

SUPREME COURT OF ARKANSAS

Jarell Davis Terry v. State of Arkansas

2020 Ark. 202 (2020) · No. CR-18-982 · Decided May 21, 2020

SUMMARY

The Supreme Court of Arkansas affirmed Jarell Davis Terry’s convictions for first-degree murder, aggravated robbery, and theft of property. The court held that substantial evidence supported the convictions, rejected Terry’s juror-misconduct claim as unpreserved and unsupported by prejudice, and concluded that the State rebutted the presumption of prejudice arising from irregularities in handling jury questions during deliberations.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Karen R. Baker; Wood
JURISDICTION	Arkansas
DECIDED	May 21, 2020
DOCKET	CR-18-982
DISPOSITION	affirmed
PROCEDURAL POSTURE	Terry appealed his convictions and sentences for first-degree murder, aggravated robbery, and theft of property. The Supreme Court of Arkansas had previously remanded the case to settle the record concerning jury notes during deliberations and now reviewed the supplemented record.
STANDARD OF REVIEW	A directed-verdict motion is treated as a challenge to the sufficiency of the evidence. The court views the evidence in the light most favorable to the State and affirms if substantial evidence supports the verdict. The court does not weigh evidence or assess witness credibility. Alleged juror misconduct is reviewed under the requirement that the moving party prove a reasonable possibility of prejudice, and the appellate court defers to the trial court's credibility determinations. Compliance with Ark. Code Ann. § 16-89-125(e) and resulting prejudice were reviewed in light of the settled record.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Jarell Davis Terry v. State of Arkansas

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether substantial evidence supported Terry's convictions for first-degree murder, aggravated robbery, and theft of property.
2. Whether the circuit court abused its discretion or committed reversible error by refusing to question a juror concerning an alleged nod toward the victim's family.
3. Whether the incomplete record concerning two jury notes during deliberations required reversal because the circuit court failed to comply with Ark. Code Ann. § 16-89-125(e) and Terry was allegedly absent from critical proceedings.

HOLDINGS

1. Substantial evidence supported Terry's convictions for first-degree murder, aggravated robbery, and theft of property, so the circuit court properly denied the directed-verdict motions.
2. Terry failed to preserve his juror-misconduct claim and, independently, failed to prove that misconduct occurred or that a reasonable possibility of prejudice resulted.
3. Although the circuit court failed to comply with Ark. Code Ann. § 16-89-125(e), the State rebutted the resulting presumption of prejudice because the record was settled, counsel knew of the jury notes, and the parties agreed to provide the jury instructions and new verdict forms.

KEY QUOTATIONS

"Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other, without resorting to speculation or conjecture." (at 3)

"The requirement of section 16-89-125(e) that the judge call the jury into open court to answer any question the jury might have is mandatory." (at 12)

"Here, the court's communication with the jury was shown not to be prejudicial to Atkinson, and Atkinson made no objection to the contrary." (at 14)

FACTUAL BACKGROUND

On November 14, 2017, Christon Sheets brought Terry and Dominze Figures to Sheets's home, where Sheets had marijuana and two guns. According to witness Mistie Pamplin, Figures and Terry each pointed one of Sheets's guns at Sheets and Pamplin while Figures announced, "you know what this is." During the ensuing struggle, Sheets was shot, and Terry and Figures left with Sheets's guns and marijuana. Terry denied pointing a gun or participating in a planned robbery, but admitted leaving with the marijuana and a gun after the shooting.

PROCEDURAL HISTORY

A Drew County jury found Terry guilty of first-degree murder, aggravated robbery, and theft of property and sentenced him to two terms of life imprisonment and fifteen years' imprisonment. The circuit court entered judgment consistent with the jury's recommendation, except that the fifteen-year sentence ran concurrently with the second life sentence. On the prior appeal, the Supreme Court remanded to settle the record regarding two jury notes. After a hearing and findings by the circuit court, the case returned to the Supreme Court, which affirmed.

DISPOSITION

affirmed

CASES CITED

- Terry v. State, 2019 Ark. 342
- Reynolds v. State, 2016 Ark. 214, 492 S.W.3d 491
- Leaks v. State, 345 Ark. 182, 45 S.W.3d 363 (2001)
- Jefferson v. State, 372 Ark. 307, 276 S.W.3d 214 (2008)
- Wyles v. State, 368 Ark. 646, 249 S.W.3d 782 (2007)
- Branstetter v. State, 346 Ark. 62, 57 S.W.3d 105 (2001)
- Coulter v. State, 343 Ark. 22, 31 S.W.3d 826 (2000)
- Davis v. State, 325 Ark. 96, 925 S.W.2d 768 (1996)
- Price v. State, 373 Ark. 435, 284 S.W.3d 462 (2008)
- Robinson v. State, 353 Ark. 372, 108 S.W.3d 622 (2003)
- Jenkins v. State, 350 Ark. 219, 85 S.W.3d 878 (2002)
- Jefferson v. State, 359 Ark. 454, 198 S.W.3d 527 (2004)
- Miller v. State, 328 Ark. 121, 942 S.W.2d 825 (1997)
- State v. Cherry, 341 Ark. 924, 20 S.W.3d 354 (2000)
- Dillard v. State, 313 Ark. 439, 855 S.W.2d 909 (1993)
- Larimore v. State, 309 Ark. 414, 833 S.W.2d 358 (1992)
- Green v. State, 334 Ark. 484, 978 S.W.2d 300 (1998)
- Myers v. State, 333 Ark. 706, 972 S.W.2d 227 (1998)
- Humphrey v. State, 327 Ark. 753, 940 S.W.2d 860 (1997)
- McGehee v. State, 328 Ark. 404, 943 S.W.2d 585 (1997)
- Clayton v. State, 321 Ark. 602, 906 S.W.2d 290 (1995)
- Goff v. State, 329 Ark. 513, 953 S.W.2d 38 (1997)
- Martin v. State, 254 Ark. 1065, 497 S.W.2d 268 (1973)
- Bledsoe v. State, 344 Ark. 86, 39 S.W.3d 760 (2001)
- Tarry v. State, 289 Ark. 193, 710 S.W.2d 202 (1986)

- *Houston v. State*, 41 Ark. App. 67, 848 S.W.2d 430 (1993)
- *Atkinson v. State*, 347 Ark. 336, 64 S.W.3d 259 (2002)

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