

TENTH COURT OF APPEALS OF TEXAS

Katherine Elizabeth Jones v. the State of Texas

No. 10-21-00286-CR (Tex. App.—Waco Jan. 4, 2023) (mem.) · No. No. 10-21-00286-CR · Decided January 4, 2023

SUMMARY

The Texas Tenth Court of Appeals affirmed as modified Katherine Elizabeth Jones’s convictions following her guilty pleas to possession of tetrahydrocannabinol with intent to deliver and possession of marijuana. The court held that Jones’s judicial confession satisfied Texas Code of Criminal Procedure article 1.15 and modified the judgment to correct the statutory citation for Count 1.

CASE DETAILS

COURT	Tenth Court of Appeals of Texas
WRITING FOR THE COURT	Tom Gray, Chief Justice; Justice Johnson; Justice Smith
JURISDICTION	Texas
DECIDED	January 4, 2023
DOCKET	No. 10-21-00286-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jones appealed judgments following guilty pleas to possession of a controlled substance with intent to deliver and possession of marijuana. She challenged the sufficiency of the evidence supporting Count 1 under Texas Code of Criminal Procedure article 1.15 and asserted that the judgment misstated the statutory provision of conviction.
STANDARD OF REVIEW	After a guilty plea, appellate review is confined to determining whether sufficient evidence supports the trial court's judgment of guilt. The appellate court may modify the judgment to make it speak the truth when the necessary information appears in the record.
PRECEDENTIAL VALUE	Unpublished, nonprecedential memorandum opinion; do not publish.
PARTIES	Katherine Elizabeth Jones v. The State of Texas

TOPICS

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

PRACTICE AREAS

Texas criminal law

criminal procedure

appellate procedure

criminal evidence

QUESTIONS PRESENTED

1. Whether Jones's judicial confession was sufficient under Texas Code of Criminal Procedure article 1.15 to support her guilty-plea conviction for possession of tetrahydrocannabinol with intent to deliver.
2. Whether the appellate court should modify the Count 1 judgment to identify the correct statutory provision of conviction.

HOLDINGS

1. A judicial confession that covers all elements of the charged felony offense is sufficient under Texas Code of Criminal Procedure article 1.15 to support a conviction based on a guilty plea, and Jones's confession covered all elements of Count 1.
2. The appellate court may modify a judgment to make it speak the truth when the record contains the necessary information, and the Count 1 judgment should be modified to reflect conviction under Texas Health and Safety Code section 481.113(a) and (d).

KEY QUOTATIONS

“So long as such a judicial confession covers all of the elements of the charged offense, it will suffice to support the guilty plea.” (2)

“Based on a review of the record, Jones’s judicial confession, standing alone, supports the trial court’s judgment.” (2)

“We have the authority to make the judgment speak the truth when we have the necessary information to so do in the record.” (3)

FACTUAL BACKGROUND

Jones pleaded guilty to possessing four grams or more but less than four hundred grams of tetrahydrocannabinol, with intent to deliver, and to possessing marijuana. In her plea paperwork, she judicially confessed to committing Count 1 exactly as charged in the indictment, and she also orally confirmed that the indictment's allegations were true and factually correct. The judgment incorrectly identified the statutory provision for Count 1 as section 481.114(A)(D), rather than section 481.113(a) and (d).

PROCEDURAL HISTORY

Jones pleaded guilty in the 413th District Court of Johnson County, Texas. The trial court assessed forty years' imprisonment for Count 1 and two years in state jail for Count 2, with concurrent sentences. On appeal, the court considered the Count 1 sufficiency challenge and modified the judgment to correct the statutory citation, affirming it as modified.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

No remand was ordered. The Count 1 judgment was modified to reflect conviction under Texas Health and Safety Code section 481.113(a) and (d), and the judgment was affirmed as modified.

CASES CITED

- Galindo v. State, 564 S.W.3d 223, 226 (Tex. App.—Houston [1st Dist.] 2018, no pet.)
- Keller v. State, 125 S.W.3d 600, 605 (Tex. App.—Houston [1st Dist.] 2003), pet. dismiss'd, improvidently granted, 146 S.W.3d 677 (Tex. Crim. App. 2004) (per curiam)
- Perryman v. State, 159 S.W.3d 778, 787 (Tex. App.—Waco 2005, no pet.)
- Menefee v. State, 287 S.W.3d 9, 13 (Tex. Crim. App. 2009)
- Dinnery v. State, 592 S.W.2d 343, 353 (Tex. Crim. App. 1979) (op. on reh'g)
- Bigley v. State, 865 S.W.2d 26, 27–28 (Tex. Crim. App. 1993)
- Asberry v. State, 813 S.W.2d 526, 529 (Tex. App.—Dallas 1991, pet. ref'd)