

MISSISSIPPI SUPREME COURT DECISIONS – JUNE 20, 2024**SUPREME COURT - CIVIL CASES****CASELL V. CASELL****CIVIL - DOMESTIC RELATIONS**

PROPERTY - MARITAL PROPERTY - EXCLUSIONS - Mississippi’s definition of marital property excludes property acquired prior to the marriage or property attributable to one spouse’s separate estate

FAMILY LAW - MARITAL PROPERTY - COMMINGLING - If a party wishes for an asset to be classified as marital property, the burden rests on that party to demonstrate the transmutation of the asset either by commingling, an agreement between the spouses, or the use of the asset to benefit the family

FAMILY LAW - MARITAL PROPERTY PRESUMPTION - REBUTTAL - The burden of proof required to rebut the marital property presumption is a preponderance of the evidence

FAMILY LAW - COMMINGLING - TRANSMUTATION OF PROPERTY - The transmutation of property does not automatically occur simply because they are placed in the same account; a party must prove that these commingled funds were not only present in a joint marital account but were being used for the benefit of the other spouses and/or the entire family

FAMILY LAW - ALIMONY - EQUITABLE DIVISION - A chancellor should use the *Ferguson* factors in awarding alimony during the division of an estate and the *Armstrong* factors in awarding alimony subsequent to the division of the estate; *Cheatham* is overruled insofar as it has any bearing on a chancellor’s decision to award alimony

FACTS

Katherine (“Kathy”) and William (“Bill”) Cassell married in August 1991. Prior to the marriage, Bill and his two siblings inherited land in Mississippi from their mother, and they formed Waterloo Farms, Inc. (“Waterloo”), which held title to the inherited land. In addition to the inherited land, Waterloo owned land consisting of two tracts, “Tract One” and “Tract Two”, located in Claiborne County. After Kathy and Bill were married, Bill began farming as Valley of the Moon Farms, LLC (“VOM”), 50 percent of which was owned by Bill. The other 50 percent of VOM was owned by Moon Planting Company, Inc. (“MPC”). Kathy owned 99 percent of MPC, and Bill owned 1 percent. The parties maintained two bank accounts before their divorce, one personal joint account and one account for VOM. Bill and his brother used money from Waterloo distributions in exchange for a piece of property (“Turley Property”) in Kansas from Daniel and Ashley Turley. In 2020, Bill and his brother purchased another property (“Thompson Property”) in Kansas from Wayne and Glenda Thompson using, in part, cash from the VOM account. In 2021, Kathy filed for divorce on the grounds of uncondoned adultery and, alternatively, habitual cruel and inhuman treatment and irreconcilable differences. The chancery court entered an Agreed Temporary Order, which awarded Kathy temporary alimony in the amount of \$7,610 per month, maintenance of her health insurance premiums, and exclusive use and possession of the marital residence and its contents. At trial, the chancery court entered a final judgment of divorce on the ground of uncondoned adultery and classified Tract Two and the Turley Property as Bill’s separate property. The court also classified the Thompson Property and the VOM account as marital property. The court divided the marital assets according to the *Ferguson* factors and considered Kathy’s alimony request using the *Armstrong* factors. Kathy was awarded permanent periodic alimony and 40 percent of the marital estate. Kathy’s portion of the marital estate amounted to a lump sum payment of \$667,557, whereas Bill’s portion of the marital estate was valued by the chancery court at \$1,861,629.53. Kathy appealed.

ISSUES

Whether (1) Bill failed to rebut the marital property presumption for Tract Two and the Turley Property, and (2) the chancery court failed to consider and grant lump sum alimony.

HOLDING

(1) Because Kathy failed to present evidence that Tract Two became marital property through commingling, and because Bill presented sufficient evidence for the chancery court to find that he rebutted the marital property presumption by a preponderance of the evidence as to the Turley Property, the chancery court did not err in finding that Tract Two and the Turley Property were part of Bill's separate estate. (2) Because the chancery court followed the correct procedure and considered the correct factors under *Ferguson* and subsequently *Armstrong*, the chancery court did not err in failing to consider lump sum alimony under the factors enumerated in *Cheatham*. Therefore, the Supreme Court affirmed the judgment of the Claiborne County Chancery Court.

Affirmed - 2023-CA-00213-SCT (June 20, 2024)

Opinion by Justice Chamberlin

Hon. E. Vincent Davis (Claiborne County Chancery Court)

David Bridges for Appellant - B. Blake Teller for Appellee

Briefed by [Sydney Bailey](#)

Edited by [Emily Kaplan](#) & [William Davis](#)

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UNITEDHEALTHCARE OF MISS., INC. V. AMERIGROUP MISS., INC.

CIVIL - OTHER

CIVIL RPOECUDRE - TRADE SECRETS OR CONFIDENTIAL COMMERCIAL OR FINANCIAL INFORMATION - DISCLOSURES - Trade secrets or confidential commercial or financial information receive protection under the law from disclosure; however, publicly available information does not constitute trade secrets and receives no protection from disclosure

CIVIL PROCEEDURE - TRADE SECRETS - QUALIFICATIONS - Miss. Code Ann. § 75-26-3(d) defines a trade secret as information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy

CIVIL PROCEEDURE - TRADE SECRETS OR CONFIDENTIAL COMMERCIAL OR FINANCIAL INFORMATION - RECORDS FURNISHED BY THIRD PARTIES - Miss. Code Ann. § 25-61-9(1)(a) provides that records furnished to public bodies by third parties which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction until notice to third parties has been given, but the records shall be released no later than twenty-one days from the date the third parties are given notice by the public body unless the third parties have filed in chancery court seeking a petition seeking a protective on or before the expiration of the twenty-one-day time period

FACTS

The Mississippi Department of Medicaid (“DOM”) issued a Request for Qualifications No. 20211210 (“the RFQ”) in an attempt to get Managed Care Organizations (“MCOs”) to provide Medicaid Managed Care Services after the expiration of the contract. Under the RFQ, offerors had to provide documentation that the contractor performing managed care had not been sanctioned by a state or federal government within the past ten years. The RFQ also required the instructing offeror to submit a public copy of the qualification from which any confidential information had been redacted. UnitedHealthcare of Mississippi, Inc. (“United”), Magnolia Health Plan, Inc. (“Magnolia”), Molina Healthcare of Mississippi (“Molina”), and TrueCare all submitted qualifications. United included a compilation of governmental sanctions that it had incurred in the relevant time period in its qualifications, but the sanctions were redacted in the public copy. The DOM awarded contracts to other offerors but not to United. United submitted a protest of this decision. United received notice of several public records requests that had been submitted to the DOM regarding the RFQs. United sought a protective order to prevent disclosure of the redacted information, arguing that the redacted information constituted either trade secrets or confidential commercial or financial information. United also argued that

it could lose any competitive advantage as a result of this disclosure that could harm the business. TrueCare, Magnolia, Amerigroup, and Molina also submitted petitions for protective orders out of the same process, and the chancery court consolidated the actions. The offerors submitted redaction logs, along with their redacted and unredacted proposals, to the chancery court. After an in camera review of the redacted items, the chancery court entered a protective order which granted United's petition in part and denied it in part. The chancery court found that the sanctions constituted matters of public record that proved subject to disclosure under the law and ordered the DOM to disclose this information to the requestors. The chancery court stated that the disclosed information was confidential in nature and could only be used in connection with MississippiCAN and CHIP protests. The information was limited to the access of attorneys and persons involved in the protests and was to be destroyed after the protest proceedings. United appealed.

ISSUES

Whether the chancery court erred in finding that (1) TrueCare's audited financial reports and pro forma were not material to United's appeal; (2) Magnolia's actual costs of its publicly funded contracts were not necessary to determine the merits of the appeal; (3) the sanctions compilation was not a trade secret that was exempt from disclosure; and (4) the sanctions compilation did not constitute commercial and financial information that was exempt from disclosure.

HOLDING

(1) Because TrueCare's audited financial statements were not necessary to determine whether the sanctions compilation should be considered a trade secret or confidential commercial or financial information, the chancery court did not err in determining that TrueCare's audited financial statements and pro forma were not material to the appeal. (2) Because United offered no reason as to why the court should review Magnolia's specific contract figures, the chancery court did not err in determining that Magnolia's actual costs of its publicly funded contracts were not necessary to determine the merits of the appeal. (3) Because the chancery court's decision that the sanctions compilation was publicly available information was supported by substantial evidence, the chancery court did not err in finding the sanctions compilation was not a trade secret that was exempt from disclosure. (4) Because United merely compiled public information into a list, and because United did not show enough to transform public information into confidential commercial information, the chancery court did not err by finding that the sanctions compilation did not constitute commercial and financial information that was exempt from disclosure. Therefore, the Supreme Court affirmed the judgment of the Hinds County Chancery Court.

Affirmed - 2022-SA-01216-SCT (June 20, 2024)

Opinion by Presiding Justice King

Hon. Tiffany Piazza Grove (Hinds County Chancery Court)

Mary Margaret Gay, Keri Sullivan Henley, Eric J. Weisenburger, & Alex P. Hontos for Appellant - George H. Ritter, Donna Brown Jacobs, Timothy Lee Sensing, Phillip Buffington, Kathryn Russel Gilchrist, Glen Austin Stewart, John P. Sneed, Mark W. Garriga, Hugh Ruston Comley, Timothy James Anzenberger, & Brant James Ryan for Appellees

Briefed by [Matt Hennington](#)

Edited by [Mattie Hooker](#) & [Emily Phillips](#)

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SUPREME COURT - CRIMINAL CASES

HARRIS V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - INDIGENT DEFENDANTS - EXPERT EXPENSES - An indigent's right to defense expenses is conditioned upon a showing that such expenses are needed to prepare and present an adequate defense; a defendant seeking expert expenses must offer concrete reasons for requiring such assistance

TRIAL PRACTICE - MOTIONS IN LIMINE - OPENING STATEMENTS - As the purpose of an opening statement is to inform the jury what a party to the litigation expects the proof to show, courts must be certain that motions in limine do not unduly restrict the opposing party's presentation of its case

TRIAL PRACTICE - MOTIONS IN LIMINE - GRANTING - Motions in limine should only be granted in situations where (1) the material evidence in question will be inadmissible at a trial under the rules of evidence and (2) the mere offer, reference, or statements made during trial concerning the material will tend to prejudice the jury

FACTS

In February 2021, Deputy Austin Eldridge arrived on scene to clear large pieces of wood from Interstate 269. He positioned his patrol car in the right lane and kept his blue lights flashing to shield the disabled vehicles and their occupants on the side of the interstate. Katherine Harris approached the scene in her vehicle at over sixty miles per hour but neither slowed down nor attempted to avoid the patrol car. While Deputy Eldridge retrieved a car jack from his patrol car, Harris ran into Eldridge, crushing him between the two vehicles and inflicting severe injuries to his legs. State Trooper Jonathan Bishop arrived shortly thereafter and conducted standard field sobriety tests on Harris. Due to her poor performance in the tests, Trooper Bishop arrested Harris and, later in jail, watched as Harris's blood was drawn for blood-alcohol concentration ("BAC") analysis. As it was late on a Friday night, Trooper Bishop froze the blood sample to preserve it and, on Monday, delivered the sample to the crime lab, where a state toxicologist determined Harris's BAC to have been two times the legal limit. Harris was charged with aggravated DUI. Before trial, Harris requested funds to retain defense experts in toxicology and accident reconstruction to refute the State's claims, challenge the toxicology report, and attest to Harris's driving ability. However, the original blood sample had been destroyed after nine months because Harris had not requested the sample for defense evidence within that period. The trial court denied Harris's motions for expert funding, finding them unsubstantiated and overly broad. The trial court also partially granted the State's motion in limine to restrict the defense counsel's prejudicial comments about violations of law enforcement and district attorney procedures from opening and closing statements. After both the State's and the defense's arguments were heard, the jury found Harris guilty, and the trial court sentenced her to twenty-five years in prison with five suspended. Harris appealed.

ISSUES

Whether the trial court erred in (1) denying Harris's motions for expert funds and (2) partially granting the State's motion in limine to restrict Harris's opening and closing arguments.

HOLDING

(1) Because Harris's requests for an accident reconstructionist and toxicologist were too vague, would not have overcome the State's evidence had they been granted, and were rendered futile by both Harris's cross-examination of the State's experts and the destruction of the original blood sample, the trial court did not abuse its discretion in denying Harris's expert funds requests. (2) Because the trial court permitted Harris during the trial to methodically question the State's law enforcement witnesses on their procedures, and because Harris could not show how her defense was hampered, the trial court did not err in partially granting the State's motion in limine. Therefore, the Supreme Court affirmed the judgment of the Desoto County Circuit Court.

Affirmed - 2023-KA-00038-SCT (June 20, 2024)

Opinion by Justice Maxwell

Hon. Gerald W. Chatham Sr. (Desoto County Circuit Court)

Zakia Helen Annyce Butler & George T. Holmes (Pub. Def. Office) for Appellant - Allison Elizabeth Horne (Att'y Gen. Office) for Appellee

Briefed by [Jonathan Gandara](#)

Edited by [Katie Shaw](#) & [William Davis](#)

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MISSISSIPPI COURT OF APPEALS DECISIONS – JUNE 18, 2024
COURT OF APPEALS - CIVIL CASES

WILLIAMS V. WILLIAMS

CIVIL - WILLS, TRUSTS, & ESTATES

TRUSTS - CONSTRUCTIVE TRUSTS - CONFIDENTIAL RELATIONSHIP - To establish a constructive trust under the theory of abuse of a confidential relationship, the relationship must rise above merely familial and into the realm of confidence

TRUSTS - CONSTRUCTIVE TRUSTS - ABUSE OF CONFIDENCE - Even if a relationship rises to the level of a confidential relationship, there must also be a breach of that relationship by undue influence or breach of promise to establish a constructive trust

TRUSTS - CONSTRUCTIVE TRUST - UNJUST ENRICHMENT - A constructive trust may be imposed if the person holding legal title to the property is unjustly enriched by retaining the property

FACTS

Nicole Williams alleged that she had an agreement with her mother, Estella Williams, that entitled Nicole to Estella's house if Nicole invested money into repairing Estella's home. Nicole lived in the house for almost twenty-five years without paying rent and spent roughly \$5,000 fixing up the house. Estella moved out after an argument between her and Nicole, and she filed an action to evict Nicole from the house. Nicole filed a petition and requested that the court impose a constructive trust and compel Estella to transfer title in the house to Nicole. At trial, Nicole's testimony was unclear on whether Estella intended to will the house to her or convey it to Nicole during life. Nicole's sister, who Estella moved in with at the time of trial, testified that she thought the agreement between Nicole and Estella would happen upon Estella's death. Estella also testified that the agreement was to be executed by will. The chancery court refused to impose a constructive trust and dismissed Nicole's complaint. Nicole appealed.

ISSUES

Whether (1) the chancery court erred in concluding that no confidential relationship existed between Estella and Nicole; (2) the chancery court erred in finding that Nicole failed to prove Estella made a promise to convey her house; and (3) it was equitable to allow Estella to retain the entire value of the home and Nicole's investment in the home without any equitable relief.

HOLDING

(1) Because Nicole did not explain in her testimony how she confided in Estella to such a degree that their relationship was elevated from a familial one to a confidential one, the chancery court did not err in finding that no confidential relationship existed between Estella and Nicole. (2) Because there was not sufficient evidence presented to show that Estella promised to convey the house to Nicole during her lifetime, the chancery court did not err refusing to impose a constructive trust. (3) Because Nicole would have received the home she lived in rent-free for twenty-five years for only the cost of the improvements she made, the chancery court did not err in finding that it was equitable to allow Estella to retain the entire value of the home including the value of Nicole's \$5,000 improvements. Therefore, the Court of Appeals affirmed the judgment of the Warren County Chancery Court.

Affirmed - 2023-CA-00360-COA (June 18, 2024)

Opinion by Judge McDonald

Hon. Vicki R. Barnes (Warren County Chancery Court)

Lindsey Oswalt Watson for Appellant - Michael R. Bonner for Appellee

Briefed by [Caroline Byrd](#)

Edited by [Emily Kaplan](#) & [William Davis](#)

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COURT OF APPEALS - CRIMINAL CASES

BAUCOM V. STATE

CRIMINAL - FELONY

EVIDENCE - SUFFICIENCY CHALLENGE - BEYOND A REASONABLE DOUBT - When reviewing a challenge to the sufficiency of the evidence, the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt

CRIMINAL LAW - SEXUAL BATTERY - TIME - Time is not an essential element of the crime of sexual battery; a child sex victim's testimony that the abuse occurred within two months of the charged date is reasonably near, or within reasonable limits of, the charged time frame to support a sexual battery conviction

FACTS

In February 2019, eight-year-old Ryan disclosed to his mother that Alan Baucom had been sexually abusing him for a long time during sleepovers at his friend Carson's house. Carson lived with his father, stepmother, Baucom, and other family members in a three-bedroom trailer. Following Ryan's disclosure, a police report was made which led to Baucom's arrest. In April 2019, Baucom was indicted on one count of sexual battery and two counts of fondling. At trial, Ryan testified that the abuse began when he was eight years old and involved inappropriate touching and other acts, both in the trailer and in a shed on the property. Ryan testified that he could not recall how many times the abuse occurred, but he estimated approximately five to ten times. Carson corroborated Ryan's testimony, stating that Baucom made the boys touch him inappropriately and that Baucom touched them in the same manner. Ryan's forensic interview was presented, with testimony by Misty Applegate with the Family Resource Children's Advocacy Center who indicated that Ryan's statements were consistent with a child who had been sexually abused. The defense presented witnesses, including Carson's stepmother and half-sisters, who testified about the living arrangements and frequency of sleepovers, along with Baucom's father and another man living in the trailer who suggested alternative theories for the abuse and cast doubt on the credibility of the allegations. Baucom was convicted of one count of sexual battery and two counts of fondling. Baucom appealed.

ISSUE

Whether the evidence was sufficient to support Baucom's convictions for sexual battery and fondling.

HOLDING

Because the sexual battery and fondling incidents were sufficiently near the charged time to sustain the convictions, the evidence was sufficient to support Baucom's convictions. Therefore, the Court of Appeals affirmed the judgment of the Pontotoc County Circuit Court.

Affirmed - 2023-KA-00516-COA (June 18, 2024)

Opinion by Judge Greenlee

Hon. Michael Paul Mills Jr. (Pontotoc County Circuit Court)

Mollie Marie McMillin (Pub. Def. Office) for Appellant - Lauren Gabrielle Cantrell (Att'y Gen. Office) for Appellee

Briefed by [Forrest Carman](#)

Edited by [Mattie Hooker](#) & [William Davis](#)

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BLACK V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - MIRANDA RIGHTS - CUSTODIAL INTERROGATION - The status of whether a person is in custody depends on if a reasonable person would feel that they were going to jail and not just temporarily detained

CRIMINAL PROCEDURE - TRIAL TESTIMONY - WITNESS RECALL - Whether a witness can be recalled to the stand after their testimony is complete is a matter vested in the sound discretion of the trial court

CRIMINAL PROCEDURE - APPELLATE PRACTICE - PREJUDICE - Simply showing an error in ruling on admissibility of evidence does not require reversal unless some prejudice to the defense arising from an erroneous ruling can be shown

CRIMINAL PROCEDURE - POST-TRIAL MOTIONS - SPECIFICITY - Motions for directed verdict or judgment notwithstanding the verdict must be specific or will be procedurally barred

CRIMINAL PROCEDURE - REVERSIBLE ERROR - CUMULATIVE-ERROR DOCTRINE - Under the cumulative-error doctrine, individual errors may combine with other errors to make up reversible error, where the cumulative effect of all errors deprives the defendant of a fundamentally fair trial

FACTS

Officer Brandon Brown pulled over Direck Black for a traffic violation. Officer Afrenee Saffold arrived on the scene and smelled marijuana in Black's car. While seated in the car, Black denied any drug possession. Saffold asked Black to step out of the car and questioned Black again about drugs. Black admitted to having drugs in his car. The officers then called a K9 unit which indicated drugs in the car. A search of the car revealed drugs. At a pre-trial hearing, the trial court denied Black's motion to suppress his statement made during the stop. At trial, the State directed the officers to avoid introducing Black's statement that he had marijuana in the vehicle. Before the State rested its case, the State recalled Saffold to introduce Black's incriminating statement. The trial court overruled Black's objection. After the State rested its case, Black moved for a directed verdict on the basis that the state failed to establish Black had possession of the drugs. The court denied this motion, and the jury found Black guilty on all counts. Black appealed.

ISSUES

Whether (1) the trial court erred by failing to suppress Black's statement given to police during the traffic stop; (2) the trial court erred by allowing the State to recall Saffold to the stand; (3) the evidence against Black was insufficient to support the convictions of possession of controlled substances with intent to distribute; and (4) cumulative error warranted reversal.

HOLDING

(1) Because Black was not in custody when he made his incriminating statements, the trial court properly allowed Black's statement given to police during the traffic stop. (2) Because Black did not suffer actual prejudice from Saffold's testimony, the trial court did not abuse its discretion in allowing the State to recall Saffold to the stand. (3) Because Black failed to argue the specific issue of the element of intent to distribute in his post-trial motion, he waived the argument that the evidence against him was insufficient to support the convictions of possession of controlled substances with intent to distribute. (4) Because there was no error, and because the evidence was more than sufficient, there was no reversible error. Therefore, the Court of Appeals affirmed the judgment of the Tunica County Circuit Court.

DISSENT

Judge Westbrook argued that Black was in custodial interrogation when he made the inculpatory statements. Therefore, the statements should have been suppressed at trial, and Saffold should not have been allowed to take the stand for the sole purpose of introducing the statements.

Affirmed - 2022-KA-01223-COA (June 18, 2024)

En Banc Opinion by Judge Greenlee - Dissent by Judge Westbrook
Hon. Charles E. Webster (Tunica County Circuit Court)

Mark Kevin Horan for Appellant - Casey B. Farmer & Brenda Fay Mitchell (Att’y Gen. Office) for Appellee
Briefed by [John Walker Webb](#)
Edited by [Brandon Peterson](#) & [Emily Phillips](#)

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JACKSON V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - INDIGENT CRIMINAL DEFENSE - LINDSEY BRIEF - Where appellate counsel represents an indigent criminal and does not believe his or her client’s case presents any arguable issues on appeal, counsel must file a *Lindsey* brief and represent that there are no arguable issues for appeal

CRIMINAL PROCEDURE - INDIGENT CRIMINAL DEFENSE - LINDSEY BRIEF - After reviewing the briefs and conducting an independent and thorough review of the record and no issues warranting reversal are found, the court shall document the findings and affirm the conviction and sentence

FACTS

Lakeysha Jackson was arrested and charged with attempted aggravated assault and shooting into a motor vehicle. At trial, after the State rested its case, Jackson filed a motion for a directed verdict, which the trial court denied. The jury declared a mistrial when they were unable to reach a unanimous verdict on the charge of attempted aggravated assault. However, Jackson was convicted of shooting into a motor vehicle and sentenced accordingly. Jackson filed a motion for a judgment notwithstanding the verdict or, in the alternative, a new trial, which was denied. Jackson’s appointed appellate counsel filed a brief consistent with the procedure in *Lindsey* and represented that there were no arguable issues for appeal. The court grant Jackson’s counsel’s request that the court grant Jackson forty days of additional time to file a pro se supplemental brief. Jackson did not file a pro se supplemental brief within forty days.

ISSUES

Whether the case presented any arguable issue on appeal.

HOLDING

Because Jackson’s appointed appellate counsel filed a brief consistent with the procedure in *Lindsey*, and because Jackson had not filed a supplemental brief, there were no issues to warrant a reversal. Therefore, the Court of Appeals affirmed the judgment of the Coahoma County Circuit Court.

Affirmed - 2023-KA-00224-COA (June 18, 2024)

Opinion by Judge Greenlee

Hon. Linda F. Coleman (Coahoma County Circuit Court)

Justin Taylor Cook (Pub. Def. Office) for Appellant - Scott Stuart (Att’y Gen. Office) for Appellee

Briefed by [Zachary Perez](#)

Edited by [Katie Shaw](#) & [Emily Phillips](#)

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LONGS V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - WAIVER OF JURY TRIAL - KNOWING, VOLUNTARY, AND INTELLIGENT WAIVER - Before accepting any waiver of the right to trial by jury, the court must address the

defendant personally, advise the defendant of the right to a jury trial, and ascertain that the waiver is knowing, voluntary, and intelligent and that the State consented to this; such waiver shall be made in writing or in open court on the record **CRIMINAL PROCEDURE - WAIVER OF JURY TRIAL - DECEIT CLAIM** - When a trial court adequately informs a defendant of his constitutional right to a jury trial and of the consequences of waiving his right, he cannot then claim that he was deceived into requesting a bench trial

FACTS

A grand jury indicted Tamara Longs on one count of first-degree murder and one count of aggravated assault. At trial, Longs moved ore tenus for a bench trial. After being sworn in and questioned by the trial court, Longs confirmed that she wished to waive her right to a jury trial. Longs stated that she understood that she would not be able to argue after the fact that she had wanted a jury trial. Before proceeding to the bench trial, the court acknowledged that Longs's waiver was freely and voluntarily given and that the State consented. After the State rested its case-in-chief, Longs moved for a directed verdict on both counts. The trial court granted a limited directed verdict on the charge of first-degree murder in favor of Longs. However, the trial court allowed the State to proceed on Count I for the lesser-included charges of second-degree murder or manslaughter and denied Longs's motion as to the aggravated assault charge. After the trial, the court found Longs guilty of manslaughter and the lesser included simple assault. Longs moved for the trial court to vacate her manslaughter conviction and grant a new trial. Her motion was denied. Longs appealed.

ISSUES

Whether (1) the trial court followed the correct procedure regarding Longs's waiver of a jury trial; and (2) Longs's waiver of a jury trial was knowing, intelligent, and voluntary.

HOLDING

(1) Because the trial court addressed Longs personally, advised her of the right to a jury trial, and ascertained that her waiver was knowing, voluntary, and intelligent, and because Longs affirmatively stated that she wished to waive her right to a jury trial in open court and on the record, the trial court followed the correct procedure regarding Longs's waiver of a jury trial. (2) Because the trial court adequately informed Longs of her constitutional right to a jury trial and of the consequences of waiving her right, Longs's waiver of a jury trial was knowingly, intelligently, and voluntarily made. Therefore, the Court of Appeals affirmed the judgment of the Wilkinson County Circuit Court.

Affirmed - 2022-KA-00750-COA (June 18, 2024)

Opinion by Judge McCarty

Hon. Forrest A. Johnson Jr. (Wilkinson County Circuit Court)

Wayne Dowdy for Appellant - Allison Elizabeth Horne (Att'y Gen. Office) for Appellee

Briefed by [Andrew "Blake" Huffman](#)

Edited by [Brandon Peterson](#) & [Emily Phillips](#)

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PAGE V. STATE

CRIMINAL - FELONY

EVIDENCE - ADMISSIBILITY - PRIOR BAD ACTS - Miss. R. Evid. 404(b) generally prohibits evidence of other crimes, wrongs, or acts to prove the character of a person in order to show that he acted in conformity therewith; it may, however, be admissible for other purposes such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident

EVIDENCE - PRIOR BAD ACTS - COURT'S DISCRETION - Trial judges have the discretion to admit evidence of other crimes or bad acts for reasons not listed in Miss. R. Evid. 404(b)(2), like telling the complete story so as not to confuse the jury

EVIDENCE - PRIOR BAD ACTS - RELEVANCE - Prior to admitting other bad acts, a trial judge must first determine whether the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence

FACTS

A man in dark clothing wearing a face mask exited a red SUV with an assault rifle and approached the front porch of Jeremy Thompson. A second incident occurred approximately eleven minutes later, in which Jade Evans was driving her vehicle when a red SUV forced her to stop, and a man wearing dark clothing, a mask, and brandishing an assault rifle got out of his vehicle and attempted to rob her. Less than two hours later, the police received a call from A.W., who reported that she had just been raped by a man who broke into her home. A.W. described the suspect as an African American man, 5 feet, 8 inches tall, with light brown eyes and wearing a black hoodie with a white logo, black pants, and a black mask. Several days later, Jkwon Page was arrested for an unrelated incident. The police noticed that Page fit A.W.'s description of the man who raped her. Page later admitted to both driving a red SUV to Thompson's house and attempting to rob Evans. Page also admitted that he lived in the same complex as A.W. and had been inside her apartment but only in an effort to rob her. Page stated that a different man must have stayed behind after the attempted robbery and that he must have been the one to rape her. The police found a condom in Page's apartment that matched the wrapper left in A.W.'s apartment and a handgrip for an assault rifle in Page's car. Prior to trial, the State moved to admit evidence of the two prior incidents involving Thompson and Evans. Page objected, arguing that the prior bad acts were propensity evidence and should not be allowed. The trial court found that the evidence was admissible to prove identity and explain how Page became a suspect in the case. At trial, the State introduced surveillance footage of the prior incidents, testimony from Thompson and Page about the description of the suspect, and testimony from A.W. that there was only one man who raped her and that he was the same man from the two prior incidents. After the State rested, the defense moved for a directed verdict because the State had not proved that Page was the man who committed the alleged crimes. The motion was denied, and Page was found guilty of rape, sexual battery, and burglary of a dwelling; he was sentenced to thirty years in prison. Page appealed.

ISSUE

Whether the trial court erred by allowing the State to introduce evidence of the two prior incidents involving Page.

HOLDING

Because the State used evidence of the prior two incidents involving Page to prove Page's identity as the perpetrator and to tell a complete story as to how Page became a suspect, and because the evidence was more probative than prejudicial since identity was a major issue in the case, the trial court did not err by allowing the State to introduce evidence of the two prior incidents involving Page. Therefore, the Court of Appeals affirmed the judgment of the Lamar County Circuit Court.

Affirmed - 2023-CA-01078-COA (June 18, 2024)

Opinion by Judge Greenlee

Hon. Brad Ashley Touchstone (Lamar County Chancery Court)

George T. Holmes (Pub. Def. Office) for Appellant - Casey Bonner Farmer (Att'y Gen. Office) for Appellee

Briefed by [Benjamin Duddy](#)

Edited by [Summie Carlay](#) & [Emily Phillips](#)

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