

Cite as 2009 Ark. 459

SUPREME COURT OF ARKANSAS

No. CR 09-153

STATE OF ARKANSAS,
APPELLANT,
VS.
STERLING WEATHERSPOON,
APPELLEE,

Opinion Delivered October 1, 2009

APPEAL FROM THE JEFFERSON
COUNTY CIRCUIT COURT,
NO. CR-2006-1088-1-5,
HON. JODI RAINES DENNIS, JUDGE,

APPEAL DISMISSED.

PAUL E. DANIELSON, Associate Justice

The State of Arkansas appeals the order of the Jefferson County Circuit Court dismissing its multi-count prosecution of appellee Sterling Weatherspoon for lack of a speedy trial. The State argues that the circuit court erred in finding that Weatherspoon's April 2006 arrest commenced the running of the time for a speedy-trial determination and in dismissing the case as a result of that finding. However, we do not reach the merits, as this is not a proper State appeal.

The relevant facts are these. On April 12, 2006, Weatherspoon was arrested by the Arkansas State Police for two counts of class-B-felony theft of property and 255 counts of class-C-felony theft of property. The State was made aware of his arrest on the same day and requested his release pending further investigation. Weatherspoon was not required to post bail and was not given a court date. A felony information was filed against him on December

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6, 2006, charging him with 362 counts of class-C-felony theft of property, two counts of class-D-felony possession of a firearm by certain persons, and class-A-misdemeanor possession of a controlled substance (marijuana). Weatherspoon was served with a bench warrant on December 7, 2006, and was scheduled to appear for plea and arraignment on January 8, 2007. Weatherspoon's attorney filed a waiver of arraignment on January 5, 2007. The jury trial was scheduled for April 17, 2007.

On April 16, 2007, the State filed a motion for continuance based upon incomplete lab reports. The motion was granted and time for speedy trial was tolled until the next trial scheduling. The circuit court judge filed an order of recusal and reassignment on April 27, 2007. The case was then transferred and a new order was filed, setting the jury trial for October 1, 2007.

On September 25, 2007, the co-defendant in the case filed a motion to continue and motion for commitment. An order of commitment was issued for the co-defendant on September 26, 2007. However, a motion for severance had not been filed. On January 14, 2008, the Arkansas Department of Human Services filed an extension request to complete the mental evaluation being conducted for the co-defendant. Upon notice of completion of the mental evaluation for the co-defendant, an order resetting the case for trial was filed, and the jury trial was set for June 12, 2008. Pursuant to Weatherspoon's motion to dismiss, the circuit court filed an order dismissing the case for lack of speedy trial on December 10, 2008, and again, including specific findings of fact and conclusions of law, on January 21, 2009. It

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is from that dismissal that the State now appeals.

As a threshold matter, we must determine whether the State may appeal the circuit court's ruling. This court has stated many times that the State's ability to appeal is not a matter of right but limited to those cases described under Rule 3 of the Arkansas Rules of Appellate Procedure—Criminal. *See State v. Stites*, 2009 Ark. 154, ___ S.W.3d ___. We accept appeals by the State when our holding would be important to the correct and uniform administration of the criminal law. *See id.* As a matter of practice, our court has only taken appeals which are narrow in scope and involve the interpretation of law. *See id.* When an appeal does not present an issue of interpretation of the criminal rules with widespread ramifications, this court has held that such an appeal does not involve the correct and uniform administration of the law. *See id.* Appeals are not allowed merely to demonstrate the fact that the trial court erred. *See id.* Therefore, where the resolution of the State's attempted appeal turns on the facts of the case and would not require interpretation of our criminal rules with widespread ramifications, acceptance of the State's appeal is not allowed under Rule 3. *See id.* An appeal that raises the issue of application, not interpretation, of a statutory provision does not involve the correct and uniform administration of justice or the criminal law. *See id.*

The State argues that the circuit court erred in finding that the time for speedy trial commenced from Weatherspoon's April 2006 arrest because Weatherspoon was not held in custody or on bail and was released without any requirement that he answer for the same

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offense for which he was arrested. Arkansas Rule of Civil Procedure 28.2(a) (2006) provides:

The time for trial shall commence running from the date the charge is filed, except that if prior to that time the defendant has been continuously held in custody or on bail or lawfully at liberty to answer for the same offense or an offense based on the same conduct or arising from the same criminal episode, then the time for trial shall commence running from the date of arrest.

In its order, the circuit court found that Weatherspoon was not held in custody and was not required to post bail following his 2006 arrest. Therefore, the State contends that the circuit court erroneously interpreted the remaining language of Rule 28.2(a) to determine that Weatherspoon was “lawfully at liberty to answer for the same offense or an offense based on the same conduct or arising from the same criminal episode” and that the time for speedy trial commenced from the date of his April 2006 arrest. The State contends that where a defendant was not held in custody, did not post bail, and was not released with instructions to return for a court date, then that defendant was not “lawfully at liberty to answer for the same offense or an offense based on the same conduct or arising from the same criminal episode” under Rule 28.2(a). Therefore, the State argues, the time for speedy trial did not commence until the charges were filed against Weatherspoon in December 2006, and the circuit court erred in ordering the dismissal.

While the issue presented by the State would require our interpretation of a criminal rule, it is not an issue that, once resolved, involves the correct and uniform administration of the criminal law or would have widespread ramifications, because this particular rule was amended in 2007 to simply instruct, “[t]he time for trial shall commence running from the

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date of arrest or service of summons.” Ark. R. Civ. P. 28.2 (2007). The instant case, which challenges an interpretation of a prior version of Rule 28.2, is not a case in which a decision from this court interpreting the 2006 version of the rule would be important to the correct and uniform administration of the criminal law or would have widespread ramifications. Therefore, it is not a proper State appeal and we must dismiss it.

Appeal dismissed.