 125, 319 So. 2d 744
- Jemison v. State, 56 Ala. App. 6, 318 So. 2d 746
- Smith v. State, 282 Ala. 268, 210 So. 2d 826 (1968)
- Cross v. State, 68 Ala. 476
- Beaird v. State, 219 Ala. 46, 121 So. 38
- Alexander v. State, 37 Ala. App. 533, 71 So. 2d 520

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