

COURT OF APPEALS OF ARKANSAS, DIVISION IV

Daniel Harrison v. State of Arkansas

2025 Ark. App. 610 · No. CR-25-13 · Decided December 10, 2025

SUMMARY

The Arkansas Court of Appeals affirmed Daniel Harrison’s convictions for rape and second-degree sexual assault committed in the presence of a child. The court held that the circuit court acted within its discretion by excluding proposed expert testimony concerning the victim’s credibility and by allowing the victim’s brother to testify as a rebuttal witness despite his presence in the courtroom. The court also upheld the denial of Harrison’s motion for a new trial.

CASE DETAILS

COURT	Court of Appeals of Arkansas, Division IV
WRITING FOR THE COURT	Mike Murphy; Abramson; Thyer
JURISDICTION	Arkansas Court of Appeals, Division IV
DECIDED	December 10, 2025
DOCKET	CR-25-13
DISPOSITION	affirmed
PROCEDURAL POSTURE	Harrison appealed his convictions for rape and second-degree sexual assault, both committed in the presence of a child, and his fifty-year sentence. He challenged the exclusion of his proposed expert witness, the admission of a rebuttal witness who had remained in the courtroom, and the denial of his motion for a new trial.
STANDARD OF REVIEW	The exclusion or admission of expert testimony is reviewed for abuse of discretion. A circuit court's decision concerning a motion for a new trial is reviewed for manifest abuse of discretion. A sequestration ruling is reviewed under the circuit court's narrow discretion, and exclusion of a witness for a sequestration violation requires noncompliance with the consent, connivance, or procurement of a party or the party's attorney.
PRECEDENTIAL VALUE	published
PARTIES	Daniel Harrison v. State of Arkansas

TOPICS

expert testimony

character evidence

criminal procedure

appellate procedure

standard of review

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by excluding Andrea Penner's proposed expert testimony concerning the victim's mental-health history, trauma, memory, alleged inconsistencies, and credibility.
2. Whether the circuit court erred by allowing the victim's brother to testify as a rebuttal witness after he had remained in the courtroom during the trial.
3. Whether the circuit court abused its discretion by denying Harrison's motion for a new trial based on exclusion of Penner's testimony.

HOLDINGS

1. The circuit court acted within its discretion in excluding Penner's proposed testimony because it would have commented on MC's truthfulness and credibility, invaded the province of the jury, and relied on interpretations of otherwise inadmissible mental-health records and interviews. The court also affirmed because Harrison failed to challenge all three independent grounds stated by the circuit court.
2. The circuit court did not err in permitting the brother to testify. Exclusion for violation of the sequestration rule was not warranted because the record showed no consent, connivance, or procurement by the State or its attorney, and the brother's rebuttal testimony could not reasonably have been anticipated before Harrison testified.
3. The circuit court did not abuse its discretion by denying Harrison's motion for a new trial because the underlying exclusion of Penner's testimony was proper.

KEY QUOTATIONS

"Our appellate courts have consistently recognized that an expert's or a witness's testimony opining or directly commenting on the truthfulness of a victim's statement or testimony is generally inadmissible." (at 4)

"The violation by a witness of the rule of sequestration through no fault of, or complicity with, the party calling him should go to the credibility rather than to the competency of the witness." (at 5)

FACTUAL BACKGROUND

The jury heard evidence that Harrison raped and sexually assaulted his twelve-year-old stepdaughter, MC, who was twelve years old. Harrison sought to present counselor Andrea Penner as an expert to testify about MC's mental-health records, alleged inconsistencies, trauma and memory, hallucinations, and purported failures to disclose abuse. Penner had also counseled Harrison and had discussed the testimony of other witnesses despite having been excluded from the courtroom. After Harrison testified about MC's brother's living conditions and a broken-wrist pushup incident, the State called the brother as a rebuttal witness; the brother had remained in the courtroom but had not been listed as a witness by either party.

PROCEDURAL HISTORY

A Crawford County jury convicted Harrison of rape and second-degree sexual assault, with each felony committed in the presence of a child. The circuit court sentenced him to an aggregate fifty years in the Arkansas Division of Correction. After judgment was entered, Harrison timely moved for a new trial; the motion was deemed denied when the circuit court did not act on it within thirty days. Harrison appealed.

DISPOSITION

affirmed

CASES CITED

- Joyner v. State, 2021 Ark. 78, at 22, 621 S.W.3d 124, 139
- Arnold v. State, 2022 Ark. 191, at 7, 653 S.W.3d 781, 787
- McEuen v. State, 2023 Ark. App. 65, at 8, 660 S.W.3d 615, 621
- DeVault v. State, 2021 Ark. App. 269, at 9-10
- Lard v. State, 2014 Ark. 1, at 23, 431 S.W.3d 249, 266
- Mooney v. State, 2009 Ark. App. 622, at 10, 331 S.W.3d 588, 594
- Neff v. State, 2021 Ark. App. 123, at 4, 618 S.W.3d 479, 481