

FEB 26 2003

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

HEIDI RENEE PITT,	)	
	)	
Appellant,	)	NOT FOR PUBLICATION
v.	)	Case No. F-2002-356
	)	
THE STATE OF OKLAHOMA,	)	
	)	
Appellee.	)	

**SUMMARY OPINION**

**CHAPEL, JUDGE:**

Heidi Pitt was tried by jury and convicted of Unlawful Possession of Methamphetamine in violation of 63 O.S.Supp.1999, § 2-402(B)(1), in the District Court of Pushmataha County, Case No. CF-2001-80.<sup>1</sup> In accordance with the jury's verdict, the Honorable Willard Dreisel sentenced Pitt to two years' imprisonment with all except the first six (6) months suspended. Pitt appeals this conviction and sentence.

Pitt raises the following proposition of error:

The evidence was insufficient to find Ms. Pitt guilty beyond a reasonable doubt. The State offered absolutely no evidence that Ms. Pitt had any knowledge, dominion and/or control over the .04 grams of methamphetamine that co-defendant, Charles Crane, threw on the ground at the time of his arrest.

After thorough consideration of the entire record before us on appeal, including the original record, transcripts, briefs and exhibits of the parties, we

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<sup>1</sup> Pitt was also tried and acquitted of Possession of an Explosive Device.

find that reversal is required under the law and evidence. We find that the evidence was insufficient to support Pitt's conviction.<sup>2</sup>

**Decision**

The Judgment and Sentence is **REVERSED** and **REMANDED** with instructions to dismiss.

**ATTORNEYS AT TRIAL**

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ATTORNEY FOR DEFENDANT

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ASSISTANT DISTRICT ATTORNEY  
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**OPINION BY: CHAPEL, J.**  
JOHNSON, P.J.: CONCUR  
LILE, V.P.J.: DISSENT  
LUMPKIN, J.: CONCUR IN RESULTS  
STRUBHAR, J.: CONCUR

**ATTORNEYS ON APPEAL**

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<sup>2</sup> *Hishaw v. State*, 568 P.2d 643, 644-45 (Okl.Cr.1977)(possession requires knowledge and some additional evidence of dominion and control over a substance beyond mere proximity to sustain a conviction). Here, there is no evidence indicating Pitt's knowledge or possession of the methamphetamine. It was found on the ground in a bandanna outside the truck presumably dropped by the driver. Nothing in the evidence suggests she had any knowledge of or dominion and control over the methamphetamine beyond her presence as a passenger in the truck.

**LILE, VICE-PRESIDING JUDGE: DISSENT**

The evidence is sufficient to support the conviction and the case should be affirmed.