

COURT OF CRIMINAL APPEALS OF OKLAHOMA

Mitchell v. State

467 P.2d 509 (Okla. Crim. App. 1970) · No. No. A-15341 · Decided March 11, 1970

SUMMARY

The Oklahoma Court of Criminal Appeals affirmed Melvin Bernard Mitchell's conviction for robbery with firearms and his seven-year prison sentence. The court held that the evidence was sufficient for the jury to find him guilty and that the sentence was not excessive under the applicable Oklahoma statute.

CASE DETAILS

COURT	Court of Criminal Appeals of Oklahoma
WRITING FOR THE COURT	Brett, Presiding Judge; Brett; Bussey; Nix
JURISDICTION	Oklahoma
DECIDED	March 11, 1970
DOCKET	No. A-15341
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a conviction and seven-year sentence for robbery with firearms in the District Court of Oklahoma County.
STANDARD OF REVIEW	The court will not disturb a jury's verdict when competent evidence supports a reasonable finding of guilt, even if the evidence conflicts and different inferences may be drawn. The court also reviewed whether the sentence was excessive.
PRECEDENTIAL VALUE	published
PARTIES	Melvin Bernard Mitchell v. The State of Oklahoma

TOPICS

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

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate practice

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Mitchell's conviction for robbery with firearms.
2. Whether the seven-year sentence imposed for robbery with firearms was excessive.

HOLDINGS

1. The evidence was sufficient to support the jury's verdict because competent evidence permitted the jury reasonably to conclude that Mitchell was guilty as charged.
2. The seven-year sentence for robbery with firearms was not excessive.

KEY QUOTATIONS

“Where there is competent evidence in the record from which the jury could reasonably conclude that the defendant was guilty as charged, the Court of Criminal Appeals will not interfere with the verdict, even though there is a sharp conflict in the evidence and different inferences may be drawn therefrom, since it is the exclusive province of the jury to weigh the evidence and determine the facts.” (510)

FACTUAL BACKGROUND

Mitchell was convicted of robbery with firearms. The evidence was conflicting, but the appellate court concluded that it was sufficient for the jury to find him guilty as charged. He received a seven-year sentence in the state penitentiary.

PROCEDURAL HISTORY

Mitchell was convicted in the District Court of Oklahoma County of robbery with firearms and sentenced to seven years in the state penitentiary. Judgment and sentence were imposed on May 7, 1969, and the appeal was lodged in the Court of Criminal Appeals of Oklahoma. The appellate court rejected challenges to the sufficiency of the evidence and the length of the sentence and affirmed.

DISPOSITION

affirmed

CASES CITED

- Williams v. State, 373 P.2d 91 (Okla. Crim. App. 1962)
- Kelly v. State, 415 P.2d 187 (Okla. Crim. App. 1966)
- Fields v. State, 322 P.2d 431 (Okla. Crim. App. 1957)

OPINION

BRETT, J.

467 P.2d 509 (1970) Melvin Bernard MITCHELL, Plaintiff in Error, v. The STATE of Oklahoma, Defendant in Error. No. A-15341. Court of Criminal Appeals of Oklahoma. March 11, 1970. Don Anderson, Oklahoma City, for plaintiff in error. G.T. Blankenship, Atty. Gen., Duane Lobaugh,

Asst. Atty. Gen., for defendant in error. *510 BRETT, Presiding Judge. Plaintiff in error, Melvin Bernard Mitchell, hereinafter referred to as defendant, is appealing from a conviction in the district court of Oklahoma County, for the crime of Robbery with Firearms for which he was sentenced to serve 7 years in the state penitentiary.

Judgment and sentence was imposed in district court case number CRF-69-270 on May 7, 1969, after which the appeal was lodged in this Court. The defendant has raised two questions (1) the sufficiency of the evidence, and (2) the excessive punishment. This Court held in *Williams v. State*, Okl.Cr., 373 P.2d 91, in the second paragraph of its syllabus as follows: "Where there is competent evidence in the record from which the jury could reasonably conclude that the defendant was guilty as charged, the Court of Criminal Appeals will not interfere with the verdict, even though there is a sharp conflict in the evidence and different inferences may be drawn therefrom, since it is the exclusive province of the jury to weigh the evidence and determine the facts."

See also: *Kelly v. State*, Okl.Cr., 415 P.2d 187; and *Fields v. State*, Okl.Cr., 322 P.2d 431. There is a long line of Oklahoma cases supporting this general rule, that the jury shall weigh the evidence and draw inferences therefrom, and this Court will not disturb such inferences and conclusions by a jury, when supported by competent evidence. Defendant's second proposition asserts that the punishment is excessive.

21 Ohio St. 1961, § 801 provides the maximum punishment for armed robbery to be death, and the minimum punishment is set at 5 years imprisonment. We fail to see the validity of this proposition, and conclude that the punishment of seven years imprisonment imposed herein for a capital offense is not excessive. Defendant's brief cites cases in which the sentences for armed robbery range from 20 to 99 years.

The sentences imposed in those cases were found to be excessive, under the facts presented, and were modified by this Court. But in none of those decisions was the sentence reduced to less than seven years imprisonment.

After having considered the briefs and the records filed herein, the Court is of the opinion that the evidence while conflicting was sufficient, and therefore the judgment and sentence of the trial court should be, and the same is, affirmed. BUSSEY and NIX, JJ., concur.