

## Jo Ann COOK v. City of PINE BLUFF

93-1342

885 S.W.2d 7

Supreme Court of Arkansas  
Opinion delivered October 10, 1994

1. APPEAL & ERROR — CHARGES DISMISSED — NO CONVICTION EXISTED FROM WHICH TO APPEAL, APPEAL DISMISSED. — Where no judgment of conviction was entered against the appellant because the charges against her were dismissed, she had no right of appeal; a person must be convicted of an offense before he or she has a right to an appeal.
2. APPEAL & ERROR — POINTS OF APPEAL NEVER DECIDED ON BELOW — SUPREME COURT WILL NOT MAKE ORIGINAL DECISIONS. — Where none of the appellant's points of appeal were shown to have been decided by the circuit court, the supreme court declined to reach them; the court declined to make original, as distinguished from appellate, decisions.

Appeal from Jefferson Circuit Court; *Fred D. Davis*, Judge; appeal dismissed.

*Appellant*, pro se.

*Winston Bryant*, Att'y Gen., by: *Brad Newman*, Asst. Att'y Gen., for appellee.

ROBERT H. DUDLEY, Justice. The Pine Bluff Police Department was in the process of having appellant's car towed away when appellant began to strenuously object. As a result of appellant's actions, she was charged with the misdemeanors of obstruction of government operations, disorderly conduct, and resisting arrest. The charges were pending in municipal court when appellant moved for a jury trial. The municipal judge transferred the case to circuit court. Appellant filed numerous motions. Eventually the City moved to nolle prosequere the three charges. On September 9, 1993, the circuit judge granted leave to the City to dismiss the charges. Appellant seeks to appeal from the order dismissing the charges. We dismiss the appeal.

[1, 2] No judgment of conviction was entered against appellant because the charges were dismissed. The Arkansas Rules of Criminal Procedure give "any person *convicted* of a misdemeanor"

in circuit court the right of appeal to an appellate court. A.R.Cr.P. Rule 36.1 (emphasis supplied). The rule requires a person to be convicted of an offense before he or she has a right to an appeal. In addition, none of appellant's points of appeal are shown to have been decided by the circuit court. If we determined those issues we would be making original decisions. We decline to make original, as distinguished from appellate, decisions. *See Trice v. City of Pine Bluff*, 282 Ark. 251, 667 S.W.2d 952 (1984); *Weston v. State*, 265 Ark. 58, 576 S.W.2d 705, *cert. denied* 444 U.S. 965 (1979).

Appeal dismissed.

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