

Robert Steven OSGOOD and Anthony Gerald TEMPLE  
v. STATE of Arkansas

CR 85-45 and CR 85-46

709 S.W.2d 401

Supreme Court of Arkansas  
Opinion delivered May 12, 1986

CRIMINAL LAW — ARK. STAT. ANN. § 82-2617 PASSED TO UPGRADE  
FELONY PENALTIES, NOT TO CHANGE FELONY STATUS OF OFFENSES.  
— When the Legislature enacted Ark. Stat. Ann. § 82-2617 to  
upgrade the penalties for offenses which were already felonies, the  
Legislature intended no change in the felony status of those  
offenses.

On Writ of Prohibition to Bradley Circuit Court; denied.

*Hani W. Hasham*, for appellant, Osgood.

*Gibson & Gibson, P.A.*, by: *R. Bynum Gibson*, for appellant,  
Temple.

*Steve Clark*, Att'y Gen., by: *Jack Gillean*, Asst. Att'y Gen.,  
for appellee.

PER CURIAM. The petitioners, Robert Steven Osgood and Anthony Gerald Temple, were charged with possession of a controlled substance with intent to deliver in violation of Ark. Stat. Ann. § 82-2617(a)(1)(iv). Both petitioners moved to quash the felony information, alleging that the crime charged was a misdemeanor, rather than a felony. The circuit judge denied both motions. The petitioners then filed writs of prohibition in this court, claiming that the Bradley Circuit Court was without jurisdiction to try them for a misdemeanor. We granted petitioners' motions to consolidate their cases since they presented the same issue. We then granted a temporary writ of prohibition on March 4, 1985, and allowed the parties to brief the issue.

Subsequently, the appellee filed a motion to reconsider the issuance of the temporary writ of prohibition. We granted that motion on April 1, 1985.

[1] We decided the issue raised in this case in *Dollar v. State*, 287 Ark. 61, 697 S.W.2d 868 (1985) where we found the Legislature enacted § 82-2617 to upgrade the penalties for offenses which were already felonies, and the Legislature intended no change in the felony status of those offenses.

Accordingly, the temporary writ of prohibition is dissolved, the petitioners' motion for permanent writ of prohibition is denied, and the case is remanded to circuit court for trial on the merits.

PURTLE, J., not participating.