

SUPREME COURT OF ARKANSAS

Holland v. State

2015 Ark. 341 (2015) · No. CR-14-1019 · Decided October 1, 2015

SUMMARY

The Supreme Court of Arkansas affirmed Andrew M. Holland’s convictions for first-degree and second-degree sexual assault and his concurrent prison sentences. The court held that evidence of prior sexual misconduct was admissible under the pedophile exception to Arkansas Rule of Evidence 404(b), that the rape-shield statute properly excluded proposed evidence concerning the victims’ alleged motives, and that Holland was not entitled to access one victim’s privileged psychotherapist-patient records. The opinion also discusses the Confrontation Clause and *Pennsylvania v. Ritchie*.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Courtney Hudson Goodson
JURISDICTION	Arkansas
DECIDED	October 1, 2015
DOCKET	CR-14-1019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Holland appealed his convictions for first-degree sexual assault and second-degree sexual assault. The Arkansas Court of Appeals affirmed, and the Arkansas Supreme Court granted Holland's petition for review.
STANDARD OF REVIEW	Evidentiary rulings under Arkansas Rules of Evidence 404(b), 403, and the rape-shield statute are reviewed for abuse of discretion; rulings on remoteness are reviewed under the same deferential standard, and rape-shield rulings will not be overturned absent clear error or manifest abuse of discretion. The court also applied preservation principles to undeveloped arguments lacking a specific lower-court ruling.
PRECEDENTIAL VALUE	published opinion
PARTIES	Andrew M. Holland v. State of Arkansas

TOPICS

evidence

criminal procedure

sixth amendment

due process

appellate procedure

PRACTICE AREAS

criminal law

evidence

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QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by admitting evidence of prior sexual misconduct under the pedophile exception to Arkansas Rule of Evidence 404(b) and over Rule 403 objections.
2. Whether the circuit court abused its discretion by excluding proposed evidence concerning the victims' alleged motives to falsely accuse Holland under Arkansas's rape-shield statute.
3. Whether denial of access to JD's privileged psychological-treatment records violated Holland's constitutional rights of confrontation and due process.

HOLDINGS

1. The circuit court did not abuse its discretion by admitting testimony concerning MJ, JG, and JP and Holland's prior California convictions. Similar sexual conduct involving minors with whom Holland had intimate relationships was admissible under the pedophile exception to Rule 404(b) to show motive, intent, plan, disposition, familiarity, antecedent conduct, and to corroborate the victims' testimony, and the evidence was not too remote or unfairly prejudicial under Rules 403 and 404(b).
2. The circuit court did not abuse its discretion by excluding the proposed evidence under the rape-shield statute because its probative value was slight and remote compared with its inflammatory and prejudicial nature.
3. The circuit court did not err by denying Holland access to JD's Rivendell treatment records after conducting in-camera reviews and determining that the records contained no materially exculpatory information. The psychotherapist-patient privilege controlled, and the disclosed intake forms did not establish reversible error.

KEY QUOTATIONS

“When the charge concerns the sexual abuse of a child, evidence of other crimes, wrongs, or acts, such as sexual abuse of that child or other children, is admissible under the “pedophile exception” to show motive, intent, or plan pursuant to Ark. R. Evid. 404(b).” (7)

“However, the Court also held that a defendant’s right to discover exculpatory evidence does not include the unsupervised authority to search through the files.” (17)

“We simply cannot conclude that Holland’s defense was compromised in any way by the circuit court’s ruling.” (18)

FACTUAL BACKGROUND

Holland was convicted of sexually assaulting two boys, XB and JD, who were minors when the alleged conduct occurred. Holland had developed close relationships with both boys through roles as a family acquaintance,

disciplinarian, mentor, or music manager, and the alleged abuse occurred in settings under his control. The State also introduced testimony from three other men concerning similar sexual conduct by Holland when they were minors, along with a California probation order reflecting Holland's prior convictions for lewd or lascivious acts with a child under fourteen. Holland sought to exclude the other-act evidence, introduce evidence concerning the victims' alleged motives to fabricate, and obtain JD's psychological-treatment records.

PROCEDURAL HISTORY

A Pulaski County Circuit Court jury found Holland guilty of one count each of first-degree and second-degree sexual assault and imposed concurrent sentences of forty and thirty years' imprisonment. The court of appeals affirmed the convictions and sentences. The Arkansas Supreme Court granted review and treated the appeal as originally filed in that court.

DISPOSITION

affirmed

CASES CITED

- Holland v. State, 2014 Ark. App. 644, 448 S.W.3d 220
- Schneider v. State, 2015 Ark. 152, 459 S.W.3d 296
- Vance v. State, 2011 Ark. 243, 383 S.W.3d 325
- Rounsaville v. State, 2009 Ark. 479, 346 S.W.3d 289
- Chatmon v. State, 2015 Ark. 28
- Kelley v. State, 2009 Ark. 389, 327 S.W.3d 373
- Jeffries v. State, 2014 Ark. 239, 434 S.W.3d 889
- Free v. State, 293 Ark. 65, 732 S.W.2d 452 (1987)
- Brown v. State, 2012 Ark. 399, 424 S.W.3d 288
- Nelson v. State, 365 Ark. 314, 229 S.W.3d 35 (2006)
- Lamb v. State, 372 Ark. 277, 275 S.W.3d 144 (2008)
- Hernandez v. State, 331 Ark. 301, 962 S.W.2d 756 (1998)
- Flanery v. State, 362 Ark. 311, 208 S.W.3d 187 (2005)
- Allen v. State, 374 Ark. 309, 287 S.W.3d 579 (2008)
- Bell v. State, 371 Ark. 375, 266 S.W.3d 696 (2007)
- Harris v. State, 331 Ark. 353, 961 S.W.2d 737 (1998)
- Stewart v. State, 2012 Ark. 349, 423 S.W.3d 69
- McCoy v. State, 2010 Ark. 373, 370 S.W.3d 241
- Woodall v. State, 2011 Ark. 22, 376 S.W.3d 408
- Marion v. State, 267 Ark. 345, 590 S.W.2d 288 (1979)
- Jackson v. State, 368 Ark. 610, 249 S.W.3d 127 (2007)
- Johnson v. State, 342 Ark. 186, 27 S.W.3d 405 (2000)

- *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987)
- *Jaffee v. Redmond*, 518 U.S. 1 (1996)
- *Brady v. Maryland*, 373 U.S. 83 (1963)
- *Delaware v. Fensterer*, 474 U.S. 15 (1985) (per curiam)
- *Gooch v. State*, 2015 Ark. 227, 463 S.W.3d 296
- *Johnson v. Norris*, 537 F.3d 840 (8th Cir. 2008)