

Everett L. REDING *v.* STATE of Arkansas

CR 82-97

641 S.W.2d 24

Supreme Court of Arkansas  
Opinion delivered November 1, 1982

1. CONTROLLED SUBSTANCES — AMENDMENT OF STATUTE GOVERNING LEGAL SALE OF DRUGS — NO INTENT TO REPEAL STATUTE PROHIBITING ILLEGAL SALE. — The legislature, by amending the statute governing the legal sale of drugs, Ark. Stat. Ann. § 82-2116 (Supp. 1981), did not intend to repeal an unrelated section of a different statute prohibiting the illegal sale of drugs, Ark. Stat. Ann. § 82-2617 (Supp. 1981).
2. CONTROLLED SUBSTANCES — FORFEITURE OF VEHICLE TRANSPORTING A CONTROLLED SUBSTANCE. — Where the evidence, at a hearing separate from appellant's conviction, showed that the substance purchased by the undercover agent was marijuana, that it was transported in the Ford Pinto, and that appellant had been convicted of delivery of marijuana, and where neither the testimony that the delivered substance was marijuana nor the judgment was objected to as hearsay, a finding by a preponderance of the evidence that the vehicle should be forfeited under Ark. Stat. Ann. § 82-2629 (Supp. 1981), was not erroneous.

Appeal from Benton Circuit Court; *W. H. Enfield*, Judge; affirmed.

*W. Gary Keenan*, for appellant.

*Steve Clark*, Atty. Gen., by: *Theodore Holder*, Asst. Atty. Gen., for appellee.

DARRELL HICKMAN, Justice. Everett L. Reding was convicted of delivery of marijuana and sentenced to four years' imprisonment and a \$1,000 fine. Reding's two arguments on appeal are meritless and the judgment is affirmed.

The first issue was disposed of recently in the case of *Merrill v. State*, 277 Ark. 146, 640 S.W.2d 787 (1982) where we held Ark. Stat. Ann. § 82-2116 (Supp. 1981) did not repeal Ark. Stat. Ann. § 82-2617 (Supp. 1981).

The second issue is a challenge of the forfeiture of a 1973 Ford Pinto station wagon, which Reding drove to the residence where he sold the marijuana to an undercover agent. In a separate hearing after the trial and conviction, the trial court found the vehicle could be forfeited under Ark. Stat. Ann. § 82-2629 (Supp. 1981). He found by a preponderance of the evidence that the vehicle should be forfeited. Among the evidence was testimony by the undercover agent that the substance he bought was marijuana, that it was transported in the Pinto, and the judgment of Reding's conviction. At the hearing neither the testimony that the delivered substance was marijuana nor the judgment was objected to as hearsay.

Affirmed.