Cite as 2012 Ark. App. 226

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR11-1036

RONNEY BRIGGS APPELLANT	**Opinion Delivered** April 4, 2012 APPEAL FROM THE GARLAND COUNTY CIRCUIT COURT [NO. CR-2010-186-I]
V.	HONORABLE JOHN HOMER WRIGHT, JUDGE
STATE OF ARKANSAS APPELLEE	REVERSED AND REMANDED

JOHN MAUZY PITTMAN, Judge

The appellant in this criminal case pled guilty to possession of a controlled substance and possession of drug paraphernalia with intent to manufacture a controlled substance. His plea was conditional, reserving in writing his right to appeal the denial of his motion to suppress evidence obtained in an assertedly illegal search. *See* Ark. R. Crim. P. 24.3(b) (2011). On appeal appellant argues, *inter alia*, that the trial court erred by placing the burden of showing an illegality on him, effectively changing the burden of proof. We agree, and we reverse and remand.

Appellant's home was searched after a group of police officers appeared on the premises to conduct a "knock and talk." *See generally State v. Brown*, 356 Ark. 460, 156 S.W.3d 722 (2004). It is undisputed that the police officers had no search warrant. In his motion to suppress, appellant asserted that the controlled substance and drug paraphernalia found during the search of his home should be suppressed because the search was conducted without either

a warrant or his consent. The trial court denied the motion in an order expressly stating that the motion was being denied because "the grounds raised by [appellant] for suppression of the evidence were not proven by the evidence."

In so holding, the trial court erred as a matter of law by impermissibly shifting the burden of proof. *See Danner v. Discover Bank*, 99 Ark. App. 71, 257 S.W.3d 113 (2007). The grounds asserted by appellant, *i.e.*, lack of consent, were presumptively true because all warrantless searches are presumed illegal, and the burden of showing that a search was made pursuant to unequivocal and specific consent rests entirely on the State. *State v. Brown*, *supra*. We therefore reverse and remand for the trial court to conduct such further proceedings as are necessary for it to make findings of fact in a manner consistent with this opinion. Because the new findings may differ from those made pursuant to the inverted burden of proof employed in the present case, appellant's constitutional arguments are not ripe for decision, and we therefore do not address them.

Reversed and remanded.

WYNNE and HOOFMAN, JJ., agree.

Rebekah J. Kennedy, for appellant.

Dustin McDaniel, Att'y Gen., by: *William Andrew Gruber*, Ass't Att'y Gen., for appellee.