

SUPREME COURT OF KANSAS

State v. Harris, 279 Kan. 163

105 P.3d 1258 (2005) · Decided February 18, 2005

SUMMARY

The Kansas Supreme Court affirmed Vernon D. Harris’s conviction for first-degree felony murder. The court held that Harris’s confession was voluntary under the totality of the circumstances, that the prosecutor’s comments did not deny him a fair trial, and that his hearsay and newly discovered evidence claims either were not preserved or did not warrant a new trial. The court also rejected his cumulative-error argument.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Gernon, J.
JURISDICTION	Kansas
DECIDED	February 18, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Harris directly appealed his conviction for first-degree felony murder and life sentence with a minimum of 20 years before parole to the Supreme Court of Kansas.
STANDARD OF REVIEW	Suppression of a confession is reviewed under a dual standard: factual findings are reviewed for substantial competent evidence, while the ultimate legal conclusion regarding voluntariness is reviewed de novo. Prosecutorial-misconduct claims are reviewed under a two-step analysis addressing whether the remarks were outside the prosecutor's permissible latitude and, if so, whether they were gross and flagrant enough to deny a fair trial. Denial of a new trial based on newly discovered evidence is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Vernon D. Harris, III v. State of Kansas

TOPICS

- criminal procedure
- suppression of evidence
- prosecutorial misconduct
- hearsay
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether Harris's confession was involuntary under the totality of the circumstances because of the length and conditions of the interrogation, isolation, alleged deception, and failure to disclose exculpatory information.
2. Whether the prosecutor's closing argument improperly commented on Harris's decision not to testify and violated his constitutional right to a fair trial.
3. Whether Harris preserved for appeal his claim that incriminating statements by his codefendant were improperly admitted hearsay.
4. Whether the trial court abused its discretion by denying a new trial based on newly discovered evidence.
5. Whether cumulative trial errors required reversal of the felony-murder conviction.

HOLDINGS

1. Harris's confession was voluntary under the totality of the circumstances and was properly admitted.
2. The prosecutor's comments did not constitute reversible prosecutorial misconduct or deny Harris a fair trial.
3. Harris did not preserve his hearsay and confrontation challenge because his trial objection concerned statements by Harvell, not statements by codefendant Jackson.
4. The trial court did not abuse its discretion in denying a new trial because the proffered evidence would not probably produce a different result upon retrial.
5. Cumulative error did not warrant reversal because Harris failed to establish any individual trial error.

KEY QUOTATIONS

"The suppression of a confession is reviewed using a dual standard." (167)

"The key inquiry is whether the statement is a product of the accused's free and independent will." (167)

"Deceptive interrogation techniques alone do not establish coercion." (170)

"Accordingly, there is no reason to reverse Harris' conviction for felony murder based on cumulative trial errors." (177)

FACTUAL BACKGROUND

Police found Bennie Zeigler dead from a gunshot wound on December 31, 2001, after a witness saw two men fight and heard gunshots. A codefendant, Lana Jackson, told police that Harris shot Zeigler during an attempted robbery connected to a drug sale. After receiving Miranda warnings, Harris gave police several differing accounts and ultimately admitted accompanying Jackson and Eric Donaldson to a drug deal, while claiming Donaldson was the shooter. Harris was convicted of felony murder after the State relied primarily on his

confession, and he later sought a new trial based on a videotape and proposed testimony suggesting that he was not involved.

PROCEDURAL HISTORY

A jury convicted Harris of one count of first-degree felony murder. The trial court admitted Harris's confession, denied his motion for a new trial based on newly discovered evidence, and sentenced him to life imprisonment with a minimum term of 20 years before parole. The Kansas Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. White, 275 Kan. 580, 596-97, 67 P.3d 138 (2003)
- State v. Caenen, 270 Kan. 776, 784, 19 P.3d 142 (2001)
- State v. Brown, 258 Kan. 374, 394-95, 904 P.2d 985 (1995)
- State v. Makthepharak, 276 Kan. 563, 568, 78 P.3d 412 (2003)
- State v. Bell, 276 Kan. 785, 797-99, 80 P.3d 367 (2003)
- State v. Wakefield, 267 Kan. 116, 127-28, 977 P.2d 941 (1999)
- Frazier v. Cupp, 394 U.S. 731, 89 S. Ct. 1420, 22 L. Ed. 2d 684 (1969)
- State v. Aikens, 261 Kan. 346, 381-82, 932 P.2d 408 (1997)
- State v. Newfield, 229 Kan. 347, 359, 623 P.2d 1349 (1981)
- State v. Komstett, 62 Kan. 221, 227, 61 P. 805 (1900)
- State v. Jones, 273 Kan. 756, 782, 47 P.3d 783 (2002), cert. denied, 537 U.S. 980 (2002)
- State v. Tosh, 278 Kan. 83, 85, 91 P.3d 1204 (2004)
- State v. McKinney, 272 Kan. 331, 346-47, 337, 33 P.3d 234 (2001)
- State v. Milo, 249 Kan. 15, 21-22, 815 P.2d 519 (1991)
- State v. Flynn, 274 Kan. 473, 496, 55 P.3d 324 (2002)
- State v. Moncla, 273 Kan. 856, 861, 46 P.3d 1162 (2002)
- State v. Plaskett, 271 Kan. 995, 1022, 27 P.3d 890 (2001)