

SUPREME COURT OF ALABAMA

Ex parte K.L.H. (In re K.D.H. v. State of Alabama)

849 So. 2d 991 (Ala. 2002) · No. 1012175 · Decided November 1, 2002

SUMMARY

The Supreme Court of Alabama denied a petition for a writ of certiorari in a criminal case involving the admission of hearsay statements by a child victim under Alabama's child-hearsay statute. In dissent, Justice Johnstone argued that the trial court failed to establish the child's unavailability and make required trustworthiness findings, and that the Court of Criminal Appeals improperly treated those statutory violations as harmless and supplied findings that were the trial court's responsibility.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Moore, C.J.; See, J.; Lyons, J.; Brown, J.; Harwood, J.; Woodall, J.; Stuart, J.; Johnstone, J.
JURISDICTION	Alabama
DECIDED	November 1, 2002
DOCKET	1012175
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Petition for a writ of certiorari to review the decision of the Alabama Court of Criminal Appeals in a criminal case involving the admission of a child victim's hearsay statements.
STANDARD OF REVIEW	The dissent states that a motion for a judgment of acquittal must be evaluated on the evidence before the court when the motion is made, before the defendant presents evidence.
PRECEDENTIAL VALUE	Published opinion; the per curiam disposition denies certiorari, while the substantive analysis is dissenting.
PARTIES	K.L.H. v. State of Alabama

TOPICS

writ of certiorari

appellate procedure

hearsay

evidence

statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Alabama Court of Criminal Appeals could treat violations of the Child Physical and Sexual Abuse Victim Protection Act concerning proof of unavailability and judicial findings of trustworthiness as harmless or technical noncompliance.
2. Whether the Court of Criminal Appeals could supply fact-findings that the trial court was required to make before admitting the child's hearsay statements.
3. Whether the defendant's motion for a judgment of acquittal was properly denied based on evidence supplied only after the State had rested.

HOLDINGS

1. The Supreme Court of Alabama denied the petition for a writ of certiorari.

KEY QUOTATIONS

“WRIT DENIED.” (at 992)

“The fallacy of this holding by the Court of Criminal Appeals is that the defendant's motion for judgment of acquittal at the close of the case-in-chief by the State tested the sufficiency of the evidence as it then existed, before the defendant called his first witness.” (at 992)

“The Court of Criminal Appeals cannot legally supply findings due from the trial court by reasoning, in effect, that, had the trial court known it needed to find certain facts, it would have found the ones the Court of Criminal Appeals deems necessary to its conclusion.” (at 993)

FACTUAL BACKGROUND

In a trial on rape and sodomy charges, the trial court admitted out-of-court hearsay declarations of a two-year-old alleged victim over the defendant's objections. The trial court had not received testimony establishing the child's unavailability and had not made the statutory findings that the statements possessed particularized guarantees of trustworthiness. After the State rested and the defendant moved for a judgment of acquittal, the trial court denied the motion; the defendant then called Dr. Faison, whose testimony was later relied upon by the Court of Criminal Appeals to support unavailability.

PROCEDURAL HISTORY

The trial court admitted hearsay declarations by the two-year-old alleged victim in a rape and sodomy prosecution and denied the defendant's motion for a judgment of acquittal. The Alabama Court of Criminal Appeals affirmed, treating statutory violations concerning unavailability and trustworthiness findings as harmless or technical noncompliance. The Supreme Court of Alabama denied the petition for a writ of certiorari; Justice Johnstone dissented.

DISPOSITION

writ_denied

CASES CITED

- K.D.H. v. State, 849 So. 2d 983 (Ala. Crim. App. 2002)
- Wal-Mart Stores, Inc. v. Patterson, 816 So. 2d 1, 6 (Ala. 2001)
- Omni Insurance Co. v. Foreman, 802 So. 2d 195, 199 (Ala. 2001)
- Goff v. State, 572 So. 2d 1283, 1284 (Ala. Crim. App. 1990)
- Ex parte Washington, 818 So. 2d 424, 427-430 (Ala. 2001)

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