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Alabama Court of Criminal Appeals

OCTOBER TERM, 2020-2021

CR-19-0807

Bradford Meeks

v.

State of Alabama

Appeal from Cullman Circuit Court
(CC-17-646)

McCOOL, Judge.

Bradford Meeks appeals his convictions for criminally negligent homicide, see § 13A-6-4, Ala. Code 1975; third-degree assault, see § 13A-6-

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22, Ala. Code 1975; driving under the influence of alcohol ("DUI"), see § 32-5A-191, Ala. Code 1975; and improper lane usage while operating a vehicle upon a roadway with clearly marked lanes, see § 32-5A-88, Ala. Code 1975. The trial court sentenced Meeks to 10 years' imprisonment for his criminally-negligent-homicide conviction, 12 months in the county jail for his third-degree-assault conviction, and 12 months in the county jail for his DUI conviction, and the court ordered that those sentences were to run consecutively. The trial court fined Meeks \$50 for his improper-lane-usage conviction.

Facts and Procedural History

On May 7, 2017, Meeks was involved in an automobile collision when the truck he was driving crossed the center line of a two-lane roadway and struck an oncoming truck that Ashley Wilson was driving in the opposite lane. Wilson's 15-year-old son, Curtis Wilson, was a passenger in her truck and died as a result of injuries he sustained during the collision. Testimony from witnesses to the collision indicated that Meeks was driving erratically and that he was heavily intoxicated at the time of the collision. Specifically, LeeRoy Fortner, who was following Meeks's truck

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at the time of the collision, testified that Meeks's truck had been repeatedly "go[ing] from the oncoming traffic lane back into the correct lane" (R. 691) before the collision and had been "permanently in the oncoming traffic lane" (R. 694) for approximately "an eighth [to] a quarter of a mile" at the time of the collision. (R. 695.) In addition, Fortner spoke with Meeks at the scene of the collision, and, according to Fortner, Meeks "[d]efinitely" exhibited signs of intoxication, including "slurred talking" (R. 702), "drooped and glassy" eyes (R. 702), and the "smell[] [of] alcohol on his breath." (R. 733.) Lisa Hebert, who also spoke with Meeks at the scene of the collision, testified that Meeks "seemed to be ... a level of drunk that was very close to passing out." (R. 653.)

Following the collision, Meeks was taken to University of Alabama at Birmingham ("UAB") Hospital. State Trooper Seth Hannah was subsequently dispatched to UAB Hospital and was able to speak with Meeks while Meeks was receiving treatment in the UAB Hospital trauma center, and Trooper Hannah testified that Meeks exhibited signs of intoxication at that time. (R. 570-71.) Given Meeks's apparent intoxication, Trooper Hannah "asked [Meeks] to submit to a blood

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sample," which Meeks refused to do. (R. 568.) Thus, Trooper Hannah obtained a search warrant authorizing the drawing of Meeks's blood, but he was unable to obtain a blood sample from Meeks after receiving the warrant because "the tubes on [his] kit were expired." (R. 570.)

However, before Trooper Hannah's arrival at UAB Hospital, hospital personnel had drawn samples of Meeks's blood to assist in his treatment, and a toxicology test conducted at UAB Hospital shortly thereafter indicated that Meeks's blood-alcohol content ("BAC") was 263 milligrams per deciliter. The results of the toxicology test were admitted into evidence at trial, and a forensic toxicologist testified that the "whole blood" conversion of those results placed Meeks's BAC in the range of 210-224 milligrams per deciliter (R. 886), which is more than twice the .08 percent BAC at which a person is prohibited from operating a vehicle. See § 32-5A-191(a)(1), Ala. Code 1975.

Discussion

The sole issue Meeks raises on appeal is that the trial court erred by admitting into evidence the results of the toxicology test conducted on his blood samples. In support of that claim, Meeks argues that the State

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failed to prove a proper chain of custody for the blood samples and thus failed to lay a proper predicate for the admission of the toxicology report.

In Lane v. State, 80 So. 3d 280 (Ala. Crim. App. 2010), this Court stated:

"The State is not required to prove the chain of custody of evidence before that evidence comes into the State's possession. As this Court explained in Burrell v. State, 689 So. 2d 992 (Ala. Crim. App. 1996):

"'Proper analysis of a chain of custody question, however, does not begin at the time of the offense; the chain of custody begins when [the] item of evidence is seized by the State. State v. Conrad, 241 Mont. 1, 785 P.2d 185 (1990); 29A Am. Jur. 2d, Evidence § 947 (1994 ed.) ("The chain-of-custody rule does not require the prosecution to account for the possession of evidence before it comes into their hands."). Anyone who has handled evidence in the State's possession is a "link" in the chain of custody; once the evidence is in the State's possession, it is the State's duty to account for each link. § 12-21-13, Code of Alabama (1975). See, Ex parte Holton, 590 So. 2d 918, 920 (Ala. 1991).'

"689 So. 2d at 995-96 (emphasis added). See also Birge v. State, 973 So. 2d 1085 (Ala. Crim. App. 2007); Yeomans v. State, 898 So. 2d 878 (Ala. Crim. App. 2004); Baird v. State, 849 So. 2d 223 (Ala. Crim. App. 2002); and Powell v. State, 796 So. 2d 404 (Ala. Crim. App. 1999), aff'd, 796 So. 2d 434 (Ala. 2001)."

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Lane, 80 So. 3d at 300 (second emphasis added).

Here, Meeks's blood samples were never in the State's possession. Thus, pursuant to Lane, the State was not required to prove the chain of custody for Meeks's blood samples, and, as a result, Meeks has not demonstrated that the trial court erred by admitting the toxicology report into evidence. Because a chain-of-custody claim is the only claim Meeks raises on appeal, Meeks is not entitled to a reversal of his convictions.

However, we note that Meeks's 10-year sentence for his criminally-negligent-homicide conviction is illegal. Although Meeks does not challenge the legality of his sentences, "it is well settled that '[m]atters concerning unauthorized sentences are jurisdictional,' Hunt v. State, 659 So. 2d 998, 999 (Ala. Crim. App. 1994), and that this Court may take notice of an illegal sentence at any time. See, e.g., Pender v. State, 740 So. 2d 482 (Ala. Crim. App. 1999)." Born v. State, [Ms. CR-18-0605, September 11, 2020] ___ So. 3d ___, ___ (Ala. Crim. App. 2020).

Generally, criminally negligent homicide is a Class A misdemeanor, § 13A-6-4(c), but that offense is a Class C felony if committed by "the driver or operator of a vehicle or vessel who is driving or operating the

vehicle or vessel in violation of Section 32-5A-191." § 13A-6-4(c). Thus, Meeks's criminally-negligent-homicide conviction is a Class C felony.

"The punishment for committing a Class C felony is a sentence of not 'more than 10 years or less than 1 year and 1 day and must be in accordance with subsection (b) of Section 15-18-8[, Ala. Code 1975,] unless sentencing is pursuant to Section 13A-5-9[, Ala. Code 1975].' § 13A-5-6(a)(3), Ala. Code 1975.

"To put it differently, unless a defendant is sentenced as a habitual felony offender, a sentence for a Class C felony must fall within the range of time set out in § 13A-5-6(a)(3), Ala. Code 1975, and must comply with subsection (b) of the Split Sentence Act. As this Court recently held in Jackson v. State, [Ms. CR-18-0454, Feb. 7, 2020] ___ So. 3d ___ (Ala. Crim. App. 2020), §§ 13A-5-6(a)(3) and 15-18-8(b), Ala. Code 1975, do not allow a trial court to impose a 'straight' sentence for a Class C felony when the Habitual Felony Offender Act does not apply. Instead, under § 13A-5-6(a)(3) and 15-18-8(b), once the trial court imposes on a defendant a sentence length between 1 year and 1 day and 10 years, the trial court must either:

"(1) Sentence the defendant to probation, drug court, or a pretrial diversion program; or

"(2) 'Split' the confinement portion of the defendant's sentence to a period not exceeding two years, suspend the remainder of the defendant's sentence, and impose a term of probation on the defendant that does not exceed three years.

"Here, [Meeks] is not a habitual felony offender and was not sentenced under § 13A-5-9, Ala. Code 1975. Yet the trial court sentenced [Meeks] to a 'straight' 10-year sentence in the

Alabama Department of Corrections, which, as explained above, is impermissible under § 13A-5-6(a)(3), Ala. Code 1975. Thus, we must remand this case to the trial court to impose a sentence on [Meeks] for his conviction for [criminally negligent homicide] that complies with §§ 13A-5-6(a)(3) and 15-18-8(b).

"In so doing, however, we note that [Meeks's] 10-year sentence is valid; thus, the trial court cannot change the underlying sentence. See generally Moore v. State, 871 So. 2d 106, 110 (Ala. Crim. App. 2003) (recognizing that, when the base sentence imposed by the trial court is valid, the trial court cannot alter it on remand)."

Born, ___ So. 3d at ___ (footnotes and citation to the record omitted).

Conclusion

Meeks has not demonstrated any error that necessitates the reversal of his convictions. Accordingly, each of Meeks's convictions is affirmed. However, we remand the case for the trial court to sentence Meeks in accordance with this opinion for his criminally-negligent-homicide conviction. Meeks's other sentences are affirmed. The trial court shall take all necessary steps to ensure that return be made to this Court within 42 days of the date of this opinion.

AFFIRMED AS TO CONVICTIONS; REMANDED WITH INSTRUCTIONS AS TO SENTENCING.

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Windom, P.J., and Kellum and Cole, J.J., concur. Minor, J., concurs
in the result.