

SUPREME COURT OF MISSISSIPPI

Daner Ford a/k/a Danner Ford a/k/a Dana Ford v. State of Mississippi

No. 2015-KA-00691-SCT · No. 2015-KA-00691-SCT · Decided September 22, 2016

SUMMARY

The Supreme Court of Mississippi affirmed Daner Ford’s convictions for murder, a firearm enhancement, and possession of a firearm by a convicted felon, together with his sentence as a habitual offender. The court rejected challenges concerning improper witness testimony and mistrial, a flight instruction, ineffective assistance of counsel, and the habitual-offender sentencing procedure. The opinion was issued per curiam on September 22, 2016.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Coleman, Justice; Waller, Chief Justice; Randolph, Presiding Justice; Maxwell, Justice; Beam, Justice
JURISDICTION	Mississippi
DECIDED	September 22, 2016
DOCKET	2015-KA-00691-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Ford appealed his convictions and sentences for murder, a firearm enhancement, and possession of a firearm by a convicted felon. The Mississippi Supreme Court reviewed the denial of his motion for a mistrial, the giving of a flight instruction, his ineffective-assistance claims, and his habitual-offender sentencing challenge.
STANDARD OF REVIEW	The denial of a motion for mistrial is reviewed for abuse of discretion. The giving of a jury instruction is reviewed for abuse of discretion, and jury instructions are considered as a whole. Ineffective-assistance claims are evaluated under the Strickland two-pronged test. The propriety of habitual-offender sentencing was reviewed based on whether the defendant was properly indicted, whether the State proved the prior convictions by competent evidence, and whether the defendant had a reasonable opportunity to challenge that proof.
PRECEDENTIAL VALUE	published opinion

PARTIES

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TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying a mistrial and instructing the jury to disregard a witness's testimony that Ford had shot the witness in 1994.
2. Whether the trial court abused its discretion by giving a flight instruction based on Ford's hiding in his mother's attic before his arrest.
3. Whether Ford received ineffective assistance of counsel when counsel elicited testimony concerning a codefendant's conviction and failed to object, or withdrew an objection, to testimony about Ford's threats.
4. Whether the trial court improperly sentenced Ford as a habitual offender without a proper bifurcated sentencing hearing or a meaningful opportunity to contest the habitual-offender allegations.

HOLDINGS

1. The trial court did not abuse its discretion by denying a mistrial and instructing the jury to disregard the witness's statement about Ford's alleged 1994 shooting of the witness.
2. The trial court did not abuse its discretion by giving the jury a flight instruction.
3. Ford failed to establish ineffective assistance of counsel.
4. The trial court properly sentenced Ford as a habitual offender and did not err by failing to conduct the type of bifurcated hearing Ford asserted was required.

KEY QUOTATIONS

“The Court has adopted a two-prong test for evaluating flight instructions: “(1) Only unexplained flight merits a flight instruction; and (2) flight instructions are to be given only in cases where that circumstance has considerable probative value.”” (¶21)

“The burden lies with the defendant to rebut the presumption that his trial counsel acted reasonably and strategically.” (¶25)

“For a habitual-offender sentence to be proper, all the Court requires is that the defendant be indicted as a habitual offender, that the State prove the previous offenses by competent evidence, and that the defendant have reasonable opportunity to challenge the State’s proof.” (¶32)

FACTUAL BACKGROUND

Marvin Stuckett was fatally shot outside his home in Greenville, Mississippi, after an altercation and threats involving Ford and others at a nightclub earlier that night. Jessie Lee confessed to participating in the shooting and testified that Ford carried a rifle and was present when shots were fired. Ford gave police a recorded statement on the morning of the shooting, was allowed to leave, and was later found hiding in the attic of his mother's house after police obtained arrest warrants and traced his cell phone. The jury convicted Ford of murder, a firearm enhancement, and possession of a firearm by a convicted felon.

PROCEDURAL HISTORY

A Washington County jury found Ford guilty as charged. The circuit court sentenced him as a habitual offender to life imprisonment for murder, a consecutive five-year firearm enhancement, and ten years for felon-in-possession of a firearm, with the latter sentence concurrent with the firearm enhancement and consecutive to the murder sentence. The circuit court denied Ford's posttrial motion for judgment notwithstanding the verdict or a new trial. The circuit court later reopened the appeal deadline, after which Ford timely appealed.

DISPOSITION

affirmed

CASES CITED

- Flora v. State, 925 So. 2d 797, 804 (¶ 5) (Miss. 2006)
- Spann v. State, 771 So. 2d 883, 889 (Miss. 2000)
- Roundtree v. State, 568 So. 2d 1173, 1177 (Miss. 1990)
- Johnson v. State, 477 So. 2d 196, 210 (Miss. 1985)
- Henderson v. State, 403 So. 2d 139, 140 (Miss. 1981)
- Watts v. State, 733 So. 2d 214, 232-33 (¶ 53) (Miss. 1999)
- Latiker v. State, 918 So. 2d 68, 74 (¶ 14) (Miss. 2005)
- Holifield v. State, 275 So. 2d 851, 856 (Miss. 1973)
- Drummer v. State, 167 So. 3d 1180, 1186 (¶ 19) (Miss. 2015)
- Higgins v. State, 725 So. 2d 220, 223 (¶ 15) (Miss. 1998)
- Jackson v. State, 645 So. 2d 921, 924 (Miss. 1994)
- United States v. Benedetti, 433 F.3d 111, 116 (1st Cir. 2005)
- Fuselier v. State, 702 So. 2d 388, 390 (¶ 4) (Miss. 1997)
- Williams v. State, 667 So. 2d 15, 23 (Miss. 1996)
- Reynolds v. State, 658 So. 2d 852, 856 (Miss. 1995)
- Fuselier v. State, 468 So. 2d 45, 57 (Miss. 1985)
- Austin v. State, 784 So. 2d 186, 194 (Miss. 2001)
- Warren v. State, 709 So. 2d 415, 419-20 (Miss. 1998)
- Brown v. State, 690 So. 2d 276, 293-94 (Miss. 1996)
- Archer v. State, 986 So. 2d 951, 955 (¶ 15) (Miss. 2008)

- Puckett v. State, 879 So. 2d 920, 935 (¶¶43, 46) (Miss. 2004)
- Stringer v. State, 454 So. 2d 468 (Miss. 1984)
- Wilcher v. State, 863 So. 2d 776, 799 (¶ 42) (Miss. 2003)
- Murray v. Maggio, 736 F.2d 279, 282 (5th Cir. 1984)
- Ford v. State, 708 So. 2d 73, 75 (Miss. 1998)
- Smith v. State, 434 So. 2d 212, 219 (Miss. 1983)
- Robinson v. State, 465 So. 2d 1065, 1068 (Miss. 1985)
- McCray v. State, 293 So. 2d 807, 808-09 (Miss. 1974)
- Hiter v. State, 660 So. 2d 961, 965 (Miss. 1995)
- Grayer v. State, 120 So. 3d 964, 969 (¶ 18) (Miss. 2013)
- Keyes v. State, 549 So. 2d 949, 951 (Miss. 1989)
- Seely v. State, 451 So. 2d 213, 215 (Miss. 1984)
- Sanders v. State, 63 So. 3d 497, 510 (Miss. 2011) (Carlson, P.J., specially concurring)
- Randolph v. State, 852 So. 2d 547, 568 (Miss. 2002) (Carlson, J., concurring)
- Ervin v. State, 136 So. 3d 1053, 1059-60 (Miss. 2014)
- Anderson v. State, 1 So. 3d 905, 915-16 (Miss. Ct. App. 2008)
- Anderson v. State, 185 So. 3d 966, 970 (Miss. 2015)
- Pannell v. State, 455 So. 2d 785, 788 (Miss. 1984)
- Fairchild v. State, 459 So. 2d 793, 800 (Miss. 1984)
- Colburn v. State, 431 So. 2d 1111, 1114 (Miss. 1983)
- States v. State, 88 So. 3d 749, 759-60 (Miss. 2012) (Carlson, P.J., specially concurring; Kitchens, J., dissenting)