

SUPREME COURT OF MISSISSIPPI

Parks v. State

930 So. 2d 383 (Miss. 2006) · No. 2004-KA-02448-SCT · Decided May 25, 2006

SUMMARY

The Supreme Court of Mississippi affirmed Kevine Dale Parks's conviction for aggravated assault and his twenty-year sentence. The court held that the evidence was sufficient to support aggravated assault under Mississippi Code section 97-3-7(2)(b), rejected challenges concerning the weight of the evidence and denial of a mistrial, and upheld the admission of leading questions to an adverse witness. The court concluded that no error warranted reversal or remand.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, Presiding Justice; Smith, C.J.; Waller, P.J.; Cobb, P.J.; Easley, J.; Carlson, J.; Graves, J.; Dickinson, J.; Diaz, J.; Randolph, J.
JURISDICTION	Mississippi
DECIDED	May 25, 2006
DOCKET	2004-KA-02448-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Parks directly appealed his Washington County Circuit Court conviction for aggravated assault and twenty-year sentence. He challenged the sufficiency and weight of the evidence, denial of a mistrial, and the trial court's treatment of a witness as adverse for purposes of leading questions.
STANDARD OF REVIEW	The court reviewed the sufficiency of the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find the essential elements beyond a reasonable doubt; reviewed the denial of a new trial based on the weight of the evidence in the light most favorable to the verdict, disturbing it only when allowing it to stand would sanction an unconscionable injustice; reviewed the denial of a mistrial for abuse of discretion; and reviewed the allowance of leading questions for abuse of discretion.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; binding precedent in Mississippi, subject to subsequent treatment.

TOPICS

criminal procedure

evidence

statutory interpretation

appellate procedure

standard of review

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to sustain Parks's aggravated-assault conviction where the assault was committed with fists and no deadly weapon.
2. Whether the aggravated-assault verdict was against the overwhelming weight of the evidence.
3. Whether the trial court erred by denying a mistrial after the jury heard testimony that was ordered excluded and then received a cautionary instruction.
4. Whether the trial court abused its discretion by allowing the State to use leading questions when examining Parks's cousin as a witness identified with an adverse party.

HOLDINGS

1. Under Mississippi Code section 97-3-7(2)(b), an aggravated assault may be committed with fists or hands when they are used as a means likely to produce death or serious bodily harm; the State need not prove that the hands or fists were a deadly weapon or that the victim suffered serious bodily injury, only bodily injury caused by means likely to produce death or serious bodily harm.
2. The aggravated-assault verdict was not against the overwhelming weight of the evidence because allowing it to stand would not sanction an unconscionable injustice.
3. The trial court did not abuse its discretion by denying a mistrial after excluded testimony concerning the possibility of death was heard, because the court issued a cautionary instruction and Parks did not show substantial and irreparable prejudice.
4. The trial court did not abuse its discretion by allowing the State to use leading questions on direct examination of Parks's cousin, because the familial relationship and the cousin's involvement in the events could place him within the category of a witness identified with an adverse party under Mississippi Rule of Evidence 611(c).

KEY QUOTATIONS

"It is not necessary under § 97-3-7(2)(b) that the use of hands and fists constitute the use of a "deadly weapon;" rather, it is enough if their use constitutes a "means likely to produce [either] death or serious bodily harm."" (384)

"When reviewing a denial of a motion for a new trial based on an objection to the weight of the evidence, we sit as a "thirteenth juror" reviewing the evidence in the light most favorable to the verdict, and we will only

disturb a verdict when it is so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice.” (386)

“These two factors alone could easily place Haslett in the category of a witness “identified with an adverse party” within the meaning of M.R.E. 611(c).” (387)

FACTUAL BACKGROUND

After Parks's romantic relationship with Lolita Thompson ended, he approached her as she left class, struck her, and forced her into her car. While driving away, Parks repeatedly hit Thompson and prevented her from escaping, with assistance from his cousin Eric Haslett. A law-enforcement officer stopped the vehicle after observing the two struggling, and Thompson was treated for extensive facial and head injuries. The State introduced testimony, photographs, medical evidence, and letters from Parks that substantially implicated him in the assault.

PROCEDURAL HISTORY

Parks was charged with kidnapping and aggravated assault. The jury convicted him of aggravated assault but deadlocked on kidnapping, resulting in a mistrial on that charge. The circuit court denied Parks's motions for a directed verdict, judgment notwithstanding the verdict, and mistrial, and sentenced him to twenty years in the custody of the Mississippi Department of Corrections. The Supreme Court of Mississippi affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. State, 594 So. 2d 20, 23 (Miss. 1992)
- Bush v. State, 895 So. 2d 836, 843-45 (Miss. 2005)
- Tate v. State, 912 So. 2d 919, 932 (Miss. 2005)
- Gossett v. State, 660 So. 2d 1285, 1290-91 (Miss. 1995)
- Roundtree v. State, 568 So. 2d 1173, 1178 (Miss. 1990)
- King v. State, 580 So. 2d 1182, 1189 (Miss. 1991)
- Dennis v. State, 555 So. 2d 679, 680 (Miss. 1989)
- McFee v. State, 511 So. 2d 130, 135-36 (Miss. 1987)
- Weaver v. State, 497 So. 2d 1089, 1094 (Miss. 1986)
- Johnson v. State, 477 So. 2d 196, 210 (Miss. 1985)
- McFarland v. State, 707 So. 2d 166, 175 (Miss. 1998)
- Neal v. State, 805 So. 2d 520, 526-27 (Miss. 2002)
- Harris v. Buxton T.V., Inc., 460 So. 2d 828, 833 (Miss. 1984)