

SUPREME COURT OF ARKANSAS

Sims v. State

255 Ark. 87 (1973) · Decided September 17, 1973

SUMMARY

The Arkansas Supreme Court affirmed Willie Mat Sims's ten-year conviction for manufacturing and growing marijuana. The court rejected challenges to the qualification of law-enforcement witnesses as experts, the chain of custody for evidence, and the effectiveness of trial counsel, noting in part that several objections were not preserved and that the evidence included a confession.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Conley Byrd, Justice
JURISDICTION	Arkansas
DECIDED	September 17, 1973
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a ten-year conviction for manufacturing and growing marijuana in violation of the Arkansas Controlled Substance Act.
STANDARD OF REVIEW	The court applied preservation principles to claims not raised below and reviewed the evidentiary and ineffective-assistance contentions for reversible error.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	Willie Mat Sims v. State

TOPICS

- criminal procedure
- expert testimony
- evidence
- preservation of error
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence
- appellate practice

QUESTIONS PRESENTED

1. Whether the trial court erred by allowing the sheriff and a narcotics supervisor to identify marijuana as expert witnesses.

2. Whether the trial court erred by admitting items of evidence without the State establishing a chain of custody.
3. Whether trial counsel provided ineffective assistance by failing to request an instruction concerning Sims's failure to testify and by otherwise inadequately challenging the evidence.

HOLDINGS

1. The trial court did not err in permitting the sheriff and the narcotics supervisor to testify about the identity of marijuana because their law-enforcement experience qualified them to identify marijuana by sight and smell; in addition, the qualification objection was not preserved.
2. The chain-of-custody challenge could not be raised for the first time on appeal.
3. Sims failed to establish ineffective assistance based on counsel's failure to request an instruction concerning his failure to testify or counsel's failure to challenge the marijuana-identification testimony and lack of chemical analysis.

KEY QUOTATIONS

“In view of the testimony of the officers showing the experience they had in searching for and obtaining marijuana, the court did not err in permitting them to testify.” (255 Ark. 87)

“Such objections cannot be raised for the first time on appeal.” (255 Ark. 87)

FACTUAL BACKGROUND

A sheriff observed marijuana plants being grown and cultivated in wire baskets and maintained surveillance of the area. He later obtained a search warrant for Sims's home, where officers found marijuana, marijuana seed, and boots matching plaster casts of footprints made near the plants. Sims signed a confession admitting that he grew the marijuana plants, and experienced law-enforcement officers identified the substances as marijuana.

PROCEDURAL HISTORY

Sims was convicted and sentenced to ten years for manufacturing and growing marijuana. On appeal, he challenged the admission of expert testimony identifying marijuana, the admission of evidence without an established chain of custody, and the effectiveness of trial counsel. The Supreme Court of Arkansas rejected each contention and affirmed.

DISPOSITION

affirmed

CASES CITED

- Miller v. State, 168 Tex. Crim. 570, 330 S.W.2d 466 (1959)
- State v. Franco, 76 Utah 202, 289 P. 100 (1950)

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