

JAMES P. WILLIAMS *v.* STATE OF ARKANSAS

CR 73-76

498 S.W. 2d 335

Opinion delivered September 4, 1973

DRUGS & NARCOTICS—DRIVING MOTOR VEHICLE WHILE UNDER INFLUENCE—WEIGHT & SUFFICIENCY OF EVIDENCE.—Conviction of driving a motor vehicle while under the influence of drugs could not be sustained where appellant was suffering from hypoglycemia which may cause dizziness or unconsciousness, undisputed testimony of appellant's doctor showed that the pills present in the vehicle were prescribed tranquilizers which could not have caused the condition in which appellant was found, and appellant's testimony that he had not taken tranquilizers or any other drug was uncontradicted.

Appeal from Pulaski Circuit Court, Fourth Division, *Richard B. Adkisson*, Judge; reversed and dismissed.

*Cearley and Gitchel*, for appellant.

*Jim Guy Tucker*, Atty. Gen., by: *Charles A. Banks*, Asst. Atty. Gen., for appellee.

GEORGE ROSE SMITH, Justice. In the Little Rock Municipal Court the appellant was found guilty of

driving a motor vehicle while under the influence of drugs. Ark. Stat. Ann. § 75-1026.1 (Supp. 1971). This appeal is from the circuit court's affirmance of the municipal court judgment.

The appellant is correct in his contention that there is no proof that he was under the influence of drugs at the time of his arrest. He was suffering from hypoglycemia, an affliction that may cause dizziness or unconsciousness. A state policeman arrested Williams upon finding him unconscious in a sitting position at the wheel of a car which was standing on a public highway with its motor running. According to the officer, there was a strong odor of alcohol upon Williams' breath. Williams' intractable conduct upon his return to consciousness, together with the presence of certain pills upon the dashboard of the car, led the officer to charge Williams with driving under the influence of drugs. However, the undisputed testimony, including that of Williams' doctor, shows that the pills were prescribed tranquilizers which could not have caused the condition in which Williams was found. Williams himself admitted that he had drunk beer before his arrest, but his testimony that he had not taken either the tranquilizers or any other drug is uncontradicted. Thus there is no proof to sustain an essential element of the charge.

Reversed and dismissed.

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