

SUPREME COURT OF ARKANSAS

Rodney Harmon v. State of Arkansas

2020 Ark. 217 (2020) · No. CR-18-1057 · Decided May 28, 2020

SUMMARY

The Supreme Court of Arkansas affirmed Rodney Harmon’s convictions and vacated the court of appeals’ opinion. The court held that the State had no discovery obligation to obtain video footage held by HBO filmmakers who observed the search, upheld the denial of a continuance and exclusion of related testimony, and found harmless error in the nonmodel trafficking instruction. The court also upheld admission of a recorded controlled drug purchase during the penalty phase.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Robin F. Wynne; Baker; Hart; Wood
JURISDICTION	Arkansas
DECIDED	May 28, 2020
DOCKET	CR-18-1057
DISPOSITION	affirmed
PROCEDURAL POSTURE	Harmon appealed his convictions and aggregate forty-year sentence. The Arkansas Supreme Court granted his petition for review after the court of appeals affirmed in part and reversed in part.
STANDARD OF REVIEW	Discovery-rule rulings, denial of a continuance, evidentiary rulings, and jury-instruction rulings were reviewed for abuse of discretion. The court reviewed whether the erroneous jury instruction was harmless under the applicable harmless-error standard.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Rodney Harmon v. State of Arkansas

TOPICS

- criminal procedure
- fourth amendment
- discovery criminal
- jury instructions
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by refusing to order the State to obtain HBO footage of the search and identify all filmmakers present.
2. Whether the circuit court abused its discretion by denying a continuance to obtain the footage and identify the filmmakers.
3. Whether the circuit court abused its discretion by excluding testimony concerning the filmmakers' presence at the search.
4. Whether giving a nonmodel jury instruction on methamphetamine trafficking constituted reversible error.
5. Whether the circuit court abused its discretion by admitting, during the penalty phase, a recording of an alleged drug purchase made by a confidential informant who did not testify.

HOLDINGS

1. The State did not violate Arkansas discovery rules because it did not possess the footage, the filmmakers were not law-enforcement officers or state agents, and the State disclosed the filmmakers' presence and available contact information more than a year before trial.
2. The circuit court did not abuse its discretion in denying a further continuance.
3. The circuit court did not abuse its discretion by excluding testimony about the filmmakers' presence.
4. The nonmodel instruction was erroneous because the model trafficking instruction accurately stated the law and the trafficking statute did not include the added purpose-to-deliver factors, but the error was harmless because another instruction correctly presented the same factors.
5. The circuit court did not abuse its discretion by admitting the recording because Harmon's argument consisted only of conclusory assertions and was not supported by developed argument or sufficient legal authority.

KEY QUOTATIONS

“A nonmodel jury instruction is to be given only when the model instruction does not correctly state the law or there is no model instruction on the subject.” (at 13)

“We reiterate our long-standing rule that a trial court should not give a nonmodel instruction unless the court concludes that the model instruction does not accurately state the law.” (at 13)

FACTUAL BACKGROUND

In September 2015, law-enforcement officers executed a search warrant at Harmon's home and found more than six pounds of methamphetamine, firearms and ammunition, baggies, scales, and cash. An HBO documentary crew was present at the invitation of law enforcement, but the crew did not participate in the search, and neither the police nor the prosecution possessed the resulting footage. The prosecutor learned of the filmmakers' presence in January 2017, disclosed the information and available contact details to the defense, and unsuccessfully attempted to obtain the footage. The jury convicted Harmon of several drug-related offenses, and he received an aggregate forty-year sentence.

PROCEDURAL HISTORY

A Faulkner County Circuit Court jury convicted Harmon of methamphetamine trafficking within 1,000 feet of a school-bus stop, simultaneous possession of drugs and firearms, possession of drug paraphernalia, and maintaining a drug premises within 1,000 feet of a school-bus stop. The circuit court imposed an aggregate forty-year sentence. The court of appeals affirmed in part and reversed in part. The Supreme Court of Arkansas granted review, treated the appeal as originally filed in that court, affirmed, and vacated the court of appeals' opinion.

DISPOSITION

affirmed

CASES CITED

- Wilson v. Layne, 526 U.S. 603 (1999)
- Hicks v. State, 340 Ark. 605, 12 S.W.3d 219 (2000)
- Williams v. State, 267 Ark. 527, 593 S.W.2d 8 (1980)
- Lewis v. State, 286 Ark. 372, 691 S.W.2d 864 (1985)
- Foreman v. State, 328 Ark. 583, 945 S.W.2d 926 (1997)
- Barrow v. State, 2010 Ark. App. 589, 377 S.W.3d 481
- Price v. State, 365 Ark. 25, 223 S.W.3d 817 (2006)
- Miller v. State, 328 Ark. 121, 942 S.W.2d 825 (1997)
- Bullock v. State, 317 Ark. 204, 876 S.W.2d 579 (1994)
- Noel v. State, 331 Ark. 79, 960 S.W.2d 439 (1998)
- Vance v. State, 2011 Ark. 392, 384 S.W.3d 515
- Ventress v. State, 303 Ark. 194, 794 S.W.2d 619 (1990)
- Kinsey v. State, 2016 Ark. 393, 503 S.W.3d 772
- Pokatilov v. State, 2017 Ark. 264, 526 S.W.3d 849
- Moore v. State, 317 Ark. 630, 882 S.W.2d 667 (1994)
- Fincham v. State, 2013 Ark. 204, 427 S.W.3d 643
- Skinner v. R.J. Griffin & Co., 313 Ark. 430, 855 S.W.2d 913 (1993)
- MacKool v. State, 365 Ark. 416, 231 S.W.3d 676 (2006)
- Armstrong v. State, 366 Ark. 105, 233 S.W.3d 627 (2006)
- Stone v. Washington Reg'l Med. Ctr., 2017 Ark. 90, 515 S.W.3d 104 (2017)
- Lacy v. State, 272 Ark. 333, 614 S.W.2d 235 (1981)