

COURT OF CRIMINAL APPEALS OF TEXAS

Aaron v. State

163 Tex. Crim. 635 (1956) (Court of Criminal Appeals of Texas 1956) · No. No. 28522 · Decided November 28, 1956

SUMMARY

The Texas Court of Criminal Appeals affirmed Charles Lewis Aaron's conviction for unlawful possession of heroin, enhanced by two prior felony convictions, with a life sentence. The court held that the warrantless arrest was authorized because officers observed Aaron driving while intoxicated and engaging in public drunkenness, making the ensuing search of his person lawful; it also held that evidence of additional items found during the search was admissible.

CASE DETAILS

COURT	Court of Criminal Appeals of Texas
WRITING FOR THE COURT	Commissioner Dice
JURISDICTION	Texas
DECIDED	November 28, 1956
DOCKET	No. 28522
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a criminal conviction for unlawful possession of a narcotic drug, enhanced by two prior felony convictions.
STANDARD OF REVIEW	The court reviewed the legality of the arrest and search and whether evidentiary rulings constituted reversible error; it also reviewed whether the evidence was sufficient to support the conviction.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Criminal Appeals of Texas.
PARTIES	Charles Lewis Aaron v. The State of Texas

TOPICS

- search and seizure
- warrant requirement
- suppression of evidence
- criminal procedure
- evidence

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence

QUESTIONS PRESENTED

1. Whether the officers lawfully arrested Aaron without an arrest warrant or search warrant based on their observation that he was intoxicated while driving on a public street.
2. Whether the warrantless search of Aaron's person was lawful as incident to a valid arrest.
3. Whether evidence of additional pills, capsules, and drug paraphernalia found during the search was admissible even though those items were not alleged in the indictment.
4. Whether the remaining claims reflected reversible error and whether the evidence was sufficient to support the conviction.

HOLDINGS

1. The officers' observations that Aaron was intoxicated and driving on a public street sufficiently authorized his warrantless arrest under Article 803 of the Texas Penal Code.
2. The arrest was independently authorized under Article 212 of the Texas Code of Criminal Procedure because drunkenness in a public place constituted an offense against the public peace committed in the officers' presence or view.
3. Because Aaron's arrest was lawful, the search of his person conducted incident to that arrest was lawful without a warrant.
4. Evidence of the additional pills, capsules, hypodermic needle, syringe, and spoon was admissible because the items were discovered during the original lawful search of Aaron's person.

KEY QUOTATIONS

"The arrest of appellant being lawful, the incident search of his person without a warrant was lawful." (296 S.W.2d at 266)

"The finding of the other articles on the appellant's person was a part of the original search and proof thereof was admissible." (296 S.W.2d at 266)

FACTUAL BACKGROUND

Police officers observed Aaron stagger toward his automobile, nearly hit another vehicle while driving away from the curb, and exhibit nearly closed eyes and incoherent speech. Believing him to be intoxicated, the officers arrested and searched him without a warrant, finding three capsules containing heroin in his shirt pocket and additional pills, capsules, and drug paraphernalia in his pants pocket. Aaron denied possessing the items and claimed the officers falsely accused him because he had testified against police officers in federal court.

PROCEDURAL HISTORY

Aaron was convicted of unlawfully possessing heroin, with two prior felony convictions alleged and stipulated for sentence enhancement. He challenged the admission of evidence obtained during a warrantless arrest and search, as well as the admission of other items found during that search. The Court of Criminal Appeals held that the arrest and search were lawful, rejected the remaining contentions, and affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- Eddins v. State, 155 Tex. Crim. R. 202, 232 S.W.2d 676
- Hurley v. State, 155 Tex. Crim. 315, 234 S.W.2d 1006
- Cook v. State, 155 Tex. Crim. 580, 238 S.W.2d 200
- Morgan v. State, 159 Tex. Crim. 231, 262 S.W.2d 713
- Rent v. State, 160 Tex. Crim. 326, 268 S.W.2d 674
- McEathron v. State, Tex. Crim. App., 294 S.W.2d 822
- Shuffield v. State, Tex. Crim. App., 20 S.W.2d 1057
- Brown v. State, 159 Tex. Crim. 306, 263 S.W.2d 261

OPINION

DICE, J.

296 S.W.2d 264 (1956) Charles Lewis AARON, Appellant, v. The STATE of Texas, Appellee. No. 28522. Court of Criminal Appeals of Texas. November 28, 1956. *265 Charles Lewis Aaron, pro se. Dan Walton, Dist. Atty., Eugene Brady and Thomas D. White, Asst. Dist. Attys., Houston, and Leon B. Douglas, State's Atty., Austin, for the State. DICE, Commissioner.

The conviction is for the unlawful possession of a narcotic drug with two prior convictions for felonies less than capital alleged to enhance the penalty; the punishment, life imprisonment as provided by Art. 63, Vernon's Ann.P.C.

The state's testimony shows that the appellant was arrested and his person searched by Narcotic Officers Shelton and Rogers of the Houston Police Department, after they had observed him walk from a house to his automobile on Broadway Street and start to drive away.

As a result of the search the officers found, in the appellant's shirt pocket, three capsules containing a brownish powder which, upon being tested by Chemist McDonald, was shown to be heroin. The officers also found, in the appellant's pants pocket, two bottles containing some pills and capsules, and a hypodermic needle, a syringe and a spoon.

The officers testified that, before making the arrest, they had observed the appellant stagger as he walked to the car, and, after getting in the car, almost hit another car as he was driving away from the curb. Officer Shelton, in describing the appellant's appearance, testified that his eyes were almost closed and his speech was incoherent. They further testified that they stopped the appellant because they thought he was drunk, and that a charge of driving while intoxicated was filed against him.

It was stipulated by and between the state and the appellant that the appellant had twice been finally convicted of the felony offenses less than capital alleged in the indictment for the purpose of enhancing the penalty.

As a witness in his own behalf, appellant denied possessing the capsules and other articles which the officers testified they found on his person, and testified that the reason the officers did so testify was because he had been a witness against certain police officers in Federal Court. Appellant further testified that he had taken two or three drinks of whiskey before his arrest but denied being under the influence of intoxicating liquor at the time.

Informal Bill of Exception No. 1 presents appellant's objection to the testimony relative to the search of his person on the ground that it was not shown that the officers had a warrant for his arrest or a search warrant.

The testimony of the two arresting officers that, when the appellant was arrested, he was drunk and was driving his automobile upon a public street was sufficient to authorize his arrest without a warrant. Art. 803, Vernon's Ann.P. C., authorizes a peace officer to arrest, *266 without warrant, any person driving a motor vehicle upon a public highway while intoxicated.

Eddins v. State, 155 Tex.Cr. R. 202, 232 S.W.2d 676; and Hurley v. State, 155 Tex. Crim. 315, 234 S.W.2d 1006. Appellant's arrest was further authorized under the provisions of Art. 212, Vernon's Ann.C.C.P., which authorizes a peace officer or any other person to arrest without warrant for an "offense against the public peace" committed in his presence or within his view, and which class of offense includes drunkenness in a public place.

Cook v. State, 155 Tex. Crim. 580, 238 S.W.2d 200; Morgan v. State, 159 Tex. Crim. 231, 262 S.W.2d 713; Rent v. State, 160 Tex. Crim. 326, 268 S.W.2d 674; and McEathron v. State, Tex.Cr.App., 294 S.W.2d 822. The arrest of appellant being lawful, the incident search of his person without a warrant was lawful. By Informal Bill of Exception No. 2 appellant complains of the action of the court in permitting the state to prove that in the search there were found on his person, in addition to the three capsules, the other items consisting of the two bottles containing pills and capsules, and the hypodermic needle, syringe and spoon.

Appellant's objection was on the ground that it was not alleged in the indictment that he possessed such items. The finding of the other articles on the appellant's person was a part of the original search and proof thereof was admissible. Shuffield v. State, Tex.Cr.App., 20 S.W.2d 1057; and Brown v. State, 159 Tex. Crim. 306, 263 S.W.2d 261.

We have considered appellant's other contentions and are of the opinion that they do not reflect error. Finding the evidence sufficient to support the conviction, the judgment is affirmed. Opinion approved by the Court.

