

Commonwealth Of Kentucky

Court of Appeals

NO. 2005-CA-001710-MR

VERNON RAY JARVIS

APPELLANT

v. APPEAL FROM CLAY CIRCUIT COURT
HONORABLE R. CLETUS MARICLE, JUDGE
ACTION NO. 04-CR-00128

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: COMBS, CHIEF JUDGE; WINE, JUDGE; PAISLEY,¹ SENIOR JUDGE.
WINE, JUDGE: Vernon Ray Jarvis appeals a conviction by the Clay Circuit Court for two counts of trafficking in a controlled substance in the first degree (cocaine) and persistent felony offender in the second degree because the trial court lacked jurisdiction to indict. Jarvis was sentenced to fifteen years in the penitentiary. For the following reasons, we affirm.

¹ Senior Judge Lewis G. Paisley sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

Jarvis argues that the trial court erred in denying his motion to dismiss the indictment for lack of jurisdiction because the arresting officers did not follow the proper procedure in obtaining his arrest. The investigation that led to Jarvis's arrest and conviction was led by Detective Patrick Robinson, a police officer with the Manchester Police Department. Detective Robinson conducted the investigation in coordination with Operation UNITE, a federally-funded drug task force program designed to assist counties in joining their limited funds and resources to fight drug trafficking and abuse in Eastern Kentucky.

On April 6, 2004, Detective Robinson and UNITE arranged to have an informant, Jessica Rice, make a buy from Jarvis while wearing a sound recording device. Detective Robinson gave Rice \$40 to make the transaction with Jarvis. Greg Turner, an officer with the London Police Department, drove Rice to meet Jarvis where she successfully bought cocaine from Jarvis.

In a separate buy on May 17, 2004, Detective Turner was given \$40 and was driven to Jarvis's residence by Detective William Harris, a Rockcastle County Sheriff's Deputy, where he personally bought cocaine from Jarvis. Detective Turner was also wearing a recording device when the transaction with Jarvis took place.

Prior to trial, Jarvis moved to dismiss for lack of jurisdiction, arguing that the UNITE Interlocal Cooperation Agreement was not validly established; consequently, the authorities working under the UNITE agreement did not have jurisdiction to investigate or arrest Jarvis. Specifically, Jarvis asserts that the UNITE program lacked the necessary signatures, parties, and proper filing, pursuant to KRS 65.210-65.300, the Interlocal Cooperation Act, under which it was formed.

The trial court denied Jarvis's motion to dismiss finding that the operative date of Operation UNITE was May 21, 2004, the date the documents were filed in the Secretary of State's Office. On appeal, Jarvis argues that, even assuming the UNITE program was properly filed with the Secretary of State, two of the drug transactions for which Jarvis was convicted occurred before May 21; therefore, the officers still did not have jurisdiction to investigate or arrest him prior to May 21, 2004.

We conclude Jarvis's jurisdictional argument is without merit. First, the issue of whether Operation UNITE was in compliance with the Interlocal Cooperation Act or other pertinent statutes is not properly before this Court. The relevant documents relating to the establishment of Operation UNITE were never entered into evidence and are nowhere to be

found in the record. Thus, review on the merits is not only inappropriate but impossible.

Second, even assuming the UNITE program was not in force at the time of Jarvis's drug transactions, Detective Robinson was within his powers of arrest and investigation in leading the investigation of Jarvis in Clay County. KRS

95.019(1) provides:

The chief of police and all members of the police force in cities of the first through the fifth classes shall possess all of the common law and statutory powers of constables and sheriffs. They may exercise those powers, including the power of arrest for offenses against the state, anywhere in the county in which the city is located, but shall not be required to police any territory outside of the city limits.

Manchester is a fourth class city located in Clay County. KRS 81.010. Detective Robinson is a Manchester City Police Officer and thus, had investigative and arrest powers anywhere in Clay County. Further, it was not improper for Detective Robinson to use Rice or Detective Turner as an informant for the purpose of buying drugs in the investigation of Jarvis. Pursuant to KRS 431.007(1), police officers who are called to assist in another jurisdiction are vested with full powers of arrest in that jurisdiction. The fact that Detective Turner happens to be a London police officer is irrelevant.

As such, we affirm the trial court's conviction of Jarvis and find no error in the trial court's denying Jarvis's motion to dismiss for lack of jurisdiction.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Julia K. Pearson
Assistant Public Advocate
Frankfort, KY

BRIEF FOR APPELLEE:

Gregory D. Stumbo
Attorney General of Kentucky

Ken W. Riggs
Assistant Attorney General
Frankfort, KY