

SUPREME COURT OF MISSISSIPPI

Travis Keithley a/k/a Travis Lee Keithley v. State of Mississippi

No. 2010-KA-01581-SCT · No. No. 2010-KA-01581-SCT · Decided September 20, 2010

SUMMARY

The Supreme Court of Mississippi affirmed Travis Keithley's conviction for aggravated assault and his sentence of fifteen years, with thirteen years to serve and two years of supervised probation. The court held that testimony concerning two anonymous individuals did not constitute inadmissible hearsay or violate the Confrontation Clause, and that the verdict was supported by the evidence. The court dismissed Keithley's ineffective-assistance-of-counsel claims without prejudice because they required factual development more appropriate for post-conviction proceedings.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Kitchens, Justice; Waller, C.J.; Dickinson, P.J.; Randolph, P.J.; Lamar, J.; Chandler, J.; Pierce, J.; King, J.; Coleman, J.
JURISDICTION	Mississippi
DECIDED	September 20, 2010
DOCKET	No. 2010-KA-01581-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a conviction for aggravated assault and a fifteen-year sentence entered by the Washington County Circuit Court.
STANDARD OF REVIEW	Unpreserved evidentiary and Confrontation Clause claims were reviewed for plain error. The sufficiency and weight of the evidence were reviewed to determine whether the evidence warranted acquittal or a new trial. Ineffective-assistance claims on direct appeal were reviewed only to the extent that the alleged deficiencies were fully apparent from the record.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Travis Keithley a/k/a Travis Lee Keithley v. State of Mississippi

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QUESTIONS PRESENTED

1. Whether Officer Rodgers's testimony that two anonymous people spoke with her and that Keithley became a suspect constituted inadmissible hearsay or violated Keithley's constitutional right to confront his accusers.
2. Whether the evidence was legally insufficient or against the weight of the evidence so as to require an acquittal or new trial.
3. Whether Keithley's ineffective-assistance-of-counsel claims could be resolved on direct appeal based on the trial record.

HOLDINGS

1. The testimony did not constitute inadmissible hearsay or a Confrontation Clause violation because Rodgers did not convey any statement, assertion, identification, or substance of the anonymous people's conversations, and the testimony did not establish that they were eyewitness accusers.
2. The evidence supported the aggravated-assault conviction and did not warrant an acquittal or new trial.
3. Keithley's ineffective-assistance claims were dismissed without prejudice because the alleged deficiencies required facts outside the trial record; the claims were preserved for possible post-conviction-relief proceedings.

KEY QUOTATIONS

“Officer Rodgers’s testimony was not inadmissible hearsay and did not violate Keithley’s right to confront his accusers.” (7)

“Finally, Keithley’s unsubstantiated claims that his trial counsel was deficient are dismissed without prejudice and are preserved for post-conviction relief consideration, should any be sought.” (7)

FACTUAL BACKGROUND

On March 7, 2009, Timothy Thomas testified that Keithley confronted him outside a store in Leland, Mississippi, followed him, and shot him repeatedly with a handgun, causing six gunshot wounds. Thomas later identified Keithley in a handwritten statement while hospitalized and unable to speak. Police recovered one spent .380 cartridge casing and two ink pens, none of which was connected to the crime; an officer also testified that two bystanders had spoken with her anonymously but did not disclose what they said. The defense presented no witnesses, and the jury convicted Keithley of aggravated assault.

PROCEDURAL HISTORY

A jury found Keithley guilty of aggravated assault after the victim identified him as the shooter. The Washington County Circuit Court sentenced him to fifteen years in the custody of the Mississippi Department of Corrections, with thirteen years to serve and two years of supervised probation. On direct appeal, Keithley challenged

testimony concerning anonymous bystanders, the sufficiency and weight of the evidence, and trial counsel's effectiveness. The Mississippi Supreme Court affirmed the conviction and sentence and dismissed the ineffective-assistance claims without prejudice to post-conviction review.

DISPOSITION

affirmed

CASES CITED

- Cox v. State, 793 So. 2d 591, 599 (Miss. 2001)
- Grubb v. State, 584 So. 2d 786, 789 (Miss. 1991)
- Porter v. State, 749 So. 2d 250, 260-61 (Miss. Ct. App. 1999)
- United States v. Meises, 645 F.3d 5, 21-23 (1st Cir. 2011)
- Crawford v. Washington, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004)
- Swindle v. State, 502 So. 2d 652, 657 (Miss. 1987)
- Moore v. State, 933 So. 2d 910, 922-23 (Miss. 2006)
- Blanchard v. State, 55 So. 3d 1074, 1079 (Miss. 2011)
- Archer v. State, 986 So. 2d 951, 955 (Miss. 2008)
- Wilcher v. State, 863 So. 2d 776, 825 (Miss. 2003)
- Read v. State, 430 So. 2d 832, 837 (Miss. 1983)