

SUMMARY STATEMENT

State v. Randall Jerome Billups

Docket No. 45199

The State charged Randall Jerome Billups with conspiracy to traffic in heroin. Billups filed a motion to suppress, which the district court denied. After being found guilty by a jury, Billups appealed the denial of his suppression motion. The Court of Appeals reversed the order denying his motion to suppress, but did not include the word “remand” in its opinion. The State requested a new trial, which Billups objected to, arguing the court must dismiss the charges. The district court agreed that because the Court of Appeals did not specifically “remand” the case, it did not have jurisdiction to order a new trial. On appeal, the State argued that absence of the term remand did not preclude a new trial. The Court of Appeals held that the absence of the term “remand” in an appellate opinion does not preclude further trial court proceedings. When an appellate court reverses a denial of a suppression motion, the case is returned to the point at which the motion was erroneously denied. Since the motion was erroneously denied prior to trial, the district court erred in determining it did not have jurisdiction to grant a new trial and dismissing the charges. The Court of Appeals reversed the order granting the motion to dismiss and remanded the case.