

SUPREME COURT OF ARKANSAS

Cloird v. State

357 Ark. 446 (2004) (Ark. 2004) · No. No. CR 03-597 · Decided May 20, 2004

SUMMARY

The Supreme Court of Arkansas affirmed the denial of Gary Cloird's petition for a writ of error coram nobis based on an alleged Brady violation involving DNA test results. The court held that the DNA results from vaginal swabs were not favorable or material to the defense because the victim testified that Cloird's sexual contact with her was oral.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Annabelle Clinton Imber
JURISDICTION	Arkansas
DECIDED	May 20, 2004
DOCKET	No. CR 03-597
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Jefferson County Circuit Court's denial of a petition for writ of error coram nobis alleging that the State suppressed exculpatory DNA evidence in violation of Brady v. Maryland.
STANDARD OF REVIEW	Denial of a petition for writ of error coram nobis is reviewed for abuse of discretion; underlying factual findings are not reversed unless clearly erroneous or clearly against the preponderance of the evidence.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	Gary Cloird v. State of Arkansas

TOPICS

- post-conviction relief
- criminal procedure
- evidence
- due process
- appellate procedure

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- constitutional law
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court clearly erred in finding that DNA results excluding Cloird as a contributor to vaginal swabs were neither favorable nor unfavorable to his defense.
2. Whether the circuit court abused its discretion by denying Cloird's petition for writ of error coram nobis based on an alleged Brady violation.

HOLDINGS

1. DNA results excluding Cloird from vaginal samples were not favorable or material to his defense because the victim's testimony described only oral sexual contact by Cloird and the tested samples were vaginal.
2. The circuit court did not abuse its discretion in denying Cloird's petition for writ of error coram nobis because the DNA evidence was not favorable to the defense and thus could not establish a Brady violation.

KEY QUOTATIONS

"The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued." (at 480)

"As a Brady violation occurs only when evidence favorable to the defense is suppressed by the prosecution, there can be no Brady violation in this case where the circuit court found the DNA results were not favorable to the defense, and there is no need to address the circuit court's remaining findings." (at 482)

FACTUAL BACKGROUND

Cloird was tried for kidnapping and rape, and was also convicted of theft of a van. The victim testified that Cloird orally assaulted her, while the DNA testing involved vaginal swabs from the victim that excluded Cloird as a contributor. The circuit court found that the DNA results therefore did not bear on the alleged oral contact and were not favorable or material to the defense.

PROCEDURAL HISTORY

Cloird was convicted of rape and theft of a van in 1992, and the Arkansas Supreme Court affirmed the convictions in 1993. In 2002, the Supreme Court granted a petition to reinvest the circuit court with jurisdiction to consider coram nobis relief based on an alleged Brady violation. After an evidentiary hearing, the circuit court found that the DNA results were available to the State but were neither favorable nor unfavorable to Cloird, and denied relief. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Brady v. Maryland, 373 U.S. 83 (1963)

- Cloird v. State, 314 Ark. 296, 862 S.W.2d 211 (1993)
- Cloird v. State, 349 Ark. 33, 76 S.W.3d 813 (2002)
- Magby v. State, 348 Ark. 415, 72 S.W.3d 508 (2002)
- State v. Larimore, 341 Ark. 397, 17 S.W.3d 87 (2000)
- Isom v. State, 356 Ark. 156, 148 S.W.3d 257 (2004)
- Green v. State, 343 Ark. 244, 33 S.W.3d 485 (2000)
- Pitts v. State, 336 Ark. 580, 986 S.W.2d 407 (1999)
- Penn v. State, 282 Ark. 571, 670 S.W.2d 426 (1984)
- Strickler v. Greene, 527 U.S. 263 (1999)

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