

## SUPREME COURT OF MISSISSIPPI

# Roger Lee Jackson a/k/a Roger Jackson a/k/a Roger L. Jackson v. State of Mississippi

245 So. 3d 433 (Miss. 2018) · No. 2017-KA-00719-SCT · Decided June 14, 2018

### SUMMARY

The Mississippi Supreme Court affirmed Roger Lee Jackson’s convictions for aggravated assault and felon in possession of a firearm following a jury trial in Hinds County Circuit Court. The court held that Jackson’s claims concerning limits on cross-examination and closing argument about reasonable doubt presented no reversible error, including because several issues were not preserved or lacked an adequate proffer.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Mississippi                                                                                                                                                                                                                                                                                                       |
| WRITING FOR THE COURT | Beam, Justice; Kitchens, P.J.; Beam, J.; Chamberlin, J.                                                                                                                                                                                                                                                                            |
| JURISDICTION          | Mississippi                                                                                                                                                                                                                                                                                                                        |
| DECIDED               | June 14, 2018                                                                                                                                                                                                                                                                                                                      |
| DOCKET                | 2017-KA-00719-SCT                                                                                                                                                                                                                                                                                                                  |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Jackson appealed his jury-trial convictions for aggravated assault and felon in possession of a firearm, asserting that the trial court improperly limited cross-examination and closing argument.                                                                                                                                 |
| STANDARD OF REVIEW    | The admission or exclusion of evidence is reviewed for abuse of discretion. Reversal requires prejudice, harm, or an adverse effect on a substantial right. The court also applied preservation and proffer requirements, and reviewed the erroneous restriction of closing argument for harmless error beyond a reasonable doubt. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                     |
| PARTIES               | Roger Lee Jackson a/k/a Roger Jackson a/k/a Roger L. Jackson v. State of Mississippi                                                                                                                                                                                                                                               |

### TOPICS

criminal procedure

evidence

sixth amendment

reasonable doubt

appellate procedure

## PRACTICE AREAS

criminal law

criminal procedure

evidence

constitutional law

appellate procedure

## QUESTIONS PRESENTED

1. Whether the trial court reversibly violated Jackson's confrontation rights or evidentiary rights by limiting defense cross-examination concerning Jerry Lewis's possible involvement and alleged statements.
2. Whether the trial court erred by excluding or limiting use of an audio recording containing portions of Jackson's statements under the rule of completeness.
3. Whether the trial court improperly limited defense counsel's closing argument concerning the meaning of reasonable doubt.
4. If the limitation on closing argument was error, whether it was harmless beyond a reasonable doubt.

## HOLDINGS

1. The trial court did not commit reversible error because defense counsel failed to respond to the hearsay objection and therefore failed to preserve the issue for appellate review.
2. The claimed error was waived because the defense failed to make a proffer of the excluded testimony or establish on the record the substance of the evidence sought.
3. The trial court's ruling was not reversible error because Jackson failed to invoke the rule of completeness, make the required argument, or proffer the audio recording in the trial court.
4. The trial court erred by sustaining the State's objection to defense counsel's comparison of reasonable doubt with standards such as probable or likely guilt, because counsel may discuss or explain reasonable doubt during closing argument within proper bounds.
5. The error in limiting defense counsel's reasonable-doubt argument was harmless beyond a reasonable doubt and did not require reversal.

## KEY QUOTATIONS

*"The right, however, is not unbounded."* (§36)

*"This Court has not held it improper for counsel (either for the defense or the prosecution) to discuss or explain the reasonable-doubt standard during closing arguments, as long as counsel does so within proper bounds."* (§66)

## FACTUAL BACKGROUND

Two men were shot near Roach Street in Jackson, Mississippi; Quincy McGowan died and Emmanuel Jones survived after being shot multiple times. Jones identified Jackson as the shooter, and another witness testified that Jackson admitted killing McGowan. The defense sought to implicate Jerry Lewis and challenge the State's witnesses through cross-examination and a recording of a witness interview, but Jackson did not testify.

## PROCEDURAL HISTORY

A Hinds County Circuit Court jury acquitted Jackson of deliberate-design murder but convicted him of aggravated assault and felon in possession of a firearm. Jackson appealed directly to the Supreme Court of Mississippi, which found one error in limiting closing argument but held it harmless beyond a reasonable doubt and affirmed the convictions.

## DISPOSITION

affirmed

## CASES CITED

- Sanders v. State, 237 Miss. 772, 115 So. 2d 145 (1959)
- Terry v. State, 718 So. 2d 1115 (Miss. 1998)
- Keys v. State, 635 So. 2d 845 (Miss. 1994)
- Brown v. State, 965 So. 2d 1023, 1026 (Miss. 2007)
- Pham v. State, 716 So. 2d 1100, 1102 (Miss. 1998)
- Foster v. State, 508 So. 2d 1111, 1114-15 (Miss. 1987)
- Powell v. State, 806 So. 2d 1069 (Miss. 2001)
- Chambers v. Mississippi, 410 U.S. 284, 93 S. Ct. 1083, 35 L. Ed. 2d 297 (1973)
- Johnston v. State, 376 So. 2d 1343 (Miss. 1979)
- Delaware v. Van Arsdall, 475 U.S. 673, 679, 106 S. Ct. 1431, 89 L. Ed. 2d 674 (1986)
- Black v. State, 506 So. 2d 264, 267 (Miss. 1987)
- Culp v. State, 933 So. 2d 264, 276 (Miss. 2005)
- Myers v. State, 296 So. 2d 695, 701 (Miss. 1974)
- Patterson v. State, 594 So. 2d 606, 609 (Miss. 1992)
- Green v. State, 89 So. 3d 543, 554 (Miss. 2012)
- Davis v. State, 130 So. 3d 1141, 1150 (Miss. Ct. App. 2013)
- Swindle v. State, 502 So. 2d 652, 658 (Miss. 1987)
- Flowers v. State, 773 So. 2d 309, 327 (Miss. 2000)
- United States v. Peterson, 808 F.2d 969, 977-78 (2d Cir. 1987)
- United States v. Bao, 189 F.3d 860, 866 (9th Cir. 1999)
- Bemis v. Edwards, 45 F.3d 1369, 1372 (9th Cir. 1995)
- Martin v. State, 854 So. 2d 1004, 1009 (Miss. 2003)
- Chase v. State, 645 So. 2d 829, 851 (Miss. 1994)
- Cannon v. State, 190 So. 2d 848, 851 (Miss. 1966)