

SUPREME COURT OF ARKANSAS

Sansevero v. State

45 S.W.3d 840, 345 Ark. 307 (2001) · No. CR 00-1397 · Decided June 21, 2001

SUMMARY

The Supreme Court of Arkansas held that the State failed to prove an essential element of second-degree battery because it did not establish that Sansevero actually knew the victim was twelve years old or younger. The court reversed and modified that conviction to third-degree battery, assessed a one-year county-jail term, credited 390 days served, and remanded for entry of a consistent judgment. The convictions and sentences for rape, residential burglary, and terroristic threatening were not disturbed.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Robert L. Brown
JURISDICTION	Arkansas
DECIDED	June 21, 2001
DOCKET	CR 00-1397
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Sansevero appealed his jury conviction for second-degree battery, arguing that the State presented insufficient evidence that he knew the victim was twelve years old or younger. The Supreme Court of Arkansas reversed and modified that conviction and remanded for entry of a consistent judgment.
STANDARD OF REVIEW	The court reviewed the sufficiency of the evidence to determine whether substantial evidence supported every element of the offense, while interpreting the criminal statute de novo and strictly construing it in favor of the defendant.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Vincent Anthony Sansevero v. State of Arkansas

TOPICS

- statutory interpretation
- plain meaning rule
- criminal procedure
- standard of review
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

statutory interpretation

appellate practice

QUESTIONS PRESENTED

1. Whether substantial evidence supported Sansevero's second-degree-battery conviction when the State failed to prove that he knew the victim was twelve years old or younger.
2. Whether the statutory phrase "knows to be" in Arkansas Code Annotated section 5-13-202(a)(4)(C) requires proof of the defendant's actual knowledge of the victim's qualifying age.

HOLDINGS

1. The phrase "knows to be" in Arkansas Code Annotated section 5-13-202(a)(4)(C) requires proof that the defendant had actual knowledge that the victim was twelve years old or younger.
2. The State failed to present substantial evidence of an essential element of second-degree battery—Sansevero's actual knowledge of K.S.'s qualifying age—so the second-degree-battery conviction could not stand.
3. The court modified the conviction to third-degree battery, a Class A misdemeanor with no knowledge-of-age requirement, imposed the maximum one-year county-jail sentence, and credited Sansevero with 390 days served.

KEY QUOTATIONS

"The plain wording of § 41-1602(1)(d)(iii) [now § 5-13-202(a)(4)(C)] imparts that knowledge on the part of the defendant must be personal to him." (843)

"We, therefore, hold that the State failed to establish proof of an essential element of the second-degree battery offense, which was Sansevero's actual knowledge of the age of K.S." (844)

FACTUAL BACKGROUND

Sansevero entered a home where twelve-year-old K.S. was babysitting two young children. He pushed K.S. inside, forced her upstairs, struck her in the face when she resisted his commands to undress, and later raped and threatened her. The State presented evidence of the assault, including K.S.'s testimony and physical and DNA evidence linking Sansevero to the crime, but presented no evidence that he knew K.S. was twelve years old or younger.

PROCEDURAL HISTORY

Sansevero was tried by a jury and convicted of rape, residential burglary, terroristic threatening, and second-degree battery. He received life imprisonment for rape, forty years for residential burglary, and fifteen years each for terroristic threatening and second-degree battery. He appealed only the second-degree-battery conviction.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded for entry of a judgment consistent with the opinion reflecting the modified conviction for third-degree battery, the one-year maximum county-jail term, and credit for 390 days served. The convictions and sentences for rape, residential burglary, and terroristic threatening remained in place.

CASES CITED

- Hubbard v. State, 20 Ark. App. 146, 725 S.W.2d 579 (1987)
- Clark v. State, 246 Ark. 876, 440 S.W.2d 205 (1969)
- Hadley v. State, 322 Ark. 472, 910 S.W.2d 675 (1995)
- Hagar v. State, 341 Ark. 633, 19 S.W.3d 16 (2000)
- Graham v. State, 314 Ark. 152, 861 S.W.2d 299 (1993)
- State v. Havens, 337 Ark. 161, 987 S.W.2d 686 (1999)
- Bush v. State, 338 Ark. 772, 2 S.W.3d 761 (1999)