Cite as 2009 Ark. App. 721

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR09-342

	Opinion Delivered November 4, 2009
JAMES RICHARDS, JR. APPELLANT	APPEAL FROM THE FAULKNER COUNTY CIRCUIT COURT [NO. CR-2005-1257]
V.	HONORABLE CHARLES E. CLAWSON, JR., JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

JOHN MAUZY PITTMAN, Judge

Appellant was convicted of being a felon in possession of a firearm that was discovered beneath the blanket of a bed in which appellant was lying when arrested. This appeal challenges the trial court's failure to suppress evidence obtained as the result of the search. This issue is not preserved for appeal because appellant failed to obtain a ruling below, as was his burden. *Patrick v. State*, 314 Ark. 285, 862 S.W.2d 239 (1993). Consequently, we do not reach the merits of appellant's argument.

At the bench trial on June 16, 2006, appellant's attorney moved to suppress all evidence resulting from the police officers' entry into the home on the ground that there was no valid warrant, permission, or exigent circumstances. The trial court took the motion under advisement, announcing that he intended to consult various legal authorities and would announce his ruling at a hearing to be held on June 30. The ruling was never announced

because appellant failed to appear for the hearing. Two years later, appellant appeared in court after being apprehended for failure to appear. His attorney informed the court that he would like to draw the court's attention to "additional information" before the court proceeded on "the ruling it would have entered" two years beforehand and "before any decision or sentencing, if there is a sentencing," was entered. The trial judge stated that he did not recall the particulars of the case and would have to refer to his notes. In a hearing held on July 11, 2008, the trial judge stated that his recollection was that appellant's case was tried as a bench trial, but they "never got the sentencing done, and we need to set the matter for sentencing. Am I on the right case?" Appellant's attorney responded, "Yes." Appellant's attorney then asked that appellant be given a mental examination and that the court take appellant's competence into consideration before reaching a decision. On September 22, 2008, a hearing was held in which appellant's attorney requested that appellant be given medical treatment for an asserted mental condition and objected to the assessment of a $25 fee for appellant's transportation in connection with the court-ordered mental exam. No mention was made of the motion to suppress made in 2006.

Finally, a hearing was held on October 2, 2008. Appellant's attorney noted that there were two matters before the court, the original proceeding on the charge of felon in possession and another on the failure-to-appear charge. The prosecuting attorney offered to dismiss the failure-to-appear charge so that she could "go ahead and get him sentenced." Appellant's attorney accepted the offer and agreed to "move forward insofar as the Court's

ruling." Defense counsel's only request before the trial court "passed sentence" was that appellant be allowed to speak to the court. Appellant was permitted to do so, after which the trial judge sentenced him to ten years' imprisonment for felon in possession.

The motion to suppress was never mentioned in any of the proceedings following appellant's failure to appear. Defense counsel did not request a ruling on that motion at any time, but did request a mental examination, the refund of a $25 fee, and that appellant be permitted to address the court "before sentencing." The circumstances suggest that appellant's motion to suppress was, deliberately or inadvertently, abandoned below; in any event, appellant's failure to obtain a ruling from the trial court on the suppression motion precludes review on appeal. *Patrick v. State*, *supra*.

Affirmed.

HART and GLOVER, JJ., agree.