

MAY 3 1 2006

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NOT FOR PUBLICATION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-2005-866
)	
MATTHEW RYAN WELLS)	
)	
Appellee.)	

SUMMARY OPINION

LUMPKIN, VICE-PRESIDING JUDGE:

Appellee, Matthew Ryan Wells, was bound over for trial on the following charges in Tulsa County District Court, Case No. CF-2005-1913: Trafficking in Illegal Drugs; Use of a Weapon in Commission of a Crime; Failure to Obtain a Drug Stamp; Unlawful Possession of Paraphernalia; and Taxes Due State. Appellee filed a motion to quash the information and suppress the bind-over, which was sustained by the District Court Judge following a hearing. The State then filed this appeal, pursuant to 22 O.S.Supp.2002, § 1053(1).

Appellant raises the following propositions of error in this appeal:

- I. The District Court erred by sustaining Appellee’s Motion to Quash and Suppress;
- II. Appellee had clear dominion and control over the contraband, thus the District Judge’s quash ruling was erroneous; and
- II. The District Court erred by suppressing the State’s evidence.

After thoroughly considering these propositions and the entire record before us, we find the relief requested by the State is not warranted. We therefore affirm

the District Court Judge's ruling sustaining the defendant's motion to quash the information.

Pursuant to the record before us, we find the trial judge did not abuse her discretion by ruling that the car Appellee was driving was not a proper subject for impoundment, based upon a review of the Bixby Police Department policies. *Manning v. State*, 1981 OK CR 75, ¶ 4, 630 P.2d 327, 329.

DECISION

The District Court's ruling sustaining Appellee's motion to quash is hereby **AFFIRMED**, and the relief requested by the State is **DENIED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2005), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY
THE HONORABLE CAROLINE E. WALL, ASSOCIATE DISTRICT JUDGE

APPEARANCES AT TRIAL & ON APPEAL

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

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