

SUPREME COURT OF MISSISSIPPI

Chancellor Christmas v. State of Mississippi

10 So. 3d 413 (Miss. 2009) · No. 2007-KA-01450-SCT · Decided April 2, 2009

SUMMARY

The Supreme Court of Mississippi affirmed Chancellor Christmas's convictions for armed robbery and house burglary, including enhanced sentences based on the victim's age. The court held that an impermissibly suggestive single-photograph identification was nevertheless sufficiently reliable, and that alleged errors concerning cross-examination, redirect examination, jury instructions, evidentiary sufficiency, peremptory instructions, and a juror challenge did not warrant reversal.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Kitchens, Justice; Waller, C.J.; Carlson, P.J.; Graves, P.J.; Dickinson, Justice; Randolph, Justice; Lamar, Justice; Chandler, Justice; Pierce, Justice
JURISDICTION	Mississippi
DECIDED	April 2, 2009
DOCKET	2007-KA-01450-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Criminal defendant appealed convictions and consecutive sentences for armed robbery and house burglary, including penalty enhancements based on the victim's age.
STANDARD OF REVIEW	Identification-reliability findings are reviewed for substantial credible evidence. Evidentiary rulings are reviewed for abuse of discretion. Sufficiency of the evidence is reviewed by asking whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements beyond a reasonable doubt. Preserved instructional issues are reviewed for legal error, and unpreserved issues generally are not considered.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Mississippi; precedential.
PARTIES	Chancellor Christmas v. State of Mississippi

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether identification testimony was inadmissible because police showed a witness a single photograph of Christmas without counsel present.
2. Whether the identification was sufficiently reliable despite an impermissibly suggestive procedure.
3. Whether the trial court improperly limited cross-examination of Deputy Sheriff Reeves.
4. Whether the trial court improperly permitted redirect examination beyond matters raised on cross-examination.
5. Whether the jury was required to receive a separate instruction defining constructive breaking.
6. Whether sufficient evidence supported the armed-robbery and house-burglary convictions.
7. Whether the trial court erred in denying Christmas's peremptory instructions.
8. Whether denial of a challenge for cause required reversal when the challenged juror did not sit and Christmas did not exhaust his peremptory challenges.

HOLDINGS

1. An accused has no Sixth Amendment right to counsel during a government photographic display conducted to obtain an identification.
2. Although showing a single photograph was impermissibly suggestive, the identification was admissible because it was reliable under the five-factor Biggers test.
3. The cross-examination claim was not reversible error because Christmas failed to proffer the excluded testimony or otherwise place the expected evidence in the record.
4. Redirect examination is limited to matters brought out during cross-examination, but the trial court's erroneous allowance of broader redirect did not warrant reversal because Christmas did not make a timely objection.
5. Forcing a victim into her home at gunpoint constitutes constructive breaking and satisfies the breaking element of Mississippi house burglary; a separate constructive-breaking instruction was unnecessary where the jury received adequate instructions on the statutory elements.
6. The evidence was sufficient to support the armed-robbery and house-burglary convictions.
7. The court did not reach the merits of the challenge-for-cause claim because the challenged juror did not sit on the jury and Christmas had not exhausted his peremptory challenges.

KEY QUOTATIONS

“Therefore we conclude that the initial identification of Christmas, by means of a single photograph, was “impermissibly suggestive.”” (10 So. 3d at 419)

“The scope of redirect examination, while largely within the discretion of the trial court, is limited to matters brought out during cross-examination.” (10 So. 3d at 421)

“By holding a gun to Ms. Sellers's head and forcing her into the home, Christmas met Mississippi's established standard for constructive breaking, which this Court has held satisfies the “breaking” element of burglary.” (10 So. 3d at 422)

FACTUAL BACKGROUND

Christmas and three other men traveled in a stolen black Avalanche and approached Margie Sellers, an elderly woman at her home. After initially asking about fishing, the men returned, forced Sellers into her home at gunpoint, demanded money, and took her purse. Police tracked the vehicle, which stopped after a chase; evidence recovered from it and testimony from a codefendant, a household member, and investigators connected Christmas to the robbery and burglary.

PROCEDURAL HISTORY

Christmas was tried alone after being indicted with three codefendants. A jury convicted him of armed robbery and house burglary and found that enhanced penalties applied because the victim was over sixty-five. The trial court imposed ninety years for armed robbery and fifty consecutive years for house burglary. The Mississippi Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Wilson v. State, 574 So. 2d 1324, 1326 (Miss. 1990)
- United States v. Ash, 413 U.S. 300, 321 (1973)
- Roche v. State, 913 So. 2d 306, 310-311 (Miss. 2005)
- Foster v. California, 394 U.S. 440, 443 (1969)
- Herrera v. Collins, 904 F.2d 944, 947 n.1 (5th Cir. 1990)
- Simmons v. United States, 390 U.S. 377, 383 (1968)
- Neil v. Biggers, 409 U.S. 188, 199-200 (1972)
- Hansen v. State, 592 So. 2d 114, 138 (Miss. 1991)
- Nicholson v. State, 523 So. 2d 68, 71 (Miss. 1988)
- Simmons v. State, 805 So. 2d 452, 487-488 (Miss. 2001)
- Burns v. State, 729 So. 2d 203, 218 (Miss. 1998)
- Ford v. State, 975 So. 2d 859, 865 (Miss. 2008)
- Peterson v. State, 671 So. 2d 647, 656 (Miss. 1996)

- Blocker v. State, 809 So. 2d 640, 646 (Miss. 2002)
- McGee v. State, 365 So. 2d 302, 304 (Miss. 1978)
- Conley v. State, 790 So. 2d 773, 786 (Miss. 2001)
- Blue v. State, 674 So. 2d 1184, 1212 (Miss. 1996)
- West v. State, 463 So. 2d 1048, 1055 (Miss. 1985)
- Cole v. Tullos, 228 Miss. 815, 90 So. 2d 32 (1956)
- Walker v. State, 913 So. 2d 198, 238 (Miss. 2005)
- Smith v. State, 499 So. 2d 750, 752-753 (Miss. 1986)
- State v. Jolly, 297 N.C. 121, 254 S.E.2d 1 (1979)
- Templeton v. State, 725 So. 2d 764, 766 (Miss. 1998)
- Rubenstein v. State, 941 So. 2d 735, 772 (Miss. 2006)
- Bush v. State, 895 So. 2d 836, 843 (Miss. 2005)
- Jackson v. Virginia, 443 U.S. 307, 315 (1979)
- Stephens v. State, 911 So. 2d 424, 436 (Miss. 2005)
- Pierre v. State, 607 So. 2d 43, 48 (Miss. 1992)
- Ross v. Oklahoma, 487 U.S. 81, 88 (1988)
- Chisolm v. State, 529 So. 2d 635, 639 (Miss. 1988)
- Mettetal v. State, 615 So. 2d 600, 603 (Miss. 1993)