

SUPREME COURT OF ARKANSAS

Shawn Wilkerson v. State of Arkansas, 365 Ark. 349

229 S.W.3d 896 (2006) · No. CR 05-1187 · Decided February 23, 2006

SUMMARY

The Supreme Court of Arkansas affirmed Shawn Wilkerson’s capital-murder conviction and life sentence. The court held that the Miranda warnings given by Texas authorities adequately conveyed the right to appointed counsel and that, in any event, the later Arkansas warning and the totality of the circumstances established a knowing and intelligent waiver. The court also rejected Wilkerson’s reliance on Missouri v. Seibert because he made no unwarned confession before receiving the warnings.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Annabelle Clinton Imber
JURISDICTION	Arkansas
DECIDED	February 23, 2006
DOCKET	CR 05-1187
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wilkerson appealed his capital-murder conviction and life sentence, challenging the circuit court's denial of his motion to suppress a custodial statement.
STANDARD OF REVIEW	The circuit court's ruling on the voluntariness and validity of a Miranda waiver is reversed only if clearly against the preponderance of the evidence.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Shawn Wilkerson v. State of Arkansas

TOPICS

- miranda rights
- right to counsel
- suppression of evidence
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal procedure
- constitutional law
- criminal appeals
- evidence

QUESTIONS PRESENTED

1. Whether the Texas Miranda warning adequately informed Wilkerson that he had the right to appointed counsel if he could not afford an attorney.
2. Whether, under the totality of the circumstances, Wilkerson knowingly and intelligently waived his Miranda rights before confessing.
3. Whether the police interrogation violated *Missouri v. Seibert* by using an ineffective midstream-warning technique.

HOLDINGS

1. The Texas warning adequately conveyed Wilkerson's right to retained or appointed counsel because it stated that, if he was unable to employ a lawyer, he had the right to have one appointed before or during questioning.
2. Wilkerson knowingly and intelligently waived his Miranda rights under the totality of the circumstances.
3. *Missouri v. Seibert* did not invalidate Wilkerson's confession because he was warned before making a statement and did not first provide an unwarned confession that was later repeated.

KEY QUOTATIONS

“Only if the ‘totality of the circumstances surrounding the interrogation’ reveals both an uncoerced choice and the requisite level of comprehension may a court properly conclude that the Miranda rights have been waived.” (229 S.W.3d at 899)

“While this warning does not mimic the language of the Miranda decision, it effectively gets across to the accused the right to have retained counsel or appointed counsel by prefacing the above-cited sentence with ‘If I am unable to employ a lawyer.’” (229 S.W.3d at 900)

FACTUAL BACKGROUND

Wilkerson and another man beat Donald Francis Honeycutt during a dispute over panhandling territory, and Wilkerson fatally injured Honeycutt. After Wilkerson moved to Texas, Texas authorities arrested him on an unrelated robbery charge, and Texas officers administered Miranda warnings before questioning him. Little Rock officers subsequently administered a second set of warnings, questioned Wilkerson about the Arkansas murder, and obtained a confession. The Texas warning addressed appointed counsel for a person unable to employ a lawyer, while the Arkansas warning expressly stated that an attorney would be appointed at no cost if the suspect could not afford one.

PROCEDURAL HISTORY

Wilkerson was charged with capital murder after confessing to the killing of Donald Francis Honeycutt. The circuit court denied his motion to suppress the confession. At trial, the jury found him guilty of capital murder, and he was sentenced to life imprisonment. The Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)
- *Mauppin v. State*, 309 Ark. 235, 831 S.W.2d 104 (1992)
- *Colorado v. Spring*, 479 U.S. 564, 107 S. Ct. 851, 93 L. Ed. 2d 954 (1987)
- *Moran v. Burbine*, 475 U.S. 412, 106 S. Ct. 1135, 89 L. Ed. 2d 410 (1986)
- *Colorado v. Connelly*, 479 U.S. 157, 107 S. Ct. 515, 93 L. Ed. 2d 473 (1986)
- *Oregon v. Elstad*, 470 U.S. 298, 105 S. Ct. 1285, 84 L. Ed. 2d 222 (1985)
- *Fare v. Michael C.*, 442 U.S. 707, 99 S. Ct. 2560, 61 L. Ed. 2d 197 (1979)
- *Grillot v. State*, 353 Ark. 294, 107 S.W.3d 136 (2003)
- *Mayfield v. State*, 293 Ark. 216, 736 S.W.2d 12 (1987)
- *California v. Prysock*, 453 U.S. 355, 101 S. Ct. 2806, 69 L. Ed. 2d 696 (1981)
- *Missouri v. Seibert*, 542 U.S. 600, 124 S. Ct. 2601, 159 L. Ed. 2d 643 (2004)
- *Doss v. State*, 351 Ark. 667, 97 S.W.3d 413 (2003)