

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. NOLAN EXCELL PIPPEN

**Circuit Court for Marshall County
No. 2014CR12**

No. M2015-00828-CCA-R3-CD – Filed January 28, 2016

JOHN EVERETT WILLIAMS, J., concurring and dissenting.

I respectfully dissent from the majority’s conclusion that the trial court erred by denying the defendant’s motion to suppress. I concur with the majority’s conclusion that the evidence was insufficient to support the defendant’s conviction for public intoxication as indicted, but I would uphold his conviction for simple possession of marijuana.

Our supreme court has stated that “the strength of evidence necessary to establish probable cause to arrest is significantly less than the strength of evidence necessary to find a defendant guilty beyond a reasonable doubt.” *State v. Bishop*, 431 S.W.3d 22, 41 (Tenn. 2014). Both officers testified that the defendant appeared to be intoxicated, smelled of alcohol, and was unsteady on his feet. According to Officer Fender, the defendant was “staggering a little bit” and was “making several steps trying to keep his balance.” Emotionally, the defendant “seemed to be upset.” Both officers testified that in their opinion, the defendant was intoxicated and therefore a danger to himself and to others. The defendant also indicated that he had been in an altercation involving two individuals, and he pointed out these individuals in the parking lot. At this point, based upon the available information and their interaction with the defendant, the officers had sufficient probable cause to arrest the defendant for public intoxication. Officers then discovered marijuana in the defendant’s pocket during a search incident to a lawful arrest for public intoxication. Accordingly, I conclude that the trial court did not err in denying the defendant’s motion to suppress.

JOHN EVERETT WILLIAMS, JUDGE