

City of Oklahoma City, 755 P.2d 118, 119 (Okl.Cr.1988). The statements Appellant made for purposes of attempting to enter a no-contest plea, which the trial judge did not ultimately accept, do not indicate an intent to forever waive his Constitutional right to jury trial. Waiver cannot be presumed from a silent record. The case was remanded to the District Court and at the evidentiary hearing ordered by this Court for purpose of resolving this issue, the State and defense counsel stipulated that they were unable to present any evidence that would convince the trial court or this Court that Appellant knowingly and voluntarily waived his right to trial by jury. Therefore, we find merit to the error raised in proposition one.

With respect to proposition two, we find the trial court did not err by failing to suppress the pills seized from Appellant and the volunteered statement he made during his detention. *Terry v. Ohio*, 392 U.S. 1, 21, 88 S.Ct. 1868, 1880, 20 L.Ed.2d 889 (1968); *Illinois v. Rodriguez*, 497 U.S. 177, 181, 110 S.Ct. 2793, 2797, 111 L.Ed.2d 148 (1990).

Propositions three and four are moot.

DECISION

Appellant's judgment and sentence for the crime of Endeavoring to Manufacture Methamphetamine are hereby **REVERSED** and the matter is **REMANDED** to the trial court for a new trial consistent with this opinion.

AN APPEAL FROM THE DISTRICT COURT OF CARTER COUNTY
THE HONORABLE THOMAS S. WALKER, DISTRICT JUDGE

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OPINION BY: LUMPKIN, P.J.
JOHNSON, V.P.J.: CONCUR
CHAPEL, J.: CONCUR
STRUBHAR, J.: CONCUR
LILE, J.: CONCUR

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