

Michael David RHEA *v.* STATE of Arkansas

CR 96-123

938 S.W.2d 857

Supreme Court of Arkansas  
Opinion delivered March 10, 1997

EVIDENCE — TRIAL COURT PROPERLY DENIED MOTION TO SUPPRESS — JUDGMENT OF CONVICTION AFFIRMED. — Appellant's argument that the arresting officer effected an illegal seizure of his person and that, as a result, the evidence found during the subsequent search of appellant and the custodial statement given to police after his arrest must be suppressed as the fruits of an illegal search and seizure, was without merit; for the identical reasons set out in the companion case of *Hammons v. State*, 327 Ark. 520, 940 S.W.2d 424 (1997), the trial court's judgment of conviction was affirmed.

Appeal from Sebastian Circuit Court, Fort Smith District; *Floyd Rogers*, Judge; affirmed.

*John Joplin*, for appellant.

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

DONALD L. CORBIN, Justice. Appellant, Michael David Rhea, appeals the judgment of conviction of the Sebastian County Circuit Court sentencing him to forty years' imprisonment, with imposition of twenty-seven years suspended, and ten years' imprisonment for the respective charges of possession of methamphetamine with intent to deliver, Class Y felony, and possession of marijuana with intent to deliver, Class C felony, as provided in Ark. Code Ann. § 5-64-401 (Supp. 1995). Jurisdiction lies properly within this court pursuant to Ark. Sup. Ct. R. 1-2(a)(2) (as amended by *per curiam* July 15, 1996).

Appellant was arrested, along with Billy Lowell Hammons, on March 1, 1995, and subsequently charged with the foregoing felony offenses. Both Appellant and Hammons made motions to suppress the evidence seized by police officers on the theory that the arresting officer had effected an illegal seizure of the two men.

After a hearing on the matter, the trial court denied both Appellant's and Hammons's suppression motions. Following the trial court's ruling, Appellant and Hammons entered conditional pleas of *nolo contendere* to the drug offenses, pursuant to A.R.Cr.P. Rule 24.3, and both subsequently appealed the trial court's ruling.

On appeal, Appellant maintains that the arresting officer effected an illegal seizure of his person and that, as a result, the evidence found during the subsequent search of Appellant and the custodial statement given to police after his arrest must be suppressed as the fruits of an illegal search and seizure. During the suppression hearing below, Appellant did not otherwise challenge the legality or the voluntariness of his custodial statement, nor does he do so on appeal.

[1] The facts of this case have been outlined in great detail in the companion case of *Hammons v. State*, 327 Ark. 520, 940 S.W.2d 424 (1997). The arguments made on appeal by both Appellant and Hammons are identical, and therefore, based upon our reasoning set forth in the *Hammons* opinion, we similarly affirm the trial court's judgment of conviction in this case.