

OCT - 9 2008

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE
CLERK

| | | |
|-------------------------------|---|-----------------------------------|
| THE STATE OF OKLAHOMA, |) | |
| |) | |
| Appellant, |) | <u>NOT FOR PUBLICATION</u> |
| |) | |
| v. |) | Case No. S-2008-176 |
| |) | |
| CLIFFORD PUTMAN, |) | |
| |) | |
| Appellee. |) | |

SUMMARY OPINION

LUMPKIN, PRESIDING JUDGE:

Appellee was charged in Oklahoma County District Court Case No. CF-2007-4556 with several crimes: Trafficking in Cocaine Base (Count I), in violation of 63 O.S.Supp.2004, § 2-415; Possession of Marijuana with Intent to Distribute (Count II), in violation of 63 O.S.Supp.2004, § 2-501; Possession of a Firearm in the Commission of a Felony (Count III), in violation of 21 O.S.Supp.2006, § 1287; Possession of a Firearm after Former Conviction (Count V), in violation of 21 O.S.Supp.2005, § 1283; and Possession of Drug Proceeds (Count VII), in violation of 63 O.S.2001, § 503.1. Appellee filed a motion to suppress evidence. At the hearing thereon, the trial court ruled that evidence the State obtained from a locked safe inside the motel room where Appellee was arrested should be suppressed. Appellant, the State of Oklahoma, then appealed from that decision pursuant to 22 O.S.Supp.2002, § 1053(5), which allows State appeals of pretrial orders "suppressing or excluding evidence where appellate review would be in the best interests of justice."

Appellant raises the following propositions of error in this appeal:

- I. The trial court erred by not allowing Detective Wofford to testify to the specific statements made to him by Jocella Anthony granting consent to search the hotel room; and
- II. The trial court erred by holding that the officers did not have authority to search the safe.

After thoroughly considering these propositions and the entire record, we find regarding proposition one and two, the trial court's hearsay rulings were not an abuse of discretion, under this record, and the trial judge did not abuse his discretion by finding the officers should have obtained a warrant before searching the locked motel room safe. *Simpson v. State*, 1994 OK CR 40, ¶ 2, 876 P.2d 690, 693; *State v. Sayerwinnie*, 2007 OK CR 11, 157 P.3d 137; *U.S. v. Matlock*, 415 U.S. 164, 171, 94 S.Ct. 988, 993, 39 L.Ed.2d 242 (1974); *Fields v. State*, 1991 OK CR 36, 308 P.2d 79, 81.

DECISION

The ruling suppressing evidence is hereby **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2008), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF OKLAHOMA COUNTY
THE HONORABLE RAY C. ELLIOTT, DISTRICT COURT JUDGE

APPEARANCES AT TRIAL & ON APPEAL

DAVID PRATER & PATRICK QUILLAN
ASSISTANT DISTRICT ATTORNEYS
OKLAHOMA COUNTY D.A'S OFFICE
320 ROBERT S. KERR, SUITE 505
OKLAHOMA CITY, OK 73102
COUNSEL FOR APPELLANT

GARY GINGRICH
228 ROBERT S. KERR, SUITE 340
OKLAHOMA CITY, OK 73102
COUNSEL FOR APPELLEE

OPINION BY: LUMPKIN, P.J.
C. JOHNSON, V.P.J.: CONCUR
CHAPEL, J.: CONCUR
A. JOHNSON, J.: CONCUR
LEWIS, J.: CONCUR

RA