

SEP 19 2006

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA
MICHAEL S. RIGHIE
CLERK

THE STATE OF OKLAHOMA,)
)
 Appellant,)
 v.)
)
 RAYNARD EMORY DINKINS, A.K.A)
 RONALD ALVIS DINKINS,)
)
 Appellee.)

NOT FOR PUBLICATION
Case No. S-2005-1250

SUMMARY OPINION

CHAPEL, PRESIDING JUDGE:

Dinkins was charged by Information with Count I: Trafficking in Illegal Drugs in violation of 63 O.S. 2001, § 2-415; Count II: Assault and Battery Upon a Police Officer in violation 21 O.S. 2001, § 649(B); Count III: Attempted Destruction of Evidence in violation 21 O.S. 2001 § 454, after former conviction of two or more felonies; and Count IV: Driving Without a Seatbelt in violation of 47 O.S.2001, § 12-417 in the District Court of Tulsa County, Case No. CF-2004-2692. At the conclusion of the preliminary hearing, the Honorable Clancy Smith denied Dinkins's Motion to Suppress and bound him over to the district court as charged. Dinkins filed a Motion to Suppress Search, which was granted at a hearing by the Honorable P. Thomas Thornbrugh on December 14, 2005.¹ The State has perfected their appeal of that ruling.

The State raises the following proposition of error:

¹ Dinkins had previously filed a Motion to Quash and Suppress with Brief in Support that was denied by the Honorable Gordon McAllister on October 26, 2004.

The district court's ruling that defendant's motion should be sustained, because Sergeant Kirkland conducted an illegal search of defendant's person, was erroneous.

After thoroughly considering the entire record before us on appeal, including the original record, transcripts, and briefs of the parties, we find that neither reversal nor modification is required under the law and evidence. We find that the trial court did not abuse its discretion in granting the motion to suppress.²

Decision

The judgment of the trial court is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2006), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

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² *State v. Love*, 960 P.2d 368, 369 (Okla.Cr.1998) (appeals pursuant to 22 O.S. 2001, § 1053 reviewed to determine if trial court abused its discretion). The trial court's ruling suppressing the contraband seized from Dinkins's pocket is supported by sufficient evidence.

OPINION BY: CHAPEL, P. J.

LUMPKIN, V.P.J.:	CONCUR IN RESULTS
C. JOHNSON, J.:	CONCUR
A. JOHNSON, J.:	CONCUR
LEWIS, J.:	CONCUR