

SUPREME COURT OF ARKANSAS

Rogers v. State

2018 Ark. 242 (Ark. 2018) · Decided October 25, 2018

SUMMARY

The Arkansas Supreme Court considers Edward Darnell Rogers's petition for rehearing after affirming his convictions for three counts of rape. The court holds that the circuit court erred by excluding evidence of the victim's prior misdemeanor theft conviction, which was admissible to impeach credibility under Arkansas Rule of Evidence 609(a). Because the case depended substantially on the victims' credibility, the court reverses the convictions and remands for a new trial or further proceedings.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Karen R. Baker; Goodson; Wood; Womack
JURISDICTION	Arkansas
DECIDED	October 25, 2018
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Rogers appealed convictions for three counts of rape after the Arkansas Court of Appeals reversed and remanded. The Arkansas Supreme Court granted the State's petition for review, affirmed the circuit court in its original opinion, then granted Rogers's petition for rehearing and issued this substituted opinion.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed by viewing the evidence in the light most favorable to the State and affirming if substantial evidence supports the conviction. Evidentiary rulings are reviewed for abuse of discretion, but exclusion of evidence admissible under Arkansas Rule of Evidence 609(a)(2) is not discretionary. The court considers whether an evidentiary error was harmless.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Edward Darnell Rogers v. State of Arkansas

TOPICS

- impeachment
- evidence
- harmless error
- preservation of error
- appellate procedure

PRACTICE AREAS

Criminal law

Criminal procedure

Evidence

Appellate procedure

QUESTIONS PRESENTED

1. Whether substantial evidence supported Rogers's rape convictions despite the absence of physical evidence, delayed reporting, and alleged credibility problems.
2. Whether the circuit court erred by excluding L.W.'s prior misdemeanor theft-of-property conviction for impeachment under Arkansas Rule of Evidence 609(a).
3. Whether the exclusion of the theft conviction was harmless.

HOLDINGS

1. Rogers's arguments that the evidence was insufficient because of the lack of physical evidence, delayed reporting, and weaknesses in the victims' credibility were not preserved because he did not make those arguments in his directed-verdict motions at trial.
2. A conviction for theft of property involves dishonesty and is automatically admissible to attack a witness's credibility under Arkansas Rule of Evidence 609(a)(2); the circuit court therefore abused its discretion by excluding L.W.'s misdemeanor theft conviction, and Rogers was not required to proffer the underlying facts of the conviction.
3. The erroneous exclusion of L.W.'s theft conviction was not harmless, because the prosecution's case depended on the credibility of the victims and the excluded impeachment evidence could have affected the jury's assessment of L.W. and the intertwined allegations involving Mi.B. and Ma.B.

KEY QUOTATIONS

"In other words, the offense at issue here, theft of property, by definition involves dishonesty and is automatically admissible pursuant to Rule 609(a), and Rogers was not required to proffer the conviction." (558 S.W.3d 833, 841)

"Here, the State's case in this matter hinged on one thing-the credibility of the victims, including L.W." (558 S.W.3d 833, 842)

"Reversed and remanded; court of appeals opinion vacated." (558 S.W.3d 833, 842)

FACTUAL BACKGROUND

Rogers lived with his girlfriend and acted as a father figure to her four daughters, who were minors during the alleged offenses. The daughters testified that Rogers sexually abused and raped them on multiple occasions, and the defense denied the allegations and asserted that the victims and their mother fabricated them. The State presented no physical evidence, making the victims' credibility central to the case. During trial, the circuit court refused to allow Rogers to impeach L.W. with her prior misdemeanor theft-of-property conviction.

PROCEDURAL HISTORY

A Pulaski County Circuit Court jury convicted Rogers of three counts of rape and imposed concurrent sentences of twenty years for the rapes of L.W. and Mi.B. and forty years for the rape of Ma.B. The Arkansas Court of Appeals reversed and remanded. After granting review, the Arkansas Supreme Court initially affirmed, but on rehearing it held that the circuit court improperly excluded L.W.'s theft conviction for impeachment and that the error was not harmless; it reversed the convictions and remanded for a new trial or further proceedings, vacating the court of appeals opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for a new trial or further proceedings. The Arkansas Court of Appeals opinion was vacated.

CASES CITED

- Pack v. Little Rock Convention Center & Visitors Bureau, 2013 Ark. 186, 427 S.W.3d 586
- Whitt v. State, 365 Ark. 580, 232 S.W.3d 459
- Gillard v. State, 366 Ark. 217, 234 S.W.3d 310
- Ricks v. State, 316 Ark. 601, 873 S.W.2d 808
- Edmond v. State, 351 Ark. 495, 95 S.W.3d 789
- Burley v. State, 348 Ark. 422, 73 S.W.3d 600
- Ross v. State, 346 Ark. 225, 57 S.W.3d 152
- Phillips v. State, 344 Ark. 453, 40 S.W.3d 778
- White v. State, 367 Ark. 595, 242 S.W.3d 240
- Ward v. State, 370 Ark. 398, 260 S.W.3d 292
- Sylvester v. State, 2016 Ark. 136, 489 S.W.3d 146
- Marshall v. State, 2017 Ark. 347, 532 S.W.3d 563
- Eubanks v. State, 2009 Ark. 170, 303 S.W.3d 450
- Wal-Mart Stores, Inc. v. Regions Bank Trust Department, 347 Ark. 826, 69 S.W.3d 20
- Floyd v. State, 278 Ark. 86, 643 S.W.2d 555
- State v. Cassell, 2013 Ark. 221, 427 S.W.3d 663
- Edwards v. Campbell, 2010 Ark. 398, 370 S.W.3d 250
- Webster v. State, 284 Ark. 206, 680 S.W.2d 906
- James v. State, 274 Ark. 162, 622 S.W.2d 669
- Scamardo v. State, 2013 Ark. 163, 426 S.W.3d 900
- Winfrey v. State, 293 Ark. 342, 738 S.W.2d 391
- Rogers v. State, 2018 Ark. 242, 550 S.W.3d 387

