Bonnie Jo TENPENNY *v.*
STATE OF ARKANSAS

CR 74-14 508 S.W. 2d 752

Opinion delivered May 6, 1974

CRIMINAL LAW—REDUCTION OF SENTENCE ON APPEAL—REVIEW.—Where the evidence was sufficient to sustain a conviction of delivery of heroin, the Supreme Court would not substitute its judgment for that of jurors who heard the testimony and assessed punishment within prescribed legal limits, even if determined to have the power under Ark. Stat. Ann. § 43-2725.2 (Supp. 1973) to reduce on appeal a sentence deemed excessive.

Appeal from Pulaski Circuit Court, Fourth Division, *Richard B. Adkisson*, Judge; affirmed.

Harold L. Hall, Public Defender, by: *Robert L. Lowery*, for appellant.

Jim Guy Tucker, Atty. Gen., by: *Alston Jennings, Jr.*, Asst. Atty. Gen., for appellee.

CONLEY BYRD, Justice. Appellant Bonnie Jo Tenpenny's sole allegation on appeal is that her sentence of 30 years upon

a conviction by a jury on a charge of delivery of heroin was excessive and should be reduced by this court.

The record shows that the jury heard evidence sufficient to sustain appellant's conviction of having sold two packets of heroin to a police undercover agent. In addition, the jury heard appellant's own testimony that she supported her own addiction to heroin by procuring drugs for others.

Assuming, without deciding, that we would have the power under Ark. Stat. Ann. § 43-2725.2 (Supp. 1973), to reduce on appeal a sentence which was deemed excessive, this court has no inclination toward substituting its judgment for that of the jurors who have heard the testimony and assessed a punishment within the limits prescribed by law.

Affirmed.