

SUPREME COURT OF ARKANSAS

Roderick D. Lewis v. State of Arkansas

354 Ark. 359 (2003) (Ark. 2003) · No. CR 02-1268 · Decided October 9, 2003

SUMMARY

The Arkansas Supreme Court affirmed Roderick D. Lewis's capital-murder conviction and life sentence without parole. Lewis argued that the missing original photographic lineup made the appellate record insufficient and violated constitutional protections. The court held that the record was sufficient because his challenge to the photographic identification was procedurally barred by his failure to object to the witnesses' in-court identifications at trial.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Annabelle Clinton Imber; Brown, J., not participating
JURISDICTION	Arkansas
DECIDED	October 9, 2003
DOCKET	CR 02-1268
DISPOSITION	affirmed
PROCEDURAL POSTURE	Lewis appealed his capital-murder conviction and sentence, arguing that the absence of the original photographic lineup from the appellate record deprived him of a full and fair appeal and violated state and federal constitutional protections.
STANDARD OF REVIEW	The appellate court evaluated whether the record was sufficient to permit review of the claimed error and reviewed the record for prejudicial error under Arkansas Supreme Court Rule 4-3(h).
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Roderick D. Lewis v. State of Arkansas

TOPICS

- criminal procedure
- appellate procedure
- preservation of error
- evidence
- appellate jurisdiction

PRACTICE AREAS

- criminal procedure
- appellate procedure
- criminal appeals
- identification evidence

QUESTIONS PRESENTED

1. Whether the absence of the original photographic lineup rendered the appellate record insufficient to review Lewis's challenge to the admission of the identification evidence.
2. Whether Lewis's challenge to the pretrial photographic identification was preserved when he failed to object at trial to the witnesses' in-court identifications.
3. Whether the incomplete record violated Lewis's state and federal constitutional rights to due process, equal protection, and effective assistance of counsel.

HOLDINGS

1. An appellate record need not be complete in every respect; it is sufficient when it permits review of the claimed errors. Because Lewis's sole appellate issue was procedurally barred, the missing original photo lineup did not render the record insufficient.
2. A challenge to an out-of-court identification based on a photographic array is not preserved for appellate review when the defendant fails to contemporaneously object to the witness's in-court identification at trial.
3. The court declined to address Lewis's constitutional arguments because his sole substantive appellate issue was procedurally barred, rendering those arguments moot.

KEY QUOTATIONS

“However, we have held that a full and complete record is not necessary; instead, we evaluate the record on appeal to determine whether it is sufficient for us to perform a review of the claimed errors.” (at 892)

“To preserve a challenge to a pretrial photographic identification, we require a contemporaneous objection to in-court identification at trial.” (at 893)

FACTUAL BACKGROUND

On August 14, 2001, Lewis shot Samuel Lunnie five times in the doorway of a house. Three eyewitnesses identified Lewis from a six-person photographic lineup and later identified him in court; each testified that they already knew Lewis and had seen him before the shooting. Lewis challenged the photographic lineup as unduly suggestive, but the original lineup was not included in the appellate record.

PROCEDURAL HISTORY

Lewis was convicted by a jury of capital murder and automatically sentenced to life imprisonment without parole after the State waived the death penalty. Before trial, the circuit court denied his motion to suppress photographic identifications. The original photo lineup was omitted from the appellate record, and efforts to locate it—including a writ of certiorari—were unsuccessful; a photocopy and affidavit were later tendered. The Supreme Court of Arkansas held that the record was sufficient because Lewis's only appellate challenge was procedurally barred by his failure to object to the witnesses' in-court identifications at trial, and it affirmed.

DISPOSITION

affirmed

CASES CITED

- Ward v. State, 321 Ark. 659, 906 S.W.2d 685 (1995) (per curiam)
- Bell v. State, 296 Ark. 458, 757 S.W.2d 937 (1988)
- Fields v. State, 349 Ark. 122, 76 S.W.3d 868 (2002)
- Goins v. State, 318 Ark. 689, 890 S.W.2d 602 (1995)
- Quinn v. Webb Wheel Products, 334 Ark. 573, 976 S.W.2d 386 (1998)
- Williams v. State, 325 Ark. 432, 930 S.W.2d 297 (1996)
- Johnson v. State, 314 Ark. 471, 863 S.W.2d 305 (1993)
- Jackson v. State, 318 Ark. 39, 883 S.W.2d 466 (1994)
- Chism v. State, 312 Ark. 559, 853 S.W.2d 255 (1993)
- Robinson v. State, 317 Ark. 17, 875 S.W.2d 837 (1994)