

SUPREME COURT OF ARKANSAS

Thomas Edmond Bradley v. State of Arkansas, 347 Ark. 518

65 S.W.3d 874 (2002) · No. CR 01-681 · Decided February 7, 2002

SUMMARY

The Supreme Court of Arkansas affirmed the revocation of Thomas Bradley's suspended sentences based on a finding that he constructively possessed anhydrous ammonia in an unlawful container. The court held that the State need prove a violation of the conditions of a suspended sentence only by a preponderance of the evidence, and that the evidence was sufficient under that standard despite potentially being insufficient for a criminal conviction.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	W.H. "Dub" Arnold, Chief Justice
JURISDICTION	Arkansas
DECIDED	February 7, 2002
DOCKET	CR 01-681
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bradley appealed the revocation of his suspended sentences after the trial court found by a preponderance of the evidence that he constructively possessed anhydrous ammonia in a nonconforming container, thereby violating the conditions of his suspended sentences.
STANDARD OF REVIEW	The State must prove a violation of a probation or suspended-sentence condition by a preponderance of the evidence. On appeal, the trial court's findings are upheld unless clearly against the preponderance of the evidence, with deference given to the trial court's credibility and evidentiary-weight determinations.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Thomas Edmond Bradley v. State of Arkansas

TOPICS

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

PRACTICE AREAS

Criminal law

Probation and suspended-sentence revocation

Evidence

Appellate procedure

QUESTIONS PRESENTED

1. Whether the State presented sufficient evidence to establish by a preponderance of the evidence that Bradley constructively possessed anhydrous ammonia in an unlawful container.
2. Whether evidence insufficient to support a criminal conviction may nevertheless support revocation of a suspended sentence.

HOLDINGS

1. The State must prove a violation of a condition of probation or a suspended sentence by a preponderance of the evidence, and the trial court's findings are affirmed unless clearly against the preponderance of the evidence.
2. The evidence was sufficient to establish by a preponderance of the evidence that Bradley constructively possessed anhydrous ammonia in an unlawful container and therefore violated the conditions of his suspended sentences.
3. Evidence that is insufficient to sustain a criminal conviction may nevertheless be sufficient to support revocation of a suspended sentence because the burdens of proof are different.

KEY QUOTATIONS

“Because this was a revocation proceeding, and the burden of proof was by a preponderance of the evidence, we hold that even if there was not enough evidence to sustain a conviction for violation of the anhydrous ammonia statute, the trial court's finding by a preponderance that appellant was in constructive possession of anhydrous ammonia being transported in an unlawful container is clearly sufficient to revoke his suspended sentences.” (878)

FACTUAL BACKGROUND

Bradley was a passenger in a vehicle stopped for speeding. Officers detected a powerful ammonia odor, and a search revealed anhydrous ammonia leaking from a red plastic container in the trunk; the container did not comply with Arkansas regulations. The trunk key was found beneath the passenger seat where Bradley had been sitting, and the occupants appeared unusually nervous. Based on these circumstances, the trial court found that Bradley constructively possessed the ammonia and revoked his suspended sentences.

PROCEDURAL HISTORY

Bradley pleaded guilty in 1997 to breaking or entering, two counts of burglary, and three counts of theft of property, and imposition of sentence was suspended subject to conditions including living a law-abiding life and not violating any law. The State filed a revocation petition in 2001 based on alleged possession of anhydrous ammonia in violation of Arkansas Code section 5-64-1301. The trial court revoked the suspended sentences, and the Arkansas Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Lemons v. State, 310 Ark. 381, 836 S.W.2d 861 (1992)
- Hoffman v. State, 289 Ark. 184, 711 S.W.2d 151 (1986)
- Pearson v. State, 262 Ark. 513, 558 S.W.2d 149 (1977)
- Gordon v. State, 269 Ark. 946, 601 S.W.2d 598 (1980)
- Darrough v. State, 330 Ark. 808, 957 S.W.2d 707 (1997)
- Dodson v. State, 341 Ark. 41, 14 S.W.3d 489 (2000)
- Wade v. State, 267 Ark. 1101, 594 S.W.2d 43 (1980)
- Crossley v. State, 304 Ark. 378, 802 S.W.2d 459 (1991)

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