

SUPREME COURT OF ARKANSAS

Paul Smith v. State of Arkansas, 347 Ark. 277

61 S.W.3d 168 (2001) · No. CR 01-440 · Decided December 13, 2001

SUMMARY

The Supreme Court of Arkansas held that Paul Smith failed to preserve his challenge to the sufficiency of the evidence supporting his kidnapping convictions because he did not renew his directed-verdict motion after the State presented rebuttal evidence. The court also dismissed the State’s cross-appeal concerning a peremptory challenge as untimely. The court conducted the required review under Arkansas Supreme Court Rule 4-3(h) and affirmed the direct appeal.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Hannah; Imber
JURISDICTION	Arkansas
DECIDED	December 13, 2001
DOCKET	CR 01-440
DISPOSITION	other
PROCEDURAL POSTURE	Paul Smith appealed his convictions for two counts of kidnapping, challenging the sufficiency of the evidence. The State cross-appealed the trial court's refusal to permit use of its tenth peremptory challenge.
STANDARD OF REVIEW	Sufficiency-of-the-evidence claims in criminal cases must be preserved by timely directed-verdict motions. In cases involving life imprisonment or death, the Supreme Court of Arkansas reviews the record for prejudicial error under Arkansas Supreme Court Rule 4-3(h) and Ark. Code Ann. § 16-91-113(a) (1987).
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	Paul Smith v. State of Arkansas

TOPICS

- criminal procedure
- preservation of error
- appellate procedure
- appellate jurisdiction

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Smith preserved a sufficiency-of-the-evidence challenge by failing to renew his directed-verdict motion after the State presented rebuttal evidence.
2. Whether the State's cross-appeal challenging denial of its tenth peremptory challenge was timely when filed more than thirty days after entry of judgment.
3. Whether the Rule 4-3(h) review disclosed prejudicial error in the life-imprisonment case.

HOLDINGS

1. A criminal defendant must renew a directed-verdict motion at the close of the State's rebuttal case, even when the rebuttal evidence concerns issues other than the elements of the charged offense. Failure to do so waives appellate review of the sufficiency of the evidence.
2. The State must file a notice of cross-appeal within thirty days after entry of the trial court's final order; an untimely cross-appeal cannot be considered.
3. In a case involving a sentence of life imprisonment, the Arkansas Supreme Court must review the record for prejudicial error, and no prejudicial error was found here.

KEY QUOTATIONS

"Close of the case means close of the whole case, in other words, after the last piece of evidence has been received." (at 170)

"Even if a defendant renews his motion at the close of his case-in-chief, the requirement of the rule to renew the motion at the 'close of the case' obligates the defendant to renew the motion again at the close of any rebuttal case that the State may present in order to preserve the sufficiency issue for appeal." (at 171)

FACTUAL BACKGROUND

Paul Smith had been in a relationship with Emma Goodman, who ended the relationship and required him to leave her home. During the night of Goodman's killing, her grandson Marcus Thomas saw Smith choking and striking Goodman, threatening her with a pocketknife, and striking her with a doorknob. Smith locked Marcus and his three-year-old sister Kayla in a bedroom while further violence occurred upstairs; Goodman was later found dead from strangulation and blunt-force trauma. Evidence also included Smith's admission, fresh wounds on his hands, and blood on items associated with him.

PROCEDURAL HISTORY

Smith was convicted of first-degree murder and two counts of kidnapping in an Arkansas trial court. He appealed only the kidnapping convictions. The State filed a cross-appeal concerning a peremptory challenge, but its notice was filed more than thirty days after entry of judgment. The Supreme Court of Arkansas held that Smith failed to preserve his sufficiency challenge and dismissed the State's untimely cross-appeal; it also conducted the required Rule 4-3(h) review and found no prejudicial error.

DISPOSITION

other

CASES CITED

- King v. State, 338 Ark. 591, 999 S.W.2d 183 (1999)
- Rankin v. State, 329 Ark. 379, 386, 948 S.W.2d 397 (1997)
- Heard v. State, 322 Ark. 553, 910 S.W.2d 663 (1995)
- MacKintrush v. State, 334 Ark. 390, 978 S.W.2d 293 (1998)
- Christian v. State, 318 Ark. 813, 889 S.W.2d 717 (1994)
- Hayes v. State, 312 Ark. 349, 849 S.W.2d 501 (1993)
- Collins v. State, 308 Ark. 536, 826 S.W.2d 231 (1992)
- DeWitt v. State, 306 Ark. 559, 815 S.W.2d 942 (1991)
- Thomas v. State, 315 Ark. 504, 868 S.W.2d 483 (1994)
- Byndom v. State, 344 Ark. 391, 39 S.W.3d 781 (2001)
- Oliver v. State, 323 Ark. 743, 918 S.W.2d 690 (1996)
- Aka v. Jefferson Hospital Association, 344 Ark. 627, 42 S.W.3d 508 (2001)
- Middleton v. Lockhart, 344 Ark. 572, 43 S.W.3d 113 (2001)