

IN THE COURT OF APPEALS OF IOWA

No. 3-127 / 12-0478
Filed April 10, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

RANDY PAUL VANDERLINDEN,
Defendant-Appellant.

Appeal from the Iowa District Court for Woodbury County, Patrick C. McCormick, Judge.

Randy Vanderlinden appeals from the district court ruling on the State's motion for reconsideration. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Theresa Wilson, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney General, Patrick Jennings, County Attorney, and Rachael Edmundson, Assistant County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Danilson and Bower, JJ.

EISENHAUER, C.J.

Randy Vanderlinden appeals from the district court ruling on the State's motion for reconsideration. He contends the court was without jurisdiction to entertain the motion or enter a ruling because the court already had entered a ruling dismissing the case. We affirm.

Procedural Background. Vanderlinden was charged with operating a motor vehicle while intoxicated, third offense, habitual offender. He moved to dismiss, contending the vehicle he was driving was a bicycle, not a motor vehicle. The court denied the motion, finding the device Vanderlinden was operating fell under the definition of motor vehicle in Iowa Code section 321.1(42)(a) (2011). At trial, Vanderlinden moved for judgment of acquittal. The court denied the motion and submitted the case to the jury, which found him guilty.

Vanderlinden filed a motion in arrest of judgment and a motion for new trial. The court addressed the motions during the sentencing hearing. The court said it had a problem with its earlier ruling on the motion for judgment of acquittal and it "very well should have sustained" the motion because it did not think the State proved it was a motor vehicle.

This is just a weird case. I mean, normally, of course, this doesn't come up. It just doesn't. But it did in this case and I have to make a decision on it. And what I'm going to do on my own motion is sustain the Defendant's motion for judgment of acquittal at the time it was presented after presentation of all the evidence on behalf of the State.

....

In reading this—the rules of criminal procedure, it looks like I should dismiss this because that's what would happen in the event I would have ruled in favor of the Defendant at the time I properly should have. And that was at the conclusion of the State's

evidence. So that's how I'm going to rule, that the motion for judgment of acquittal is sustained and the case is dismissed at the State's cost.

The State filed a motion to reconsider, urging the court to reinstate the jury verdict. Following a contested hearing, the court sustained the motion to reconsider and set aside its earlier order dismissing the case. Vanderlinden filed a petition for certiorari and motion for stay. The supreme court, "[t]reating the petition for writ of certiorari as an application for discretionary review," granted the application and motion for stay.

Scope of Review. Our review is for correction of errors at law. Iowa R. App. P. 6.907; *Tigges v. City of Ames*, 356 N.W.2d 503, 512 (Iowa 1984).

Discussion. Vanderlinden contends the district court erred in hearing and granting the State's motion for reconsideration. He claims the court lacked jurisdiction after entering a final judgment. See *Snyder v. Allamakee Cnty.*, 402 N.W.2d 416, 418 (Iowa 1987). The State argues the final judgment entered was void; therefore, the court properly set aside the void order. See *State v. Marti*, 290 N.W.2d 570, 581 (Iowa 1980) ("[A] trial court's entry of a postconviction judgment of acquittal [is] void . . .").

In *State v. Deets*, 195 N.W.2d 118, 123 (Iowa 1972) *overruled on other grounds by State v. Walker*, 574 N.W.2d 280 (Iowa 1998), the court considered circumstances virtually identical to those before us. The question was "whether [the] trial court erred in entering a judgment of acquittal after the jury had returned a verdict finding [the defendant] guilty."

[The defendant] made timely in course of trial motions for directed verdict, which were overruled. Then, after return of the aforesaid

verdict, he moved for arrest of judgment or a new trial. The latter motion was overruled in its entirety.

At the same time, as best we can determine, trial court entered the controverted judgment. Although premised upon Deets' motion in arrest of judgment, it is in force and effect a judgment notwithstanding the verdict, or directed verdict

. . . .
 . . . [The] trial court, in the case at bar, did not reserve ruling on [the defendant's] directed verdict motion made in course of trial. On the contrary it was specifically overruled when made at close of the State's case and close of all the evidence. Then after a guilty verdict had been returned, the court of its own volition, presuming to reconsider the matter, thereupon entered the contested acquittal judgment.

It still remains, however, no matter what improvised label trial court attempted to affix, the foregoing adjudication was, as previously stated, inter alia, nothing more nor less than a judgment notwithstanding the verdict for which authority is lacking in this jurisdiction.

Deets, 195 N.W.2d at 123-24.

We conclude *Deets* is controlling, and the court erred in revisiting its earlier decision to overrule Vanderlinden's motion for judgment of acquittal made in the course of the trial. The court did not reserve ruling on the motion. See Iowa R. Crim. P. 2.19(8)(b). After the jury rendered its guilty verdict, the court had no authority to issue a judgment of acquittal. See *Deets*, 195 N.W.2d at 124. The court's order was void. See *Marti*, 290 N.W.2d at 581. It had "no legal force or effect." *Deets*, 195 N.W.2d at 125. Therefore, the court did not err in setting the order aside.

AFFIRMED.