

SUPREME COURT OF ARKANSAS

Howard v. State

79 S.W.3d 273, 348 Ark. 471 (2002) · No. CR 00-803 · Decided June 27, 2002

SUMMARY

The Arkansas Supreme Court affirmed Timothy Lamont Howard’s convictions for two counts of capital murder and one count of attempted capital murder, along with his sentences. The court rejected challenges involving sufficiency of the evidence, prosecutorial comments concerning the right not to testify, delayed disclosure of exculpatory information, hearsay, suppression, closing argument, and admission of handcuffs. The document also notes a dissenting opinion on denial of rehearing dated June 27, 2002.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	W. H. "Dub" Arnold, Chief Justice; Mike Kinard, Special Justice; Robert L. Brown, Justice; Ray Thornton, Justice; Jim Hannah, Justice
JURISDICTION	Arkansas
DECIDED	June 27, 2002
DOCKET	CR 00-803
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions for two counts of capital murder and one count of attempted capital murder, resulting in two death sentences and a thirty-year sentence plus a fine.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed in the light most favorable to the State, considering evidence supporting the verdict and affirming if substantial evidence supports the convictions. Evidentiary rulings, the admission of motive evidence, demonstrative evidence, and the denial of a mistrial or suppression-related relief are reviewed for abuse of discretion. Preservation of alleged prosecutorial misconduct and hearsay claims requires a timely and specific objection and, where applicable, a request for an admonition or mistrial.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Timothy Lamont Howard v. State of Arkansas

TOPICS

criminal procedure appellate procedure evidence hearsay standard of review

PRACTICE AREAS

criminal law criminal procedure appellate practice evidence capital punishment

QUESTIONS PRESENTED

1. Whether substantial evidence supported Howard's convictions for two counts of capital murder and attempted capital murder.
2. Whether the prosecutor improperly commented on Howard's decision not to testify.
3. Whether delayed disclosure of exculpatory information required dismissal, reversal, or other relief.
4. Whether the trial court improperly restricted Howard from presenting the manner in which discovery had been disclosed.
5. Whether testimony that a witness was advised to contact police was inadmissible hearsay.
6. Whether testimony concerning Shannon Day's possible pregnancy by Howard was improperly admitted as motive evidence.
7. Whether the prosecutor's closing argument during the penalty phase required reversal or other relief.
8. Whether the trial court abused its discretion by admitting handcuffs purchased by the State as demonstrative or relevant evidence.

HOLDINGS

1. The evidence was substantial and sufficient to support Howard's convictions for two counts of capital murder and attempted capital murder.
2. The prosecutor's comments did not warrant a mistrial or reversal because the first comment was treated as a hearsay objection made before Howard's opportunity to testify had ended, and the penalty-phase comment referred to the testimony of defense witnesses rather than Howard's failure to testify.
3. The delayed disclosure did not constitute a discovery violation requiring dismissal or reversal because the State disclosed the information seven months before trial, giving Howard time to investigate and use it.
4. The hearsay claim was not preserved because Howard made only a general objection; alternatively, the testimony was admissible to explain the witness's subsequent action in contacting police.
5. The trial court did not abuse its discretion by admitting testimony that Shannon Day believed she might be pregnant by Howard because evidence tending to show motive was admissible.
6. The prosecutor's statement that Shannon saw Trevor being strangled before her death was a permissible inference from the evidence and did not constitute reversible error.
7. The trial court did not abuse its discretion by admitting handcuffs purchased by the State as relevant demonstrative evidence, even though they were not the handcuffs used on the victim.

KEY QUOTATIONS

“The test for determining the sufficiency of the evidence is whether the verdict is supported by substantial evidence, direct or circumstantial.” (79 S.W.3d at 281)

“The prosecutor must disclose information in sufficient time to permit the defense to make beneficial use of it.” (79 S.W.3d at 286)

FACTUAL BACKGROUND

Brian Day was found beaten and shot in the head in a U-Haul truck parked on land owned by Howard's family. Shannon Day was found dead in her home with her hands handcuffed behind her back, while her seven-month-old child Trevor was found alive in a zipped bag with a cord around his neck. The State presented physical and circumstantial evidence connecting Howard to the victims and locations, including fingerprints, a .38-caliber handgun, boots bearing Brian's blood and hair consistent with Howard's DNA, Howard's possession of Shannon's belongings, and conduct suggesting flight and concealment. Howard's defense challenged the sufficiency of the evidence and numerous trial rulings, including delayed discovery disclosures, hearsay, motive evidence, closing argument, and admission of purchased handcuffs.

PROCEDURAL HISTORY

A Little River County Circuit Court jury convicted Howard of murdering Brian Day and Shannon Day and attempting to murder Trevor Day. The circuit court imposed two death sentences and a thirty-year sentence plus a \$15,000 fine. Howard challenged the sufficiency of the evidence and multiple evidentiary, discovery, prosecutorial-conduct, and suppression rulings. The Arkansas Supreme Court rejected all claims and affirmed.

DISPOSITION

affirmed

CASES CITED

- Engram v. State, 341 Ark. 196, 15 S.W.3d 678 (2000)
- Smith v. State, 346 Ark. 48, 55 S.W.3d 251 (2001)
- Sublett v. State, 337 Ark. 374, 989 S.W.2d 910 (1999)
- Jones v. State, 340 Ark. 390, 10 S.W.3d 449 (2000)
- Adams v. State, 263 Ark. 536, 566 S.W.2d 387 (1978)
- Leaks v. State, 339 Ark. 348, 5 S.W.3d 448 (1999)
- Lee v. State, 340 Ark. 504, 11 S.W.3d 553 (2000)
- Strobbe v. State, 296 Ark. 74, 752 S.W.2d 29 (1988)
- Rychtarik v. State, 334 Ark. 492, 976 S.W.2d 374 (1998)
- Marts v. State, 332 Ark. 628, 968 S.W.2d 41 (1998)
- Mills v. State, 321 Ark. 621, 906 S.W.2d 674 (1995)
- Martin v. State, 328 Ark. 420, 944 S.W.2d 512 (1997)

- Cooper v. State, 324 Ark. 135, 919 S.W.2d 205 (1996)
- Wicks v. State, 270 Ark. 781, 606 S.W.2d 366 (1980)
- Echols v. State, 326 Ark. 917, 936 S.W.2d 509 (1996)
- Owens v. State, 313 Ark. 520, 856 S.W.2d 288 (1993)
- Mills v. State, 322 Ark. 647, 910 S.W.2d 682 (1995)
- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)

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