

Cite as 2009 Ark. App. 835

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CACR08-1356

LATORE DURAND GOSSETT,
APPELLANT

V.

STATE OF ARKANSAS,
APPELLEE**Opinion Delivered** 9 DECEMBER 2009APPEAL FROM THE CLARK
COUNTY CIRCUIT COURT,
[NO. CR-2006-185]THE HONORABLE JOHN
ALEXANDER THOMAS, JUDGE

DISMISSED

D.P. MARSHALL JR., Judge

In the fall of 2008, the supreme court adopted a “Conditional Plea Form” and appended it to Rule of Criminal Procedure 24.3. This Rule governs pleas of guilty and nolo contendere. The new form clarifies the contemporaneous-writing requirement and helps ensure that conditional-plea cases are decided on the merits instead of falling to a jurisdictional defect. *Waters v. State*, 102 Ark. App. 8, 10–11, 279 S.W.3d 493, 495–96 (2008) (Glover, J., concurring).

In the summer of 2007, more than a year before the new form made its appearance, Latore Gossett pleaded guilty to five drug-and-firearm-related offenses. The circuit court and the lawyers agreed at the guilty-plea hearing that the plea was conditional, reserving Gossett’s right to appeal a suppression issue. The circuit court

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sentenced him to fourteen years' imprisonment. Gossett now challenges the circuit court's denial of his pre-trial motion to suppress evidence found during a warrantless search of his apartment. He raises a co-tenant consent issue. *Cf. Georgia v. Randolph*, 547 U.S. 103 (2006). The State, however, argues that we do not have jurisdiction because Gossett failed to comply strictly with the requirements for entering a conditional guilty plea. The State is correct.

Generally, a defendant who pleads guilty has no right to appeal. Ark. R. App. P.–Crim. 1(a). But “[w]ith the approval of the court and the consent of the prosecuting attorney, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right, on appeal from the judgment, to review of an adverse determination of a pretrial motion to suppress seized evidence” Ark. R. Crim. P. 24.3(b). This means that when the defendant enters his conditional guilty plea, he must contemporaneously reserve his right to appeal in writing. *Waters*, 102 Ark. App. at 9, 279 S.W.3d at 494. “Absent strict compliance, the appellate court acquires no jurisdiction to hear an appeal, even when there has been an attempt at trial to enter a conditional plea.” *Grupa v. State*, 83 Ark. App. 389, 390, 128 S.W.3d 470, 471 (2003).

At the plea hearing, Gossett's attorney stated that Gossett's plea was conditional. The State agreed. And the circuit court did too. But the only contemporaneous

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writing—the statement in advance of a plea of guilt—did not mention that Gossett was entering his plea conditionally. Instead, the statement recites that Gossett was waiving his rights to appeal and to challenge the admissibility of any evidence that might have been offered against him. Both Gossett and his attorney signed the statement. We have searched the record and there is no other writing—contemporaneous or otherwise—reserving Gossett’s right to appeal or indicating that his plea was conditional. Under the strict-compliance standard imposed by precedent, we therefore lack jurisdiction. *Waters*, 102 Ark. App. at 10, 279 S.W.3d at 495.

Dismissed.

GRUBER and HENRY, JJ., agree.