



02/01/84 STATE ALABAMA v. DRUG RELATED OBJECTS

446 So. 2d 40 (1984) | Cited 0 times | Court of Civil Appeals of Alabama | February 1, 1984

WRIGHT, Presiding Judge

This is an action for condemnation of drug-related objects defined in § 20-2-75, Code of Alabama 1975, as amended by 1980 Ala. Acts 80-579.

Condemnation proceedings were brought by the District Attorney of the Fifteenth Judicial Circuit against some ten boxes of articles seized under search warrant from a place of business in the City of Montgomery. After hearing ore tenus, the trial Judge entered an order directing forfeiture of the entire lot. Subsequently, on motion to amend or alter, the order was amended to delete from condemnation specific articles which it determined not to be drug related because, "hey are not primarily designed and/or do not have as their purpose the ingestion of controlled substances...." From the amended order the district attorney has appealed.

The dispositive issue is whether there was evidence supporting the amended order of the trial court.

We have studied the testimony concerning the relation or nonrelation of the seized objects to the consumption or ingestion of drugs in light of the statute and the judgment in the case of Gasser v. Morgan, 498 F. Supp. 1154 (N.D. Ala. 1980). Though there was testimony for the state setting out the primary purpose of some objects was that of use with drugs, the same witness and the owner stated they could be used in the ordinary smoking of tobacco. These items were various pipes and and cigarette rolling papers. This court is without judicial or expert knowledge of the accouterments indigenous to smoking parts of the plant Cannabis Sativa Linnaeus or Marijuana. It may appear to this court that some of the papers and pipes found by the trial court not to primarily fit such use, are nevertheless not fitting for any other use. However, the trial Judge is the trier of fact. If there is evidence to support his/or her finding, we are bound to presume it correct upon appeal.

We find the judgment in this case not so lacking in support by the evidence as to be so clearly wrong as to permit our reversal. Ex parte Allstate Insurance Company, 401 So. 2d 749 (Ala. 1981).

AFFIRMED.

BRADLEY and HOLMES, JJ., Concur.

