

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2003

ROBERT S. URBAN,

Appellant,

v.

CASE NO. 5D02-3993

STATE OF FLORIDA,

Appellee.

Opinion filed October 10, 2003

Appeal from the Circuit Court
for Citrus County,
Richard A. Howard, Judge.

James F. Spindler, Jr. of
James F. Spindler, Jr, P.A.,
Crystal River, for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Rebecca Rock McGuigan,
Assistant Attorney General, Daytona Beach,
for Appellee.

SHARP, W., J.

Urban appeals from a final judgment entered after he pled nolo contendere to the offenses of trafficking in oxycodone,¹ and sale of clonazepam.² He contends that he was "entrapped" by law

¹ §§ 893.135(1)(c), 893.03(2)(a)1., Fla. Stat. (2002).

² §§ 893.13(1)(a)2., 893.03(4)(j), Fla. Stat. (2002).

enforcement officers, and that their egregious conduct violated his constitutional due process rights under article I, section 9 of the Florida Constitution, and amendments 5 and 14 of the United States Constitution. In order to prevail on this ground, Urban must demonstrate that law enforcement's conduct was so outrageous and egregious it constituted entrapment, as a matter of law, regardless of his predisposition to commit the crime charged. *Munoz v. State*, 629 So. 2d 90 (Fla. 1993).

After reviewing the record in this case, we do not agree that the conduct of law enforcement shown at the hearing regarding Urban's motion to dismiss rises to that level. Rather, we agree with the State that the actions of the law enforcement in this case were similar to the conduct discussed in *State v. Sergeant*, 617 So. 2d 1115 (Fla. 5th DCA 1993), *approved*, 629 So. 2d 847 (Fla. 1994). In that case, this court held the activities engaged in by the police did not violate the defendant's due process rights.

AFFIRMED.

PETERSON and TORPY, JJ., concur.