

SUPREME COURT OF ARKANSAS

Strong v. State

372 Ark. 404 (2008) (Ark. 2008) · No. CR 06-1346 · Decided February 21, 2008

SUMMARY

The Supreme Court of Arkansas affirmed Richard Leon Strong's convictions for two counts of rape and his consecutive life sentences. The court granted appointed counsel's motion to withdraw under Anders, rejected challenges to the sufficiency of the evidence and various evidentiary rulings, and concluded that the pro se arguments presented no meritorious grounds for reversal.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Annabelle Clinton Imber
JURISDICTION	Arkansas
DECIDED	February 21, 2008
DOCKET	CR 06-1346
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions for two counts of rape and two consecutive life sentences. Appellate counsel filed an Anders no-merit brief and a motion to withdraw; Strong filed pro se points for reversal.
STANDARD OF REVIEW	A directed-verdict motion is treated as a challenge to the sufficiency of the evidence, reviewed by viewing the evidence in the light most favorable to the State and affirming when substantial evidence supports the conviction. Evidentiary rulings, including rulings under Arkansas Rules of Evidence 404(b), 403, 609, and 702, are reviewed for abuse of discretion or manifest abuse of discretion as applicable. Preservation issues require that the argument be raised at trial and that the appellant obtain a ruling.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Richard Leon Strong v. State of Arkansas

TOPICS

- criminal procedure
- appellate procedure
- preservation of error
- evidence
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

evidence

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Strong's two rape convictions and whether his directed-verdict motions were properly denied.
2. Whether the circuit court properly admitted Strong's prior felony-theft conviction for impeachment under Arkansas Rule of Evidence 609.
3. Whether testimony concerning prior sexual conduct with another child was admissible under Arkansas Rule of Evidence 404(b) and the Arkansas pedophile exception.
4. Whether medical testimony concerning findings consistent with sexual abuse was admissible under Arkansas Rule of Evidence 704.
5. Whether a nurse practitioner's testimony concerning child-abuse victims' reporting and coping mechanisms was within her expertise under Arkansas Rule of Evidence 702.
6. Whether evidence of Strong's attempted drug overdoses was relevant and admissible as circumstantial evidence of consciousness of guilt.
7. Whether Strong's pro se arguments were preserved for appellate review and whether the record revealed prejudicial error under Arkansas Supreme Court Rule 4-3(h).

HOLDINGS

1. The circuit court properly denied Strong's directed-verdict motions because substantial evidence supported the two rape convictions. For rape under Ark. Code Ann. § 5-14-103(a)(4)(A)(i), the State was required to prove that K.M. was under eighteen, that Strong was her guardian, and that he engaged in sexual intercourse or deviate sexual activity with her; forcible compulsion was not required.
2. The circuit court did not abuse its discretion in admitting Strong's 1999 felony-theft conviction to attack his credibility under Arkansas Rule of Evidence 609.
3. The circuit court properly admitted Shavonia Strong's testimony concerning Strong's prior sexual conduct under the Arkansas pedophile exception to Rule 404(b).
4. The circuit court properly permitted the nurse practitioner's testimony concerning physical findings consistent with sexual abuse and penetration.
5. The nurse practitioner's testimony that child-abuse victims may report only recent incidents because of coping mechanisms was within her expertise and was properly admitted.
6. The circuit court did not abuse its discretion by admitting evidence that Strong attempted to overdose on drugs after learning of K.M.'s allegations, because the evidence could be considered as circumstantial evidence of consciousness of guilt.
7. The court declined to reach Strong's seventeen pro se points because they were not properly preserved, were unsupported by adequate argument or authority, or lacked an adverse trial-court ruling.

8. After examining the adverse rulings identified in the no-merit brief and the record under Arkansas Supreme Court Rule 4-3(h), the court found no prejudicial error and affirmed.

KEY QUOTATIONS

“Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other, without resorting to speculation or conjecture.” (164)

“Although we have not yet adopted a similar rule, we cannot say that the circuit court erred in permitting testimony regarding Strong's overdose attempts.” (169)

FACTUAL BACKGROUND

Strong, who acted as K.M.'s guardian and was regarded by her as a father, was convicted of raping K.M. on two occasions when she was fifteen. The incidents involved a motel room on January 10, 2006, and Bertie's apartment on January 13, 2006. DNA evidence linked Strong to semen found on K.M.'s underwear and a sock, and medical testimony described injuries and other findings consistent with sexual abuse. The circuit court also admitted testimony concerning prior sexual conduct with Strong's biological daughter, testimony by a nurse practitioner concerning child-abuse findings and reporting behavior, and evidence of Strong's attempted drug overdoses after learning of the allegations.

PROCEDURAL HISTORY

A Greene County jury convicted Strong of two counts of rape, and the circuit court imposed consecutive life sentences. An incest charge included in the information was dismissed before trial. After judgment was entered on August 17, 2006, Strong timely appealed. The Supreme Court of Arkansas conducted the required no-merit and Rule 4-3(h) review, granted counsel's motion to withdraw, and affirmed.

DISPOSITION

affirmed

CASES CITED

- Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967)
- Ramaker v. State, 345 Ark. 225, 46 S.W.3d 519 (2001)
- Cluck v. State, 365 Ark. 166, 226 S.W.3d 780 (2006)
- Pinder v. State, 357 Ark. 275, 166 S.W.3d 49 (2004)
- Thomas v. State, 315 Ark. 518, 868 S.W.2d 85 (1994)
- Sims v. State, 27 Ark. App. 46, 766 S.W.2d 20 (1989)
- Flanery v. State, 362 Ark. 311, 208 S.W.3d 187 (2005)
- White v. State, 367 Ark. 595, 242 S.W.3d 240 (2006)
- Hernandez v. State, 331 Ark. 301, 962 S.W.2d 756 (1998)
- Jennings v. State, 289 Ark. 39, 709 S.W.2d 69 (1986)

- MacKool v. State, 365 Ark. 416, 231 S.W.3d 676 (2006)
- People v. Butler, 12 Cal. App. 3d 189, 90 Cal. Rptr. 497 (1970)
- McKinney v. State, 466 A.2d 356 (Del. 1983)
- Walker v. State, 483 So. 2d 791 (Fla. Dist. Ct. App. 1986)
- Clay v. State, 318 Ark. 122, 883 S.W.2d 822 (1994)
- Chapman v. State, 343 Ark. 643, 38 S.W.3d 305 (2001)
- Medlock v. State, 332 Ark. 106, 964 S.W.2d 196 (1998)
- Raymond v. State, 354 Ark. 157, 118 S.W.3d 567 (2003)
- Weatherford v. State, 352 Ark. 324, 101 S.W.3d 227 (2003)
- Doss v. State, 351 Ark. 667, 97 S.W.3d 413 (2003)
- Aldridge v. State, 229 Ga. App. 544, 494 S.E.2d 368 (1997)
- State v. Hargraves, 62 Idaho 8, 107 P.2d 854 (1940)
- People v. Campbell, 126 Ill. App. 3d 1028, 82 Ill. Dec. 39, 467 N.E.2d 1112 (1984)
- State v. Mitchell, 450 N.W.2d 828 (Iowa 1990)
- Commonwealth v. Sheriff, 425 Mass. 186, 680 N.E.2d 75 (1997)
- State v. Painter, 329 Mo. 314, 44 S.W.2d 79 (1931)
- State v. Campbell, 146 Mont. 251, 405 P.2d 978 (1965)
- State v. Plunkett, 62 Nev. 258, 149 P.2d 101 (1944)
- State v. Brown, 128 N.H. 606, 517 A.2d 831 (1986)
- State v. Mann, 132 N.J. 410, 625 A.2d 1102 (1993)
- State v. Blancett, 24 N.M. 433, 174 P. 207 (1918)
- State v. Hunt, 305 N.C. 238, 287 S.E.2d 818 (1982)
- Commonwealth v. Giacobbe, 341 Pa. 187, 19 A.2d 71 (1941)
- State v. White, 649 S.W.2d 598 (Tenn. Crim. App. 1982)
- State v. Onorato, 171 Vt. 577, 762 A.2d 858 (2000)

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