

Thomas Thornbrugh, District Judge. On July 8, 2009, Judge Thornbrugh considered the preliminary hearing transcript and record, heard arguments of counsel, and took the matter under advisement. On July 9, 2009, Judge Thornbrugh announced he was sustaining Judge Klein's decision, although for slightly different reasons. Judge Thornbrugh found the police had the right to make the initial search of the hotel room because of their good faith belief Appellee's co-defendant could give them permission. Judge Thornbrugh did not believe Appellee's search waiver was valid, and found there was nothing in the hotel room that the State linked to Appellee in a way that would entitle the State to bind her over for trial. The State brings this appeal from the rulings of the District Court Judges.

The State asserts the following propositions of error:

1. The District Court erred when it ruled the consent to search obtained from the Appellee was not voluntary.
2. The District Court abused its discretion in sustaining the demurrer to the evidence for lack of probable cause because the issue was not before the District Court.
3. The District Court erred in sustaining the demurrer because the State produced sufficient evidence to establish probable cause.

This appeal was automatically assigned to the Accelerated Docket of this Court pursuant to Rule 11.2(A)(4) of the *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2010). The propositions or issues were presented to this Court in oral argument on February 25, 2010, pursuant to Rule 11.2(E). At the conclusion of oral argument, this Court voted four to zero to affirm the rulings of the District Court Judges.

In State appeals, this Court reviews the trial court's decision to determine if the trial court abused its discretion. See *State v. Love*, 1998 OK CR 32, ¶2, 960 P.2d 368, 369. The State has not established that Judge Thornbrugh abused his discretion by finding that the evidence in the hotel room was not sufficiently linked to Appellee in a way that would allow her to be bound over for trial on Count 1. *Id.*

DECISION

The order of the District Court of Tulsa County dismissing Count 1 in Case No. CF-2009-2031 is **AFFIRMED**. Pursuant to Rule 3.15, *Rules, supra*, the **MANDATE** is **ORDERED** issued upon the filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY
THE HONORABLE P. THOMAS THORNBRUGH, DISTRICT JUDGE

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OPINION BY: CHAPEL, J.
C. JOHNSON, P.J.: Not Participating
A. JOHNSON, V.P.J.: Concur
LUMPKIN, J.: Concur
LEWIS, J.: Concur

RA/F