

SUPREME COURT OF ARKANSAS

King v. State, 361 Ark. 402

206 S.W.3d 883 (2005) · No. CR 04-1023 · Decided April 14, 2005

SUMMARY

The Arkansas Supreme Court affirmed Raymond King's conviction for theft of property, his thirty-year habitual-offender sentence, and the denial of his petition for post-conviction relief. The court held that King's mistrial claim was procedurally barred because the motion was not made at the first opportunity. It also held that Arkansas had jurisdiction because substantial circumstantial evidence showed that an essential part of the theft occurred in Arkansas.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Robert L. Brown
JURISDICTION	Arkansas
DECIDED	April 14, 2005
DOCKET	CR 04-1023
DISPOSITION	affirmed
PROCEDURAL POSTURE	King appealed his judgment of conviction for theft of property and thirty-year habitual-offender sentence, as well as the denial of his Arkansas Rule of Criminal Procedure 37.1 petition for post-conviction relief.
STANDARD OF REVIEW	A circuit court's ruling on a mistrial motion is reviewed for abuse of discretion; a mistrial is an extreme remedy reserved for error so prejudicial that justice cannot be served by continuing the trial or the fundamental fairness of the trial has been manifestly affected. The denial of Rule 37.1 post-conviction relief was also reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; binding precedent in Arkansas.
PARTIES	Raymond King v. State of Arkansas

TOPICS

criminal procedure

post-conviction relief

preservation of error

standard of review

appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying King's motion for a mistrial based on a police witness's reference to King's identification as an "offender ID."
2. Whether the Arkansas circuit court had jurisdiction to adjudicate the theft charge when the vehicle was recovered in Mississippi and King argued that no evidence placed the vehicle in his possession in Arkansas.
3. Whether the circuit court properly denied King's Rule 37.1 petition for post-conviction relief.

HOLDINGS

1. The circuit court did not abuse its discretion in denying the mistrial motion because King did not move for a mistrial at the first opportunity, making the claim procedurally barred; the witness's reference was also inadvertent and no cautionary instruction was requested.
2. The Arkansas circuit court had jurisdiction because substantial circumstantial evidence showed that an essential part of the theft occurred in Arkansas, including that King obtained and exercised unauthorized control over the vehicle in West Memphis.

KEY QUOTATIONS

"A mistrial is an extreme and drastic remedy that will be resorted to only when there has been an error so prejudicial that justice cannot be served by continuing with the trial or when the fundamental fairness of the trial has been manifestly affected." (206 S.W.3d at 887)

"We hold that the circuit court, in the instant case, did not abuse its discretion in denying King's mistrial motion, because it was untimely made and, thus, was procedurally barred." (206 S.W.3d at 888)

FACTUAL BACKGROUND

King was stopped in Southaven, Mississippi, while driving a red 1991 GMC Jimmy whose steering column was broken and a screwdriver was on the floorboard. He told the officer that he did not own the vehicle and had obtained it in West Memphis; the vehicle's owner later confirmed that it had been stolen from West Memphis. At trial, a police witness referred to an identification card as an "offender ID," and King's counsel objected but did not move for a mistrial until several minutes later.

PROCEDURAL HISTORY

A Crittenden County jury convicted King of theft of property valued at more than \$500 but less than \$2,500 and sentenced him to thirty years in prison as a habitual offender. The circuit court denied King's petition asserting

lack of subject-matter jurisdiction and ineffective assistance-related claims. The Supreme Court of Arkansas granted a motion for belated appeal and affirmed the conviction, sentence, and denial of post-conviction relief.

DISPOSITION

affirmed

CASES CITED

- King v. State, 359 Ark. 274, 196 S.W.3d 486 (2004) (per curiam)
- Moore v. State, 355 Ark. 657, 144 S.W.3d 260 (2004)
- Ferguson v. State, 343 Ark. 159, 33 S.W.3d 115 (2000)
- Hamilton v. State, 348 Ark. 532, 74 S.W.3d 615 (2002)
- Findley v. State, 307 Ark. 53, 818 S.W.2d 242 (1991)
- Gardner v. State, 263 Ark. 739, 569 S.W.2d 74 (1978)