

SUPREME COURT OF ARKANSAS

Barrett v. State, 354 Ark. 187

119 S.W.3d 485 (2003) · No. CR 02-584 · Decided September 25, 2003

SUMMARY

The Arkansas Supreme Court affirmed Roger Dale Barrett’s capital-murder conviction and sentence of life imprisonment without parole for the killing of Eunice “Yogi” Bradley. The court held that substantial evidence supported premeditation and deliberation, and addressed challenges concerning firearms and ammunition, prior drug and alcohol use, prior violence toward the victim, and marital communications. The court found any error in admitting a .22 caliber rifle harmless and otherwise upheld the evidentiary rulings discussed in the opinion.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Annabelle Clinton Imber; W.H. "Dub" Arnold; Thornton
JURISDICTION	Arkansas
DECIDED	September 25, 2003
DOCKET	CR 02-584
DISPOSITION	affirmed
PROCEDURAL POSTURE	Barrett appealed his capital-murder conviction and sentence of life imprisonment without the possibility of parole, challenging the sufficiency of the evidence and several evidentiary rulings.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed by determining whether substantial evidence, viewed in the light most favorable to the State, supports the verdict; witness credibility and conflicts in testimony are left to the jury. Evidentiary rulings are reviewed for abuse of discretion, with Rule 404 rulings reviewed for manifest abuse of discretion. Unpreserved arguments are not considered. Erroneously admitted evidence is harmless when the evidence of guilt is overwhelming and the error is slight.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Roger Dale Barrett v. State of Arkansas

TOPICS

criminal procedure

evidence

hearsay

character evidence

appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether substantial evidence supported Barrett's conviction for capital murder, including the required premeditated and deliberate purpose.
2. Whether the trial court improperly admitted a .22-caliber rifle, pistol, and ammunition.
3. Whether evidence of Barrett's alcohol and drug use was inadmissible under Arkansas Rule of Evidence 404(b).
4. Whether evidence of Barrett's prior violence toward Bradley was inadmissible hearsay or under Rules 402, 403, or 404(b).
5. Whether Barrett's statements to his wife were protected by the husband-wife privilege despite disclosure of the same information to third parties.
6. Whether any evidentiary error required reversal under the harmless-error doctrine.

HOLDINGS

1. Substantial evidence supported the capital-murder conviction because the evidence, viewed in the light most favorable to the State, permitted the jury to infer premeditation and deliberation from the shooting, head trauma, concealment efforts, false statements, disposal of the weapon, and related circumstances.
2. The trial court erred in admitting the .22-caliber rifle because it did not rationally link Barrett to the murder or support the State's cover-up theory, but the error was harmless. The admission of the .22-caliber ammunition was proper because it tended to show that Barrett possessed the means to commit the shooting.
3. The court would not consider Barrett's Rule 403 argument because he failed to make that argument in the circuit court.
4. The trial court did not abuse its discretion by admitting evidence of Barrett's alcohol and drug use because the evidence was offered to show his mental state in connection with the murder and was part of the res gestae rather than evidence offered merely to prove character.
5. The trial court did not abuse its discretion by admitting evidence that Barrett previously struck Bradley because the statement qualified as an excited utterance and the prior act was independently relevant under Rule 404(b) to show intent and the absence of mistake or accident.
6. The husband-wife privilege did not bar Nola Barrett's testimony because Barrett disclosed the same significant information to third parties, thereby waiving the privilege.

KEY QUOTATIONS

“Indeed, premeditation may be formed in an instant and is rarely capable of proof by direct evidence, but must usually be inferred from the circumstances of the crime.” (491)

“Efforts to conceal a crime, as well as lying to friends and police about one's involvement in a killing, can be considered as evidence of consciousness of guilt.” (492)

“the communication of any significant part of the privileged matter to someone other than the spouse effectively waives the privilege.” (498)

FACTUAL BACKGROUND

Eunice "Yogi" Bradley, who had been involved in an affair with Barrett, was shot in the chest at Barrett's home and also suffered blunt-force head trauma. Barrett told several people that he had accidentally shot Bradley, attempted to clean and conceal evidence, disposed of or concealed the firearm, and burned Bradley's body in a field. Investigators found a victim-matched hair in Barrett's van, and witnesses placed Barrett with Bradley before her death and near the location where her body was burned.

PROCEDURAL HISTORY

Barrett was charged in the Benton County Circuit Court with capital murder for the killing of Eunice "Yogi" Bradley. A jury convicted him, and the circuit court sentenced him to life imprisonment without the possibility of parole. The Supreme Court of Arkansas affirmed after reviewing five asserted errors and conducting the required Rule 4-3(h) review.

DISPOSITION

affirmed

CASES CITED

- Britt v. State, 344 Ark. 13, 38 S.W.3d 363 (2001)
- Cobb v. State, 340 Ark. 240, 12 S.W.3d 195 (2000)
- Chapman v. State, 343 Ark. 643, 38 S.W.3d 305 (2001)
- Goff v. State, 329 Ark. 513, 953 S.W.2d 38 (1997)
- Thomas v. State, 312 Ark. 158, 847 S.W.2d 695 (1993)
- Leaks v. State, 345 Ark. 182, 45 S.W.3d 363 (2001)
- Sanders v. State, 340 Ark. 163, 8 S.W.3d 520 (2000)
- Echols v. State, 326 Ark. 917, 936 S.W.2d 509 (1996)
- Grigsby v. State, 260 Ark. 499, 542 S.W.2d 275 (1976)
- Scherrer v. State, 294 Ark. 227, 742 S.W.2d 877 (1988)
- Elser v. State, 353 Ark. 143, 114 S.W.3d 168 (2003)
- Lee v. State, 327 Ark. 692, 942 S.W.2d 231 (1997)
- Cooper v. State, 324 Ark. 135, 919 S.W.2d 205 (1996)

- Smith v. State, 310 Ark. 247, 837 S.W.2d 279 (1992)
- Gaines v. State, 340 Ark. 99, 8 S.W.3d 547 (2000)
- Burley v. State, 348 Ark. 422, 73 S.W.3d 600 (2002)
- Halfacre v. State, 292 Ark. 331, 731 S.W.2d 179 (1987)
- Peterson v. State, 349 Ark. 195, 76 S.W.3d 845 (2002)
- Flores v. State, 348 Ark. 28, 69 S.W.3d 864 (2002)
- Fudge v. State, 341 Ark. 759, 20 S.W.3d 315 (2000)
- Russey v. State, 322 Ark. 786, 912 S.W.2d 420 (1995)
- Smith v. State, 351 Ark. 468, 95 S.W.3d 801 (2003)
- Birmingham v. State, 342 Ark. 95, 27 S.W.3d 351 (2000)
- Haire v. State, 340 Ark. 11, 8 S.W.3d 468 (2000)
- Williams v. State, 343 Ark. 591, 36 S.W.3d 324 (2001)
- Elliott v. State, 342 Ark. 237, 27 S.W.3d 432 (2000)
- David v. State, 286 Ark. 205, 691 S.W.2d 133 (1985)
- Roleson v. State, 277 Ark. 148, 640 S.W.2d 113 (1982)
- Dansby v. State, 338 Ark. 697, 1 S.W.3d 403 (1999)
- Doss v. State, 351 Ark. 667, 97 S.W.3d 413 (2003)