

SUPREME COURT OF MISSISSIPPI

Johnson v. State

68 So. 3d 1239 (Miss. 2011) · Decided June 30, 2011

SUMMARY

The Mississippi Supreme Court affirmed Johnson’s conviction for aggravated assault and twenty-year sentence. The court held that the 680-day delay before trial did not violate Johnson’s constitutional right to a speedy trial because the delay was largely attributable to docket congestion and Johnson failed to demonstrate actual prejudice. The court also held that Johnson was not entitled to relief based on the denial of two for-cause juror challenges because the challenged jurors did not sit on the jury.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Pierce, Justice; Carlson, P.J.; Chandler, J.; Dickinson, P.J.; King, J.; Kitchens, J.; Lamar, J.; Pierce, J.; Randolph, J.; Waller, C.J.
JURISDICTION	Mississippi
DECIDED	June 30, 2011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Johnson was convicted of aggravated assault in the Hinds County Circuit Court. The Mississippi Court of Appeals affirmed, and the Mississippi Supreme Court granted certiorari to review speedy-trial and juror-for-cause issues.
STANDARD OF REVIEW	The court applied the constitutional Barker v. Wingo four-factor balancing test to the speedy-trial claim. For the challenge-for-cause issue, the court applied the rule requiring exhaustion of peremptory challenges and proof that an incompetent or biased juror actually sat on the jury.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential.
PARTIES	Virgil Johnson v. State

TOPICS

- speedy trial
- criminal procedure
- jury selection
- sixth amendment
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the 680-day period between Johnson's arrest and trial violated his constitutional right to a speedy trial.
2. Whether the trial court violated Johnson's constitutional right to an impartial jury by denying two challenges for cause, requiring him to use two peremptory challenges.

HOLDINGS

1. The delay was presumptively prejudicial and triggered analysis of the remaining Barker factors, but Johnson failed to establish actual prejudice. Considering the length of delay, the neutral reason of docket congestion, Johnson's assertion of the right, and the absence of demonstrated prejudice, the balance did not establish a speedy-trial violation.
2. The denial of the challenges for cause did not require reversal because Johnson did not show that an incompetent or biased juror was forced to sit on the jury. The mere loss of peremptory challenges is insufficient when the jury that actually sits is impartial.

KEY QUOTATIONS

“A “presumptively prejudicial delay” acts as a triggering mechanism for further inquiry into the Barker analysis, and shifts the burden to the State to show the reason for delay.” (68 So. 3d at 1242)

“The mere loss of a peremptory challenge is not enough to constitute a violation of the constitutional right to an impartial jury.” (68 So. 3d at 1247)

“So long as the jury that sits is impartial, the fact that the defendant had to use a peremptory challenge to achieve that result does not mean that the defendant was denied his constitutional rights.” (68 So. 3d at 1247)

FACTUAL BACKGROUND

Jeremy Boyd was shot four times in his home in Jackson, Mississippi, on February 28, 2006. Boyd identified Johnson to police and from a photographic lineup. Boyd testified that Johnson shot him while he was playing a video game, took \$1,900, and fled. Johnson remained incarcerated because he could not post the \$100,000 bond before his March 2008 trial.

PROCEDURAL HISTORY

Johnson was arrested on April 20, 2006, indicted on February 6, 2007, and tried on March 11, 2008. The circuit court entered a conviction and twenty-year sentence for aggravated assault. The Court of Appeals affirmed, after which the Supreme Court of Mississippi granted certiorari and affirmed the conviction and sentence.

DISPOSITION

affirmed

CASES CITED

- Barker v. Wingo, 407 U.S. 514, 530-34 (1972)
- Doggett v. United States, 505 U.S. 647, 652 (1992)
- Smith v. State, 550 So. 2d 406, 408-09 (Miss. 1989)
- Jenkins v. State, 947 So. 2d 270, 276-78 (Miss. 2006)
- Manix v. State, 895 So. 2d 167, 172, 176-77 (Miss. 2005)
- State v. Ferguson, 576 So. 2d 1252, 1255 (Miss. 1991)
- Prince v. Alabama, 507 F.2d 693, 706-07 (5th Cir. 1975)
- Moore v. Arizona, 414 U.S. 25, 26-27 (1973)
- Moffett v. State, 49 So. 3d 1073, 1086-88 (Miss. 2010)
- Polk v. State, 612 So. 2d 381, 387 (Miss. 1992)
- Mississippi Transportation Commission v. McLemore, 863 So. 2d 31, 39 (Miss. 2003)
- Magnusen v. State, 646 So. 2d 1275, 1282, 1284-85 (Miss. 1994)
- Ross v. State, 605 So. 2d 17, 23-24 (Miss. 1992)
- Flores v. State, 574 So. 2d 1314, 1321 (Miss. 1990)
- Thomas v. State, 48 So. 3d 460, 476 (Miss. 2010)
- Jefferson v. State, 818 So. 2d 1099, 1107-08 (Miss. 2002)
- Brengettcy v. State, 794 So. 2d 987, 994 (Miss. 2001)
- Jaco v. State, 574 So. 2d 625, 632 (Miss. 1990)
- Sharp v. State, 786 So. 2d 372, 380-81 (Miss. 2001)
- Hersick v. State, 904 So. 2d 116, 124 (Miss. 2004)
- Stark v. State, 911 So. 2d 447, 453 (Miss. 2005)
- Stogner v. State, 627 So. 2d 815, 819 (Miss. 1993)
- Hughey v. State, 512 So. 2d 4, 8, 11 (Miss. 1987)
- Christmas v. State, 10 So. 3d 413, 423 (Miss. 2009)
- Williamson v. State, 512 So. 2d 868, 877 (Miss. 1987)
- United States v. Ewell, 383 U.S. 116, 120 (1966)
- Williams v. State, 53 So. 3d 734 (Miss. 2010)
- Scott v. State, 8 So. 3d 855 (Miss. 2008)
- Price v. State, 898 So. 2d 641, 649-50 (Miss. 2005)
- Duplantis v. State, 708 So. 2d 1327, 1336 (Miss. 1998)
- Mettetal v. State, 615 So. 2d 600, 603 (Miss. 1993)
- Ross v. Oklahoma, 487 U.S. 81, 88 (1988)
- Perry v. State, 637 So. 2d 871, 876 (Miss. 1994)

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