

SUPREME COURT OF TENNESSEE

State of Tennessee v. Michael Armstrong

126 S.W.3d 908 (Tenn. 2003) · Decided February 5, 2003

SUMMARY

The Tennessee Supreme Court held that a corrective nunc pro tunc order entered before the filing of a notice of appeal, while the trial court retained jurisdiction, satisfied the requirements for appealing a certified question of law under Tennessee Rule of Criminal Procedure 37(b)(2). The court distinguished cases in which corrective orders were entered after the notice of appeal and rejected a substantial-compliance standard for the Preston prerequisites. The judgment was reversed and the case remanded for consideration of the merits of the certified question concerning suppression of the defendant’s statements.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	E. Riley Anderson, J.; Frank F. Drowota, III, C.J.; Adolpho A. Birch, Jr., J.; Janice M. Holder, J.; William M. Barker, J.
JURISDICTION	Tennessee
DECIDED	February 5, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Following a nolo contendere plea conditioned on reserving a certified question of law concerning the denial of a motion to suppress, the Court of Criminal Appeals dismissed the appeal because the final judgment did not state the certified question and a later corrective order was insufficient under State v. Preston. The Supreme Court of Tennessee granted review.
STANDARD OF REVIEW	The Supreme Court reviewed de novo whether the trial court's corrective order satisfied the procedural prerequisites for an appeal under Tennessee Rule of Criminal Procedure 37(b)(2).
PRECEDENTIAL VALUE	Published Tennessee Supreme Court opinion; precedential.
PARTIES	Michael Armstrong v. State of Tennessee

TOPICS

- appellate procedure
- criminal procedure
- final judgment rule
- appellate jurisdiction
- suppression of evidence

PRACTICE AREAS

criminal procedure

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether a trial court may use a Rule 36 corrective nunc pro tunc order entered after the final judgment but before the filing of a notice of appeal to satisfy the requirements for appealing a certified question of law under Tennessee Rule of Criminal Procedure 37(b)(2).
2. Whether the trial court's corrective order satisfied the requirements established in *State v. Preston* despite the omission of the certified question from the original final judgment.

HOLDINGS

1. A trial court's corrective nunc pro tunc order entered after the final judgment but before the filing of a notice of appeal may correct omissions or deficiencies under Tennessee Rule of Criminal Procedure 36 and satisfy the prerequisites for an appeal of a certified question of law under Rule 37(b)(2), so long as the trial court still has jurisdiction.
2. Substantial compliance with the *Preston* prerequisites is not sufficient; the requirements remain explicit and unambiguous.

KEY QUOTATIONS

"We therefore reject the defendant's argument that substantial compliance with the requirements set forth in Preston is all that is necessary in order to appeal a certified question of law." (912)

"Accordingly, the circumstances of this case demonstrate that the requirements of Preston were met and that the defendant properly reserved a certified question of law for appeal." (913)

FACTUAL BACKGROUND

Armstrong was indicted by the Shelby County Grand Jury for operating a motor vehicle after having been found a habitual motor vehicle offender. He sought suppression of an oral admission to a police officer, arguing that it was obtained during custodial interrogation without Miranda warnings; the trial court found that he was not in custody and denied suppression. He then entered a nolo contendere plea for a suspended one-year sentence and probation while reserving a certified dispositive question of law, but the standardized final judgment omitted that reservation. Before Armstrong filed a notice of appeal, the trial court entered a nunc pro tunc corrective order stating and reserving the certified question.

PROCEDURAL HISTORY

Armstrong was indicted for operating a motor vehicle after being found a habitual motor vehicle offender. The trial court denied his motion to suppress an incriminating statement, after which he entered a nolo contendere plea conditioned on appellate review of a certified dispositive question. Although the May 22, 2001, final judgment omitted the certified question, the trial court entered a nunc pro tunc corrective order on May 24, 2001, before any notice of appeal was filed. The Court of Criminal Appeals dismissed the appeal, and the Tennessee Supreme Court reversed and remanded for consideration of the merits.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment of the Court of Criminal Appeals was reversed, and the case was remanded for that court to address the merits of Armstrong's certified-question appeal.

CASES CITED

- State v. Preston, 759 S.W.2d 647 (Tenn. 1988)
- State v. Pendergrass, 937 S.W.2d 834 (Tenn. 1996)
- State v. Irwin, 962 S.W.2d 477 (Tenn. 1998)
- Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)