

SUPREME COURT OF ARKANSAS

Owens v. State, 363 Ark. 413

214 S.W.3d 849 (2005) · No. CR 05-279 · Decided October 6, 2005

SUMMARY

The Arkansas Supreme Court affirmed Robert Lee Owens's convictions for aggravated robbery, first-degree battery, and misdemeanor theft. The court held that Owens's Batson challenge was not preserved and, in any event, that the trial court's ruling was not clearly against the preponderance of the evidence. The court also held that testimony from an eyewitness with knowledge sufficiently authenticated surveillance-camera photographs and that no enhanced-image expert testimony was required.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Robert L. Brown, Justice
JURISDICTION	Arkansas
DECIDED	October 6, 2005
DOCKET	CR 05-279
DISPOSITION	affirmed
PROCEDURAL POSTURE	Owens appealed his convictions for aggravated robbery, first-degree battery, and misdemeanor theft of property, challenging the denial of his Batson motion and the admission of still photographs derived from a surveillance videotape.
STANDARD OF REVIEW	A Batson ruling is reviewed for clear error, or whether the circuit court's findings were clearly against the preponderance of the evidence. Evidentiary rulings are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Robert Lee Owens v. State of Arkansas

TOPICS

- jury selection
- authentication
- evidence
- criminal procedure
- fourteenth amendment

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court erred in denying Owens's Batson challenge to the prosecutor's peremptory strike of prospective juror Bobby Carey.
2. Whether the State adequately authenticated still photographs derived from a surveillance videotape for admission into evidence.
3. Whether the circuit court committed reversible error by admitting the photographs without testimony from the person who extracted them from the videotape or expert testimony regarding alteration or enhancement.

HOLDINGS

1. The circuit court did not clearly err in finding no Batson violation. Although the State's use of five of six peremptory challenges against Black males raised an inference of purposeful discrimination, Owens did not preserve his challenge to the prosecutor's stated reason for striking Carey and presented no additional argument or proof that the reason was pretextual.
2. The State satisfied its authentication burden because Aku, a witness with knowledge, testified that the photographs accurately depicted the scene and events at the E-Z Mart. The person who extracted the still photographs from the videotape did not need to testify.
3. The court declined to impose a heightened authentication requirement for digital photographs merely because digital images are easier to manipulate. Expert testimony concerning alteration was not required where there was no indication that the photographs had been enhanced or altered.

KEY QUOTATIONS

"Step Three. Trial court decision on purposeful discrimination. If a race-neutral explanation is given, the trial court must then decide whether the strike's opponent has proven purposeful discrimination." (851-852)

"We hold that the State met its burden of proof required for authenticating the photographs in this case, and, thus, laid a proper foundation for admission of the photographs." (854)

FACTUAL BACKGROUND

During a November 15, 2003 robbery at an E-Z Mart in Little Rock, the robber shot employee Paul Aku in the hip and head before taking money from the cash register. Aku later identified Owens from a photo spread. At trial, the State introduced still photographs derived from the store's surveillance videotape, and the prosecutor used five of six peremptory challenges to strike Black male prospective jurors.

PROCEDURAL HISTORY

Owens was convicted in the circuit court and received consecutive sentences of life imprisonment for aggravated robbery and forty years for first-degree battery, plus a concurrent one-year jail sentence for misdemeanor theft.

The Supreme Court of Arkansas reviewed the Batson ruling and the evidentiary ruling and affirmed the judgment of conviction.

DISPOSITION

affirmed

CASES CITED

- Stenhouse v. State, 362 Ark. 480, 209 S.W.3d 352 (2005)
- MacKintrush v. State, 334 Ark. 390, 978 S.W.2d 293 (1998)
- Purkett v. Elem, 514 U.S. 765, 115 S. Ct. 1769, 131 L. Ed. 2d 834 (1995) (per curiam)
- London v. State, 354 Ark. 313, 125 S.W.3d 813 (2003)
- Ratliff v. State, 359 Ark. 479, 199 S.W.3d 79 (2004)
- McCoy v. State, 354 Ark. 322, 123 S.W.3d 901 (2003)
- Hawkins v. State, 348 Ark. 384, 72 S.W.3d 493 (2002)
- Williamson v. State, 267 Ark. 46, 590 S.W.2d 847 (1979)
- Wheeler v. Delco Ben, 237 Ark. 55, 371 S.W.2d 130 (1963)
- Nooner v. State, 322 Ark. 87, 907 S.W.2d 677 (1995)
- Roston v. State, 362 Ark. 408, 208 S.W.3d 759 (2005)