

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2011

STATE OF FLORIDA,
Appellant,

v.

JAMIE EUGUI,
Appellee.

No. 4D10-1225

[May 25, 2011]

PER CURIAM.

We reverse the dismissal of the information charging appellee with one count of delivery of a counterfeit controlled substance. See § 831.31, Fla. Stat. (2009). The trial court based the dismissal on a motion appellee filed under Florida Rule of Criminal Procedure 3.190(c)(4). The state filed a traverse which set forth specific facts which, in the light most favorable to the state, establish appellant's knowing participation in the drug transaction. For example, a coconspirator told the state's confidential informant that the crack was in transit, and that the informant "needed to wait for [appellee], who was in the bar, to go get the crack." Appellee told the informant to wait for him in a bar, went to a codefendant's house, and returned with another codefendant who made the hand-to-hand transaction. To survive a motion to dismiss, "the state need not produce evidence sufficient to sustain a conviction. So long as the state shows the barest prima facie case, it should not be prevented from prosecuting." *State v. Bailey*, 508 So. 2d 1268, 1269 (Fla. 4th DCA 1987) (internal citations omitted).

GROSS, C.J., HAZOURI and CIKLIN, JJ., concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Carlos A. Rodriguez, Judge; L.T. Case No. 09-12539CF10C.

Pamela Jo Bondi, Attorney General, Tallahassee, and Diane F. Medley, Assistant Attorney General, West Palm Beach, for appellant.

Carey Haughwout, Public Defender, and Dea Abramschmitt, Assistant Public Defender, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.