

SUPREME COURT OF ARKANSAS

Robert Smith III v. State of Arkansas

2022 Ark. 95 (2022) · No. CR-21-195 · Decided May 5, 2022

SUMMARY

The Arkansas Supreme Court affirmed Robert Smith III’s convictions for capital murder, kidnapping, aggravated robbery, and theft of property. The court held that substantial evidence supported the convictions, upheld the denial of Smith’s motion to suppress evidence, and rejected his evidentiary challenges. Because Smith was sixteen at the time of the offense, the court remanded for correction of the sentencing order to reflect parole eligibility after thirty years for the capital-murder sentence.

CASE DETAILS

COURT	Supreme Court of Arkansas
JURISDICTION	Arkansas
DECIDED	May 5, 2022
DOCKET	CR-21-195
DISPOSITION	remanded
PROCEDURAL POSTURE	Smith appealed his convictions and sentences from the Faulkner County Circuit Court, challenging the sufficiency of the evidence, suppression ruling, sentence legality, evidentiary rulings, alleged burden shifting, closing-argument restriction, and sentencing-phase evidence.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed by viewing the evidence in the light most favorable to the State and affirming if substantial evidence supports the verdict. Suppression rulings are independently reviewed under the totality of the circumstances and reversed only if clearly against the preponderance of the evidence. Evidentiary rulings are reviewed for abuse of discretion, and reversal requires prejudice. Preservation issues are reviewed under the applicable contemporaneous-objection rules.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Arkansas
PARTIES	Robert Smith III v. State of Arkansas

TOPICS

criminal procedure

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether substantial evidence supported Smith's convictions for capital-felony murder, kidnapping, and aggravated robbery under an accomplice-liability theory.
2. Whether the search-warrant affidavit established probable cause and a sufficient nexus between Smith's residence and evidence of the crimes.
3. Whether Smith's life-without-parole sentence was illegal because he was sixteen when the capital murder was committed.
4. Whether text messages between Mackrell and Mackrell's girlfriend were inadmissible hearsay.
5. Whether the circuit court improperly admitted evidence of Smith's prior bad acts and participation in a music group with violent lyrics.
6. Whether the prosecutor impermissibly shifted the burden of proof during cross-examination.
7. Whether Smith was improperly prevented from commenting during closing argument on Mackrell's absence as a witness.
8. Whether admission of a music video during sentencing was reversible error.
9. Whether the record contained prejudicial error under Arkansas Supreme Court Rule 4-3(a).

HOLDINGS

1. Substantial evidence supported Smith's convictions because the evidence established his participation as an accomplice in the kidnapping, aggravated robbery, and capital-felony murder.
2. The search-warrant affidavit and continuation established probable cause and a sufficient nexus between Smith's residence and evidence of the crimes.
3. Because Smith was sixteen when he committed capital murder, he was ineligible for life imprisonment without the possibility of parole; the sentencing order had to be corrected to reflect parole eligibility after thirty years.
4. The Supreme Court lacked jurisdiction to direct the circuit court to apply specific parole statutes to Smith's other convictions because parole eligibility is within the executive branch's statutory domain.
5. The text message was admissible as a coconspirator statement made during and in furtherance of the conspiracy under Arkansas Rule of Evidence 801(d)(2)(v).
6. The text message was admissible under Arkansas Rule of Evidence 803(3) as evidence of Mackrell's then-existing intent.
7. Any error in admitting the challenged messages was not reversible because the evidence was cumulative and Smith failed to show prejudice.

8. Smith opened the door to evidence concerning his propensity toward violence by testifying that he was not the kind of person who would put himself in the charged situation; the circuit court therefore did not abuse its discretion by permitting the State's questioning.
9. The circuit court properly rejected Smith's burden-shifting argument because Smith opened the door by suggesting that the State had failed to present the relevant video evidence, and he did not request a mistrial or limiting instruction.
10. The issue was not preserved because defense counsel stopped pursuing the argument before the circuit court ruled on the State's objection.
11. The challenge was unpreserved because Smith did not make the specific relevance and prejudice objection asserted on appeal.

KEY QUOTATIONS

"Given these facts, we hold that the circuit court's conclusion that the affidavit established probable cause for a search of the home shared by Smith and his mother was not clearly against the preponderance of the evidence." (at 11)

"Thus, he was ineligible for a sentence of life without the possibility of parole." (at 12)

"Thus, we hold that the circuit court did not abuse its discretion by admitting State's exhibit 50 under Rule 801(d)(2)(v)." (at 15)

"Thus, we hold that the circuit court did not abuse its discretion by finding that Smith opened the door to evidence of his past violent acts and participation in a music group that has songs about killing people and stomping someone to death." (at 18)

"Affirmed; remanded to correct sentencing order." (at 22)

FACTUAL BACKGROUND

Seventy-two-year-old Elvia Fragstein disappeared after shopping in Conway on July 7, 2018. Surveillance footage placed Smith and codefendant Tacori Mackrell near Fragstein's vehicle, and Smith was later seen driving the vehicle with Fragstein inside; Fragstein's body was found several days later with injuries from strangulation and blunt-force trauma. Police recovered clothing and Nike shoes from Smith's residence, and blood on the shoes matched Fragstein's DNA. Smith admitted being with Mackrell and driving the vehicle but claimed Fragstein was already dead when he entered it.

PROCEDURAL HISTORY

A jury convicted Smith of capital murder, kidnapping, aggravated robbery, and theft of property after a trial in the Faulkner County Circuit Court. The court imposed consecutive terms of life, forty years, forty years, and ten years. The Supreme Court of Arkansas affirmed the convictions and remanded solely for correction of the sentencing order to reflect parole eligibility after thirty years on the capital-murder sentence.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Faulkner County Circuit Court must correct the sentencing order to state that Smith was sentenced to "Life" for capital murder, meaning that he is eligible for parole after thirty years. The court was not directed to apply specific parole statutes to the kidnapping, aggravated-robbery, or other convictions.

CASES CITED

- McClendon v. State, 2019 Ark. 88, 570 S.W.3d 450
- Sweet v. State, 2011 Ark. 20, 370 S.W.3d 510
- Finley v. State, 2019 Ark. 336, 587 S.W.3d 223
- Gilcrease v. State, 2009 Ark. 298, 318 S.W.3d 70
- Price v. State, 2019 Ark. 323, 588 S.W.3d 1
- Hyatt v. State, 2018 Ark. 85, 540 S.W.3d 673
- King v. State, 2019 Ark. 114, 571 S.W.3d 476
- Johnson v. State, 2015 Ark. 387, 472 S.W.3d 486
- Martinez v. State, 2019 Ark. 85, 569 S.W.3d 333
- Johnson v. State, 2012 Ark. 212
- Collins v. State, 2019 Ark. 110, 571 S.W.3d 469
- Dyer v. State, 343 Ark. 422, 36 S.W.3d 724
- Davis v. State, 368 Ark. 401, 246 S.W.3d 862
- Smallwood v. State, 326 Ark. 813, 935 S.W.2d 530
- Larimore v. State, 317 Ark. 111, 877 S.W.2d 570
- Cook v. State, 316 Ark. 384, 872 S.W.2d 72
- Noel v. State, 331 Ark. 79, 960 S.W.2d 439
- Hamilton v. State, 348 Ark. 532, 74 S.W.3d 615
- Friday v. State, 2018 Ark. 339, 561 S.W.3d 318
- Walden v. State, 2014 Ark. 193, 433 S.W.3d 864