

MISSISSIPPI SUPREME COURT DECISIONS – FEBRUARY 20, 2025**SUPREME COURT - CIVIL CASES****LEE V. CITY OF PASCAGOULA****CIVIL - STATE BOARDS & AGENCIES**

CIVIL PROCEDURE - JURISDICTION - STANDING - Courts cannot adjudicate cases where the appellant lacks standing; standing must exist when litigation is commenced and must continue through all subsequent stages of litigation, or the case will become moot

JUSTICIABILITY - MOOTNESS - ADVISORY OPINIONS - Courts lack the power to rule on cases that do not present an actual controversy; an appeal that seeks a decision that will have no practical legal effect is considered non-justiciable, and issuing a ruling would constitute an improper advisory opinion

FACTS

Linda Lee owned the Crown Inn Motel in Pascagoula (the “City”). The property had deteriorated significantly, was being used improperly, and was attracting illegal activity. Over four years, the police responded to more than a thousand calls regarding the motel. In 2021, the City ordered Lee to address the issues or face condemnation. She was notified of a city hearing, but she did not appear. Instead, her son and a contractor attended and attempted to negotiate repairs. On the day of the hearing, Lee transferred ownership of the property to her son. The City council ordered the motel’s demolition. Lee appealed to the Jackson County Circuit Court, arguing that the City failed to provide sufficient notice. The circuit court affirmed the demolition order. Lee then appealed to the Mississippi Court of Appeals. By the time her appeal was heard by the Court of Appeals, the motel had already been torn down. The City attached evidence of the motel’s demolition to its appellate brief, and Lee admitted that the property had been razed in her reply brief. The Court of Appeals held that the city’s notice was inadequate and remanded the case for a determination of what remedy, if any, should be afforded to Lee. The City petitioned for writ of certiorari.

ISSUES

Whether (1) Lee’s appeal of the demolition order was moot and (2) Lee lacked standing to bring the appeal.

HOLDING

(1) Because the motel was already demolished, the appeal of the demolition order was moot. (2) Because Lee transferred ownership of the property before her appeal, Lee lacked standing to bring the appeal. Therefore, the Supreme Court vacated the Court of Appeals’ decision and dismissed the appeal.

Vacated & Dismissed - 2022-CT-01190-SCT (Feb. 20, 2025)

En Banc Opinion by Justice Maxwell

Hon. Kathy King Jackson (Jackson County Circuit Court)

William Harvey Barton for Appellant - Michael Riley Moore for Appellee

Briefed by [Regena Rowe](#)

Edited by [Brandon Peterson](#) & [William Davis](#)

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LENOIR V. STATE

CIVIL - CRIMINAL - FELONY

CIVIL PROCEDURE - JUDICIAL CONDUCT- APPOINTMENT OF SPECIAL JUDGES - Miss. Code Ann. § 9-1-105(5) provides that when a judicial officer is unwilling or unable to hear a case or unable or unwilling to hold court for a period of time not to exceed two (2) weeks, the trial judge or judges of the affected district or county and other trial judges may agree among themselves regarding the appointment of a person for such case or such limited period of time; the trial judges shall submit a notice to the Chief Justice of the Supreme Court informing him of their appointment; if the Chief Justice does not appoint another person to serve as special judge within seven (7) days after receipt of such notice, the person designated in such order shall be deemed appointed

CIVIL PROCEDURE - RECUSAL - GOVERNING PROCEDURE - Miss. Code Ann. § 9-1-105(5) authorizes the appointment of the special judge, but it is recommended that judges follow this section where there is a recusal, and the entry of the appointing order requires the participation of a judge who is recused

APPELLATE PROCEDURE - BRIEF REQUIREMENTS - ARGUMENT SECTION - It is required that the argument section of an appellant's brief contains the contentions of appellant with respect to the issues presented, and the reasons for those contentions, with citations to the authorities, statutes, and parts of the record relied upon; the Supreme Court has stated it is under no obligation to consider assignments of error when no authority is cited

FACTS

On or about March 29, 2021, Wendy McMahan was found deceased at attorney Robert Lenoir's residence in Pike County. Lenoir's mother and brother were also attorneys in Pike County. Because of this conflict, Pike County Judges David H. Strong, Jr. and Michael M. Taylor recused themselves from the case and appointed Senior Status Judge Forrest A. Johnson to preside over the matter. The order was signed by both judges and was included in the record. A filed-stamped copy of the order was not but instead was attached as an exhibit. Over a year later, on June 7, 2022, Judge Johnson entered an order appointing E. Lin Carter, District Attorney for the Twelfth Circuit Court District, as special prosecutor. On June 9, 2022, Lenoir was indicted on seven counts, including first degree murder, possession of methamphetamine, child endangerment, tampering with physical evidence, felony child abuse, and witness tampering. Following Lenoir's indictment, Judges Strong and Taylor entered a second order of recusal and appointment of special judge on June 29, 2022. In July 2022, Lenoir entered a waiver of arraignment and pled not guilty. On August 18, 2022, Lenoir filed a motion to change venue since both circuit judges and the Pike County District Attorney's Office had recused. On August 31, 2023, Judge Johnson granted Lenoir's motion and transferred venue from Pike County to Adams County and set a trial date for November 13, 2023. On September 11, 2023, Lenoir filed a motion to disqualify Judge Johnson and quash the indictment arguing his appointment was a nullity, and there was no evidence that the statute under which Judge Johnson was appointed was followed. Judge Johnson denied the motion. Lenoir appealed.

ISSUES

Whether (1) Judge Johnson's appointment in the April 6, 2021 order was ineffective due to a lack of judicial authority; (2) Judge Johnson's appointment in the April 6, 2021 order was defective due to a lack of notice, (3) the filed-stamped copy of the April 6, 2021 order should be disregarded because it was not included in the appellate record; (4) the appointment of the special prosecutor was done without authority; (5) Judge Strong's post-recusal actions related to the grand jury report had any legal effect; and (6) Judge Johnson could preside over the case because he issued search warrants.

HOLDING

(1) Because Miss. Code Ann. § 9-1-105(5) remained a lawful statute, because Miss. Code Ann. § 9-1-105(5) authorized the procedure in which Judge Johnson was appointed, Judge Johnson's appointment in the April 6, 2021 order was not ineffective. (2) Because the order appointing Judge Johnson ordered that a copy of the order should immediately be furnished to Chief Justice Michael Randolph, and because Judge Johnson did not enter any orders on the same day that the order appointing him was filed, Judge Johnson's appointment in the April 6, 2021 order was not defective due to lack of notice. (3) Because a file-stamped copy of the order was not disclosed before or during the court's hearing on Lenoir's motion, it should not be part of the record on appeal. (4) Because the special prosecutor not being formally appointed by the trial court at the time the case was presented to the grand jury did not alone warrant a dismissal of the indictment, there was no evidence of improper influence. (5) Because Judge Strong's signature on the grand jury report did not equate to hearing any matters arising in that cause, Judge Strong's post-recusal actions related to the grand jury

report did not have any legal effect. (6) Because Lenoir failed to raise the issue of Judge Johnson presiding over the case after issuing search warrants in trial court, his argument was premature and again failed at the time of appeal. Therefore, the Supreme Court affirmed and remanded the judgment of the Pike County Circuit Court.

Affirmed & Remanded - 2023-IA-01181-SCT (Feb. 20, 2025)

Opinion by Justice Griffis

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

Thomas M. Fortner & Ronald L. Whittington for Appellant - Earl Lindsay Carter Jr. & James L. Lane Jr. for Appellee

Briefed by [Joree Rose](#)

Edited by [Emily Kaplan](#) & [Emily Phillips](#)

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SUPREME COURT - CRIMINAL CASES

KNIGHT V. STATE

CRIMINAL - FELONY

CRIMINAL LAW - FOURTH AMENDMENT SEARCHES - PRIVATE SEARCH DOCTRINE - the government does not conduct a search that implicates the protections of the Fourth Amendment when (1) a private individual, not acting as the government's agent, first conducts the search or seizure, and (2) the government does not thereafter exceed the scope of the private citizen's initial search or seizure

CRIMINAL PROCEDURE - CROSS EXAMINATION - TACTICS - The prosecution is allowed wide latitude on cross-examination, as long as the tactics used are not inflammatory or intended to incite the jury

CONSTITUTIONAL LAW - DUE PROCESS - FALSE TESTIMONY - To prove a violation of his due process rights, the defendant must first demonstrate that a prosecution witness knowingly provided false testimony

CONSTITUTIONAL LAW - SENTENCING - PROPORTIONALITY - The U.S. Supreme Court has stated that a court should use a three-part analysis to determine the constitutionality of a sentence by reviewing: (i) the gravity of the offense and the harshness of the penalty; (ii) the sentences imposed on other criminals in the same jurisdiction; and (iii) the sentences imposed for commission of the same crime in other jurisdictions

FACTS

Sarah and her two minor children lived with William Jeffrey Knight, Sarah's boyfriend. Sarah became suspicious that Knight was cheating on her and looked through Knight's phone while he was sleeping. Sarah paid the bill for Knight's phone. Sarah found an app that she was unfamiliar called "Vaulty" and broke into the app after watching a YouTube video. On Vaulty, Sarah found a pornographic video of her twelve-year-old daughter, Jane. Sarah took Knight's phone and her two children to the police department, where she showed Sergeant David Courtney the video. Detective Sammy Ray arrived later and reviewed the video with Sarah's instructions on how to access it. Neither Courtney nor Ray viewed any other contents on the phone. Ray then obtained three warrants: one for Knight's arrest, one to search Knight and Sarah's residence, and one to search Knight's phone and laptop. The search warrants had multiple scrivener's errors, including incorrect details about the location of Knight's devices, the involvement of a third party unrelated to the case, and erroneous dates. Forensic analysis of the phone produced pieces of evidence that were later used at trial. Knight was indicted for three counts: child exploitation in violation of Miss. Code Ann. § 97-5-33(1); child exploitation in violation of Miss. Code Ann. § 97-5-33(5); and touching of a child for lustful purposes in violation of Miss. Code Ann. § 97-5-23(1). During cross-examination, the prosecutor questioned Knight about a text exchange with Jane. Knight objected, but the court overruled the objection. The prosecutor then made statements about messages between Knight and Jane and the timeline of Sarah accessing Knight's phone. Knight objected to those statements, and the court sustained the objections. A jury found Knight guilty and convicted him of all three counts. The trial court sentenced him to forty years each for counts one and two and fifteen years for count three. Knight appealed.

ISSUES

Whether (1) the warrantless search of Knight's cell phone violated his Fourth Amendment rights; (2) prosecutorial misconduct deprived Knight of a fair trial; (3) the search warrants were valid; (4) the State knowingly presented false testimony; (5) Knight's sentences were disproportionate; (6) Knight received ineffective assistance of counsel; and (7) the trial court committed cumulative error.

HOLDING

(1) Because Sarah first conducted the search of Knight's phone without government influence, and because Ray and Courtney did not exceed the scope of Sarah's search, the private search doctrine applied, and the warrantless search of Knight's cell phone did not violate his Fourth Amendment rights. (2) Because the prosecution was afforded a wide latitude on questioning during cross-examination, because the prosecutor did not incorporate any personal belief as to Knight's guilt, and because the prosecutor's statements were not so prejudicial or inflammatory as to require reversal, Knight was not deprived of a fair trial by any kind of prosecutorial misconduct. (3) Because the errors in the warrants were minor and did not impact the main inquiry of probable cause, the search warrants were valid. (4) Because Knight did not demonstrate that any prosecution witness knowingly provided false testimony through mere inconsistencies in testimonies, the State did not knowingly present false testimony. (5) Because Knight's sentencing did not violate the statutory maximum penalties prescribed for the three counts, Knight's sentences were not disproportionate. (6) Because the Supreme Court lacked sufficient evidence and information to address the ineffective assistance of counsel claim on direct appeal, the issue was preserved for Knight's potential future post-conviction relief petitions. (7) Because the trial court did not commit error in part, the trial court did not commit cumulative error. Therefore, the Supreme Court affirmed the judgment of the Forrest County Circuit Court.

CONCURRENCE

Presiding Justice King argued that Ray's warrantless search of Knight's phone was unconstitutional in violation of the Fourth Amendment because Ray knew the circumstances of Sarah's initial search and that Sarah did not have authorization to open the Vaulty app. However, Presiding Justice King argued that because no evidence suggested that Ray viewed anything but the photos and videos that Sarah had already discovered, the constitutional violation by Ray resulted in no actionable harm.

DISSENT

Justice Ishee argued that the private search doctrine did not apply to Ray's warrantless viewing of the video on Knight's phone because Ray could not have been virtually certain that he would not come across any other material on Knight's phone besides the video Sarah found. Justice Ishee further argued that the third-party consent exception to the warrant requirement did not apply to Ray's search of Knight's phone because Sarah lacked both actual and apparent authority over Knight's phone. Therefore, Justice Ishee would have reversed Knight's conviction and remanded the case for a new trial.

Affirmed - 2022-KA-01138-SCT (Feb. 20, 2025)

En Banc Opinion by Justice Chamberlin - Concurrence by Presiding Justice King - Dissent by Justice Ishee

Hon. Robert B. Helfrich (Forrest County Circuit Court)

George T. Holmes & Mollie Marie McMillin (Pub. Def. Office) for Appellant - Abbie Eason Koonce (Att'y Gen. Office) for Appellee

Briefed by [Abby Church](#)

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

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WATTS V. STATE

CRIMINAL - FELONY

CRIMINAL LAW - FIRST-DEGREE MURDER - DELIBERATE DESIGN - Deliberate design may be formed very quickly, and perhaps only moments before the act of consummating the intent; deliberate design may be inferred through the intentional use of any instrument, which based on its manner of use, is calculated to produce death or serious bodily injury

CRIMINAL LAW - DELIBERATE DESIGN - REVERSIBLE ERROR - Instructing the jury that a deliberate design can arise at the instant of the killing conflicts with a heat of the passion excusable homicide instruction and is reversible error

CRIMINAL LAW - MURDER - INFERRED MALICE - The law does not presume malice from the killing of a human being with a deadly weapon unless facts are introduced in evidence changing the character of the killing and showing either justification or necessity; Unless the facts in evidence explain the character of the killing, then this presumption still stands, and the State is entitled to an instruction announcing the legal principle

FACTS

Yancy Williams was found shot dead at a Marathon gas station on Hanging Moss Road. Andrew Harris, a crime scene investigator for the Jackson Police Department (“JPD”), and Kevin McNeal, a detective with JPD, dispatched to the scene where they collected photographic evidence of the scene and obtained surveillance footage. The surveillance footage showed the appellant, Terrance Watts, wrestling with Williams by the gas pumps before Watts retrieved a gun from the vehicle and shot Williams in the head. Watts turned himself in early the next morning and agreed to an interview with McNeal. In the interview, Watts admitted to shooting Williams but claimed he panicked and should have just fought him instead. Watts further admitted that Williams became aggressive after their dispute over gas money, and he knew that Williams just wanted to fight. However, Watts claimed that he was concerned that a fight would lead to police involvement, which would only further provoke Williams’s aggressive conduct. Watts also denied that he felt threatened by Williams and stated his belief that Williams meant no harm and did not possess any weapons at the time. At trial, surveillance footage was presented, along with photographs of the scene and testimony from David Friday and Michael Stinson, who worked with Williams at the Jackson Fire Department. In his interview, Watts mentioned that Friday had warned him to be careful around Williams. Friday testified that he did not recall this conversation and had never seen Williams behave aggressively. Similarly, Stinson stated that Watts was lying in his interview claim that Stinson had told him that Williams hurt his arm while wrestling at work. At trial, the jury was read instruction S-4 regarding a “deliberate design to kill” which stated that deliberate design “means an intent to kill” and “may be formed very quickly and perhaps only moments before the act of killing the person.” Jury instruction S-2 was also provided which read that “[i]f death is inflicted upon a person with a deadly weapon in a manner calculated to destroy life or inflict great bodily harm, then malice or the intent to kill may be inferred from the use of the weapon.” The jury found Watts guilty of first-degree murder. Watts appealed.

ISSUES

Whether (1) the evidence was sufficient to support a verdict for first-degree murder rather than manslaughter, or, alternatively, whether the verdict was against the overwhelming weight of the evidence; (2) Watts was prejudiced by the trial court’s decision to grant jury instruction S-4 regarding a “deliberate design to kill”; and (3) jury instruction S-2, pertaining to the inference of malice or intent in a killing, improperly commented on the weight of the evidence.

HOLDING

(1) Because a reasonable juror could infer that Watts formed a plan to kill Williams when he retrieved Williams’s pistol from the center console and intentionally shot Williams in the head, the jury’s guilty verdict for first-degree murder was not against the overwhelming weight of the evidence. (2) Because the S-4 deliberate design jury instruction negated the possibility of the jury finding anything other than first-degree murder because it clearly stated design could not be formed at the moment of the fatal act, Watts was not prejudiced by the instruction. (3) Because the S-2 instruction on inferring malice from use of a deadly weapon was proper based on established precedent, the jury instruction did not improperly comment on the evidence. Therefore, the Supreme Court affirmed the judgment of the Hinds County Circuit Court.

Affirmed - 2023-KA-00893-SCT (Feb. 20, 2025)

Opinion by Chief Justice Randolph

Hon. Adrienne Annett Hooper-Wooten (Hinds County Circuit Court)

George T. Holmes (Pub. Def. Office) for Appellant - Abbie Eason Koonce (Att’y Gen. Office) for Appellee
Briefed by [Evan Clay](#)
Edited by [Sarah Schlager](#) & [Emily Phillips](#)

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MISSISSIPPI COURT OF APPEALS DECISIONS – FEBRUARY 20, 2025

COURT OF APPEALS - CRIMINAL CASES

RONCALI V. STATE

CRIMINAL - FELONY

EVIDENCE - ADMISSABILITY - COURT’S DISCRETION - Relevancy and admissibility of evidence are largely within the discretion of the trial court and reversal may be had only where that discretion has been abused

EVIDENCE - ADMISSABILITY - EXPERT TESTIMONY - Admissibility of expert testimony is viewed in light of Miss. R. Evid. 702; such testimony is admissible if it is found to be relevant and reliable

EVIDENCE - ADMISSABILITY - EXPERT TESTIMONY - The sufficiency of foundational facts or evidence on which to base an opinion is a question of law

APPELLATE PROCEDURE - CRIMINAL LAW - SUFFICIENCY OF EVIDENCE - An appellate court will not decide if the State has proved the elements of a crime, but will affirm a conviction so long as there is evidence for a rational juror to find that the elements of the crime were proven

APPELLATE PROCEDURE - CRIMINAL LAW - SUFFICIENCY OF EVIDENCE - A challenge to the sufficiency of the evidence should be addressed on appeal even when the appellate court determines that reversal and remand is warranted based upon an evidentiary error in the trial court

FACTS

In September 2020, Marian Chaney Roncali was found dead in her living room in Newton County by her son Eli. Eli called 911, and law enforcement officers observed that Marian had bruises on her face, arms, and legs, ligature marks on her wrists and ankles, and that the bedroom was disheveled as if a fight or disturbance had occurred. Law enforcement officers believed that Marian’s death was the result of a homicide and/or kidnapping, and Marian’s husband, Carlos Roncali, whom she lived with, was detained and interviewed as a person of interest. During the interview, Roncali admitted that two days before Marian’s death he argued with her about infidelity, provided her with methamphetamine, restrained her with zip ties after she had a bad reaction to the drug, and hit and gagged her while she was restrained. Roncali further discussed Marian’s poor condition the day before and day of her death but stated that he did not call 911 to get her medical attention because he was concerned about what first responders might find in the home. Roncali was indicted in September of 2021 for the capital murder of Marian with the underlying felony of kidnapping, and his trial was in December of 2022. Roncali’s interview was played for the jury at trial, and Eli testified. Eli stated that the day before her death, Marian was acting strange and was incoherent, that she was tied up for two hours, that her zip ties were removed because she needed to bathe and because they were too tight, that she was unable to walk, and that he did not hear any disturbances during the night. He further testified that Roncali had physically abused Marian in the past, that her condition had not improved on the day of her death, and that she died in the living room while Roncali was asleep on the couch. The forensic pathologist who performed Marian’s autopsy, Dr. Mark LeVaughn, testified as well. LeVaughn concluded that Marian’s cause of death was a methamphetamine overdose and that her manner of death was homicide. He stated that he came to his conclusion by considering her autopsy, the toxicology report, the fact zip ties were found at the home, and unsubstantiated information he obtained from an unidentified investigator who alleged that Marian had not administered the methamphetamine to herself. At trial, Roncali unsuccessfully objected to the admission of LeVaughn’s manner of death testimony. The jury ultimately found Roncali guilty of capital murder. Roncali appealed.

ISSUES

Whether (1) the trial court erred in allowing Dr. LeVaughn to testify the manner of death was homicide; and (2) the evidence before the jury was legally sufficient to support finding Roncali guilty.

HOLDING

(1) Because LeVaughn based his opinion about the manner of death upon an unsubstantiated statement by an unidentified investigator, the trial court abused its discretion by allowing the testimony. (2) Because Roncali provided Marian with methamphetamine, knew she was experiencing an adverse reaction, did not call 911, placed zip ties around her hands and ankles, and struck her while she was restrained, the evidence before the jury was legally sufficient to support finding Roncali guilty. Therefore, the Court of Appeals reversed and remanded the judgment of the Newton County Circuit Court.

CONCURRENCE IN PART & DISSENT IN PART

Presiding Judge Carlton agreed the evidence before the jury was sufficient to find Roncali guilty. However, she argued that because it was reasonable for LeVaughn to rely on outside facts, the trial court did not abuse its discretion by allowing him to testify that the manner of death was homicide.

DISSENT

Judge Westbrook argued that the record did not show that Roncali administered the methamphetamine to Marian and did not show that she died during a kidnapping. Therefore, the evidence was insufficient, and the case should have been reversed and rendered.

Reversed & Remanded - 2023-KA-00173-COA (Feb. 20, 2025)

En Banc Opinion by Judge Emfinger - Concurrence in Part & Dissent in Part by Presiding Judge Carlton - Dissent by Judge Westbrook

Hon. Mark Sheldon Duncan (Newton County Circuit Court)

Zakia Butler Chamberlain (Pub. Def. Office) for Appellant - Barbara Wakeland Byrd (Att'y Gen. Office) for Appellee

Briefed by [Ethan Hayes](#)

Edited by [Summie Carlay](#) & [William Davis](#)

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MISSISSIPPI COURT OF APPEALS DECISIONS – FEBRUARY 18, 2025

COURT OF APPEALS - CIVIL CASES

1ST STEP SOBER LIVING LLC V. CLEVELAND

CIVIL - OTHER

APPELLATE PROCEDURE - MOOTNESS - EXCEPTIONS - A case is deemed moot where an actual controversy existed at trial but has expired at the time of review; however, claims for damages are largely able to avoid mootness challenges

PROPERTY - RESTRICTIVE COVENANTS - ENFORCEABILITY - Restrictive covenants are valid unless unreasonable; when reasonable, the courts will not hesitate to hold the parties to their contracts

PROPERTY - FAIR HOUSING ACT - HANDICAP - Pursuant to 42 U.S.C. § 3602(h), the Fair Housing Act defines a handicap as (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such impairment, or (3) being regarded as having such an impairment; however, this definition does not include illegal use of or addiction to a controlled substance, but an individual in recovery may be handicapped if his alcoholism or addiction substantially limits one or more of his major life activities

FACTS

William Brand owned a single home residence with three bedrooms and two bathrooms located in the Meadow Lake Park Subdivision of Tupelo. The subdivision had restrictive covenants in place that limited the land use to private residential purposes and prohibited any noxious or offensive activity from occurring at the lot. From approximately 2017 to 2020, Brand rented the property to Patrick Elkins. During that time, Elkins developed plans with Scott Smith, who owned 1st Step Sober Living LLC (“1st Step”), to use the residence as a sober living home. 1st Step had eight prospective tenants who were expected to move into the house once it opened in October 2020. As of August 2020, 1st Step had not yet applied to the City of Tupelo (“the City”) for approval of its proposed use of the residence. In September 2020, the city attorney contacted Smith with a letter captioned, “Notice of failure to comply with city ordinances and code at 4646 Meadow Lake Drive.” The following day, Bill Cleveland and 105 other residents of the subdivision (“the residents”) filed a complaint in the chancery court against Brand, Smith, Elkins, 1st Step, and the City. The residents contended that the intended use of the property violated the subdivision’s restrictive covenants, specifically that the property be used only for private residential purposes. Additionally, the residents filed a motion for either a temporary restraining order or, alternatively, a preliminary and permanent injunction to prevent the sober living home from opening. 1st Step filed a counterclaim against the residents for refusing to make reasonable accommodations in their rules, policies, practices, or services, therefore violating the Fair Housing Act (“FHA”). 1st Step also filed a cross-claim against the City that alleged the City violated the FHA. A trial was held in October 2022. The eight 1st Step participants would be required to pay a \$650 monthly fee in exchange for living accommodations, random drug testing, required attendance at relapse meetings, and general support, accountability, and counseling from the live-in house manager. After post-trial briefing, the chancery court summarized its findings from the trial and review of the briefs and entered the final judgment. The chancery court found that, while there may have been a residential aspect to 1st Step’s business model, it was clear that 1st Step’s business model involved more than providing a place to eat, sleep, and bathe, and that its primary purpose was to provide alcohol and drug recovery services for its tenants. The chancery court concluded that the combination of obligations and services to be coordinated between 1st Step and its prospective tenants would violate the restrictive covenants regarding its use only for private residential purposes. The chancery court also denied 1st Step’s request for relief under the FHA. 1st Step appealed.

ISSUES

Whether (1) the post-appeal sale of the residence at the center of the dispute rendered the case moot; (2) the proposed use of the residence as a sober living home for individuals recovering from substance-use disorders fell within a “private residential purpose” within the confines of the restrictive covenant; and (3) the potential tenants of 1st Step were handicapped and were a protected group under the Fair Housing Act.

HOLDING

(1) Because 1st Step sought actual and punitive damages under the Fair Housing Act as a result of the enforcement of a restrictive covenant, and because damages should be denied on the merits and not mootness, the sale of the residence at the center of the dispute did not render the case moot. (2) Because the residential purposes could not be unlinked from the commercial purposes of 1st Step’s venture, the proposed use of the residence as a sober living home did not fall within a “private residential purpose” within the confines of the restrictive covenant. (3) Because 1st Step did not prove that the tenants of the proposed rehabilitation business fit the handicap criteria as set out in the Fair Housing Act, the potential tenants of 1st Step were not handicapped and were not a protected group under the Fair Housing Act. Therefore, the Court of Appeals affirmed the judgment of the Lee County Chancery Court.

Affirmed - 2023-CA-00665-COA (Feb. 18, 2025)

Opinion by Judge Lawrence

Hon. Bradley D. Tennison (Lee County Chancery Court)

Mark Whitburn & Laurance Nicholas Chandler Rogers for Appellants - Jessie Wayne Doss Jr. & David D. O’Donnell for Appellees

Briefed by [Andrew Grant](#)

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

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CIVIL - CONTRACT

CONTRACTS - LEASE RENEWAL - EQUITABLE RELIEF - The renewal clause of a contract need not be strictly complied with to prevent a forfeiture when the notice requirement is waived or where the lessee is entitled to and can obtain relief from his failure to give the notice required by the renewal provisions, (1) where by reason of compelling circumstances the failure to give notice results not from lessee's own ignorance or negligence, but (2) from accident, fraud, surprise, or mistake, (3) and the forfeiture will result in a real hardship to lessee, (4) but will do little or no harm to the lessor

CONTRACTS - BREACH - ELEMENTS - To prevail on a breach-of-contract claim, a plaintiff has the burden of proving by a preponderance of the evidence (1) that a valid and binding contract exists, and (2) that the defendant has broken or breached it without regard to the remedy sought or the actual damage sustained

CONTRACTS - DAMAGES - ATTORNEY'S FEES - Attorney's fees are a special remedy available only when expressly provided for in a statute or contract, or when there is sufficient proof to award punitive damages

FACTS

LoanMax LLC ("LoanMax"), a short-term auto-backed loan lender, entered into a commercial lease agreement with Wendelta Property Holdings LLC ("Wendelta") to rent office space located in Starkville. The lease initially was for seven years, from August 7, 2009, through August 31, 2016, with two five-year renewals that would extend the lease to August 31, 2026. Castle Columbus I, LLC ("Castle") acquired the facility from Wendelta in October 2016 and became the successor-in-interest of the lease. The lease required LoanMax to provide Castle 180 days' renewal notice by certified mail or overnight delivery. In the event LoanMax remained in possession of the property after the lease period had expired, it would be a holdover tenant and would rent at 125% of the most recent monthly rate. LoanMax paid its first renewal with ease in 2016. In October 2019, Castle sent notice to LoanMax by certified mail of its new Starkville address in place of its prior Columbus address. LoanMax was instructed to provide all future notices to the new address. On January 29, 2021, Brent Matthews on behalf of LoanMax mistakenly mailed notice of renewal by certified mail to Castle's old Columbus address. The notice came back undeliverable. Matthews also mailed Mark Castleberry, Castle's founder and CEO, an electronic version of the renewal. After Matthews left LoanMax in February 2021, Jason Baker became the point of contact and emailed Castleberry on March 4, 2021, asking if Castleberry received the renewal notice. Castleberry did not reply to the email. Castle notified LoanMax on August 20, 2021, that its renewal was void due to notice defects and terminated the lease. LoanMax remained in possession of the space but only paid the default rate rent instead of the increased holdover rate. The parties agreed that LoanMax would vacate by January 2022. However, on December 14, 2021, Castle rightfully terminated LoanMax's holdover tenancy and demanded the surrender of the premises. On December 22, 2021, LoanMax filed a lawsuit in Oktibbeha County Chancery Court, requesting confirmation of its proper lease renewal and preventing Castle from evicting them. Castle counterclaimed, asserting that the lease was terminated and seeking holdover rent, damages for roof and HVAC repairs, and attorney's fees. During the trial, Mark Castleberry admitted he had not performed any repairs to the roof or HVAC system since acquiring the property and had no knowledge of their condition when Wendelta initially leased the building to LoanMax in 2009. He acknowledged reading an email from Matthews dated January 29, 2021, concerning the renewal but claimed the notice was ineffective due to a mailing error. LoanMax's Jason Baker testified that LoanMax consistently paid rent and managed HVAC maintenance, including quarterly repairs. Expert witnesses assessed the property's condition, totaling the amount of necessary repairs to exceed \$140,000. The trial court determined that LoanMax's renewal was invalid due to the notice being sent to the incorrect address, failing to meet the technical requirements of the lease contract. Consequently, the lease lapsed. However, Castle's claims for reimbursement of repair costs were denied due to insufficient evidence regarding the condition of the HVAC units when LoanMax initially rented the building. The trial court also rejected Castle's attorney's fee request, stating the lease permitted such fees only if LoanMax did not maintain the building in good condition, which was not established. LoanMax appealed, and Castle cross-appealed.

ISSUES

Whether the trial court erred by (1) finding LoanMax's failure to send the renewal notice to the correct address via certified mail, despite Castle receiving actual notice through email, was an insufficient basis for equitable relief; (2) denying Castle damages for unpaid holdover rent; (3) denying damages for LoanMax's failure to maintain the roof and HVAC units; and (4) failing to award attorney's fees.

HOLDING

(1) Because LoanMax negligently failed to send the renewal to the correct address despite being notified of the address change two years prior, because LoanMax successfully renewed the lease pursuant to the renewal terms without dispute in 2016, and because there was no mutual agreement that made actual notice through email acceptable, the trial court did not err in finding that no compelling reason for equitable relief existed. (2) Because the record showed LoanMax did not pay the holdover rent at the appropriate rate, the issue was reversed and remanded to the trial court to determine the amount owed to Castle. (3) Because Castle failed to prove that LoanMax breached their contract by not maintaining the property in the same condition as it was at the start of the lease term, and because there was no legal authority to suggest that Castle was entitled to damages despite the lack of proof of its maintenance claim, the trial court did not err in denying damages. (4) Because the lease only referenced attorney's fees under the provisions for maintenance, taxes, and "Remedies Upon Default," and because LoanMax did not default by failing to maintain the property or failing to pay rent since the lease simply expired, Castle's argument for attorney's fees lacked merit. Therefore, the Court of Appeals affirmed the judgment of the Oktibbeha County Chancery Court on direct appeal and affirmed in part and reversed and remanded in part the judgment of the Oktibbeha County Chancery Court on cross-appeal.

On Direct Appeal: Affirmed. On Cross-Appeal: Affirmed in Part; Reversed & Remanded in Part - 2023-CA-00790-COA (Feb. 18, 2025)

Opinion by Judge McDonald

Hon. Paula Drungole-Ellis (Oktibbeha County Chancery Court)

Mark D. Herbert for Appellant - Jason Eric Sharp & John D. Brady for Appellee

Briefed by [Senneca Evans](#)

Edited by [Sarah Schlager](#) & [Emily Phillips](#)

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COURT OF APPEALS - CRIMINAL CASES

BROOKS V. STATE

CRIMINAL - FELONY

CRIMINAL LAW - POSSESSION OF A FIREARM BY A FELON - ELEMENTS - To prove felony possession of a firearm by a felon, the State must prove (1) the defendant possessed a firearm, and (2) the defendant had previously been convicted of a felony crime

CRIMINAL PROCEDURE - DIRECT EVIDENCE - SUFFICIENCY OF EVIDENCE - Eyewitness testimony, even in the absence of physical evidence, is legally sufficient to give rise to a logical inference that such fact does exist

FACTS

Harold Brooks called the police to his home about a disturbance with his son Walter Bryan Brooks ("Brooks"). Investigator Adam Scarborough arrived at the house, and Harold invited him inside. Inside the home approximately fifteen feet from Brooks, Scarborough saw Brooks remove two items from his pockets and hide them under a magazine. After Scarborough removed Brooks from the home to stay outside with another officer, Harold gave Scarborough permission to search the table where Brooks hid the items. Scarborough found .4 grams of methamphetamine and a .25-caliber pistol. Brooks was charged with being a felon in possession of a firearm and possession of a controlled substance. The key evidence at trial was Scarborough's testimony that he saw Brooks place the firearm and controlled substance on a table under a magazine. Brooks claimed that Scarborough could not identify the items while they were being moved from Brooks's pocket to the table. Additionally, Brooks claimed that, despite Scarborough watching him place the items on the table, someone else could have placed the items there. The jury convicted Brooks on both counts. Brooks appealed.

ISSUES

Whether the evidence presented was sufficient to convict Brooks of (1) being a felon in possession of a firearm; and (2) possession of a controlled substance.

HOLDING

Because Scarborough observed Brooks take the items from his pockets, place them on a table, and conceal them with a magazine, there was sufficient evidence for the jury to find beyond a reasonable doubt that Brooks was in possession of the gun found on the table under the magazine. Because Scarborough observed Brooks hide the gun with the methamphetamine in the same place and at the same time as the gun, the evidence was sufficient to convict Brooks for possession of a controlled substance. Therefore, the Court of Appeals affirmed the judgment of the Simpson County Circuit Court.

Affirmed - 2023-KA-01081-COA (Feb. 18, 2025)

Opinion by Judge Lawrence

Hon. Stanley Alex Sorey (Simpson County Circuit Court)

W. Daniel Hinchcliff (Pub. Def. Office) for Appellant - Barbara Wakeland Byrd (Att’y Gen. Office) for Appellee

Briefed by [Kennedy Guest](#)

Edited by [Robert “Duncan” Jones](#) & [William Davis](#)

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CHAMBERS V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - MIRANDA RIGHTS - WAIVER - For a waiver of one’s Miranda rights to be considered valid, the state must prove beyond a reasonable doubt that the waiver was made voluntarily, knowingly, and intelligently; a waiver is knowing and intelligent if it is made with a full awareness both of the nature of the right being abandoned and the consequences of the decision to abandon it

CRIMINAL LAW - CAPITAL MURDER - CHILD ABUSE - The killing of a human being without the authority of law by any means or in any manner shall be capital murder in the following cases: when done with or without any design to effect death, by any person engaged in the commission of the crime of felonious abuse and/or battery of a child

CRIMINAL LAW - ACCOMPLICE LIABILITY - AIDING & ABETTING - To aid and abet in the commission of a felony, one must do something that will incite, encourage, or assist the actual perpetrator in the commission of the time; by aiding and abetting, one may be held accountable as a principal in the commission of the crime

FACTS

In 2020, the Jackson Police Department was dispatched to the home of Latiffany Chambers, her three minor children, and her fiancé, Danny Dabbs. There, they found Chambers’s seventeen-year-old daughter, L.T., severely injured and unresponsive. L.T. was transported to the University of Mississippi Medical Center for treatment where she ultimately passed away from multiple blunt trauma injuries. Officers then returned to Chambers’s home to arrest Chambers and Dabbs. Detective Kevin McNeal interrogated both Chambers and Dabbs separately at the police department on the night of L.T.’s death. During Dabbs’s interrogation, he admitted to hitting L.T. on the night of her death and regularly abusing all three children. In her interrogation, Chambers was read her *Miranda* rights. Detectives then asked whether Chambers wanted to waive her *Miranda* rights, but she continued to speak about her daughter’s death without answering the detectives’ questions. Detectives interrupted Chambers multiple times, stating that they needed her permission to ask questions about what had happened and prompted her for an answer regarding the *Miranda* waiver. Chambers agreed to waive her rights. Chambers was then asked to sign the waiver. In response, Chambers asked what would happen if she did not sign the waiver, and the detective responded that the police would have to talk to her eventually. Chambers interrupted stating that she had a mental disorder and needed some food and water. Detectives asked if

Chambers wanted to wait and talk, and Chambers answered “yes.” Detectives then informed Chambers that no more questions would be asked at that time and that the interview was cut so that they could get Chambers some nourishment. Despite being aware of the interview ending, Chambers initiated an unprompted conversation where she denied Dabbs ever laying a hand on her children and stated that L.T.’s injuries were sustained from a slip and fall. She maintained that the injuries sustained by her other two children were from fights with other children. Police arrested Chambers and charged her with capital murder and felony child abuse. Before trial, Chambers filed a motion to suppress arguing that the detectives misrepresented Chambers’s Fifth Amendment rights by stating the police would have to talk to her eventually. The trial court denied the motion stating that while the misrepresentation was improper, Chambers’s statements were admissible because they were not the result of direct questioning from law enforcement. At trial, Dr. Rosalyn Brownlee, a pediatrician who examined Chambers’s other two children on the night of L.T.’s death, testified that their injuries were suggestive of inflicted injury and physical abuse. Dr. Mark LeVaughn also testified about his findings related to L.T.’s autopsy. He stated that it was not possible that L.T. died from anything other than a beating. The jury found Chambers guilty, and the circuit court sentenced her to life imprisonment without eligibility for parole. Chambers filed an unsuccessful motion for a judgment notwithstanding the verdict or a new trial. Chambers appealed.

ISSUES

Whether (1) the trial court erred in denying Chambers’s motion to suppress her statements during interrogation; and (2) whether the State presented sufficient evidence to convict Chambers of felony child abuse and capital murder.

HOLDING

(1) Because Chambers initiated a conversation with law enforcement and voluntarily, knowingly, and intelligently waived her *Miranda* rights, the trial court’s denial of Chambers’s motion to suppress was proper. (2) Because there was sufficient evidence to show Chambers aided and abetted Dabbs’s abuse of her children, the trial court properly convicted Chambers of felony child abuse and capital murder. Therefore, the Court of Appeals affirmed the judgment of the Hinds County Circuit Court.

Affirmed - 2023-KA-00626-COA (Feb. 18, 2025)

Opinion by Judge McDonald

Hon. Adrienne Annett Hooper-Wooten (Hinds County Circuit Court, First Judicial Dist.)

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

Briefed by [Elizabeth Murphree](#)

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

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FEARS V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - CAUTIONARY INSTRUCTION - ACCOMPLICE TESTIMONY - A cautionary instruction regarding the testimony of an accomplice is required when the accomplice’s testimony is the sole basis for the conviction, and the defendant’s guilt is not clearly proven

CRIMINAL PROCEDURE - CAUTIONARY INSTRUCTION - ABUSE OF DISCRETION - Mississippi has a two-part test to determine if the trial court has abused its discretion in context of cautionary instructions: first, it must be determined if the witness is in fact an accomplice; second, if that prong is met, the court must determine if the testimony is without corroboration

FACTS

In October 2020, Alexis Tallant began searching for a used car to purchase on Facebook Marketplace. Tallant found a used 2012 Nissan Maxima listed under the name Harris Jaques. The account was later traced to the IP address where Jeremiah Fears lived. Fears communicated with Tallant over the course of the next five days to negotiate the car’s price through Facebook Messenger. Tallant and her stepfather, Robert Cox, then drove to Houston to purchase the Maxima

and were instructed to meet at a townhouse in front of KFC. At the last minute, Fears unexpectedly changed the location of the sale from the townhouse to an address next door to his home. After Tallant and Cox arrived at the location, they parked on the street and saw the Maxima in a nearby driveway. The two then got out of their car to inspect the Maxima. A man came out from behind the house, put a gun to Cox's head, and demanded money. Tallant threw the money for the car toward the man's feet. Two more men emerged from the house, one of whom began beating Cox with a bat. Tallant backed away and fired one shot from her own pistol at the men, and six shots were fired back at Cox and Tallant. Cox was shot and died as a result. After a police investigation, Fears was arrested and indicted for capital murder for the death of Cox, armed robbery, conspiracy to commit armed robbery, and aggravated assault against Tallant. Two other men, Jarquavius Doss and Lamarius Spraggins, were also indicted for the crimes. At trial, Curt Myers, an officer with the Houston Police Department, testified that he arrived at the scene and spoke to Cox before he died, who said that he was there with Tallant to buy a car but instead was harmed by three black males. Another officer testified that upon questioning, Fears's demeanor was nervous, but Fears stated that he did not see or hear anything. An additional officer testified that Fears called him on the night Cox was killed to report a stolen black nine-millimeter handgun. Tommy Bishop, a forensic scientist, testified that Cox was killed with a bullet that was consistent with a nine-millimeter projectile. Spraggins, a co-defendant, testified against Fears and received a plea deal in exchange for his testimony. He stated that on the day of the incident, he parked his Nissan Maxima at the abandoned house and then went behind the house with Fears and Doss. Spraggins testified that Fears had the bat and beat up Cox and that Doss started to fire after Tallant fired first. A criminal investigator for the Chickasaw County Sheriff's Office also testified that he suspected Fears's involvement after interviewing him and because of his call about the stolen gun. Testimony also confirmed that the Harris Jaques Facebook account belonged to Fears, and law enforcement traced the account and the Facebook Marketplace ad to Fears's home. The phone number used to communicate with Tallant was also confirmed to belong to Fears. Tallant testified about what happened leading up to the day via Facebook and the events on the day she and Cox went to buy the car. She identified Doss as the shooter, but she stated that she learned of Fears and Spraggins involvement as well. The jury ultimately found Fears guilty of all counts. Fears was sentenced to life in prison without eligibility for parole for capital murder and to serve seventy-five years in Mississippi Department of Corrections custody. Fears moved for a judgment notwithstanding the verdicts or, in the alternative, a new trial, which was denied. Fears appealed.

ISSUE

Whether the trial court erred in refusing to give a cautionary instruction to the jury.

HOLDING

Because the record was replete with evidence that Spraggins's testimony was not the sole basis for conviction even though Fears was an accomplice to the murder, the trial court did not err in refusing to give a cautionary instruction to the jury. Therefore, the Court of Appeals affirmed the judgment of the Chickasaw County Circuit Court.

Affirmed - 2023-KA-00174-COA (Feb. 18, 2025)

En Banc Opinion by Judge McCarty

Hon. Kent E. Smith (Chickasaw County Circuit Court, First Judicial Dist.)

Zakia Butler Chamberlain (Pub. Def. Office) for Appellant - Casey B. Farmer (Att'y Gen. Office) for Appellee

Briefed by [James Riley](#)

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

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JOHNSON V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - SEVERANCE - MOTION TO SEVER OFFENSES - Pursuant to Miss. R. Crim. P. 14.3(b), a defendant's motion to sever offenses must be made at the earliest opportunity; if a proper motion is not timely made, then the defendant's right to move for severance may be deemed to have been waived

CRIMINAL PROCEDURE - SEVERANCE - MOVANT'S DUTY TO PURSUE - Pursuant to Miss. R. Crim. P. 34.2, it is the duty of the movant to pursue the motion to hearing and decision; a defendant's failure to pursue a pretrial motion to hearing and decision before trial is deemed an abandonment of that motion

CRIMINAL PROCEDURE - INDICTMENT - MULTIPLE CHARGES - Pursuant to Miss. Code Ann. § 99-7-2(1), a defendant may be charged with multiple offenses in a single indictment if (a) the offenses are based on the same act or transaction; or (b) the offenses are based on two (2) or more acts or transactions connected together or constituting parts of a common scheme or plan

CRIMINAL PROCEDURE - SEVERANCE - FACTORS - The Supreme Court has addressed three factors a trial court should consider when making its determination regarding severance: (1) whether the time period between the occurrences is significant; (2) whether the evidence proving each count would be admissible to prove each of the other counts; and (3) whether the crimes are interwoven

FACTS

Devin Johnson was left home alone with his girlfriend's three children, including one-year-old Drew and four-year-old Anna. Drew suffered injuries so serious they resulted in his death. Anna suffered broken bones. The record reflected that the injuries to Drew and Anna likely occurred sometime between twenty-four and thirty-six hours apart. Johnson was indicted for capital murder and felony child abuse. Before trial, Johnson filed a written motion to sever the two counts against him, but he never sought a hearing or ruling from the trial court. On the day of trial, Johnson re-raised the severance issue before the trial court, but the trial court denied his request. At trial, Mark LeVaughn, the state medical examiner, testified that Drew suffered at least two recent injuries to the head, and the skull fracture was the lethal injury that killed him. LeVaughn concluded that Drew's cause of death was multiple blunt trauma and that his manner of death was homicide. Dr. Bruce Sabatino, the doctor on call in the emergency room the night Drew was brought in, testified that Drew's injuries appeared recent and were inconsistent with a single fall, which raised suspicions of child abuse. During the trial, Johnson requested that the court grant a mistrial regarding severance of the two matters. The trial court denied Johnson's mistrial motion as well as a motion for a directed verdict. The jury found him guilty of both charges. Johnson filed a motion for a new trial, which the trial court denied. Johnson appealed.

ISSUE

Whether the trial court erred in denying Johnson's request for severance.

HOLDING

Because Johnson abandoned his motion to sever the counts against him by failing to pursue his motion to a hearing and decision, because he waived the issue on appeal, because it was within the trial court's discretion to deny Johnson's motion to sever, because the record reflected that the injuries to Drew and Anna likely occurred sometime between twenty-four and thirty-six hours apart, because both medical experts concluded that the injuries were recent, because the record was clear that Johnson was home alone with the children, and because both of Johnson's counts shared the underlying act of child abuse and many similar factors when viewed together, to be anything but clearly linked and part of the same common scheme or plan, the trial court did not abuse its discretion in denying Johnson's request for severance. Therefore, the Court of Appeals affirmed the judgment of the Leake County Circuit Court.

Affirmed - 2023-KA-00369-COA (Feb. 18, 2025)

En Banc Opinion by Judge McCarty

Hon. Mark Sheldon Duncan (Leake County Circuit Court)

W. Daniel Hinchcliff (Pub. Def. Office) for Appellant - Lauren Gabrielle Cantrell (Att'y Gen. Office) for Appellee

Briefed by [Madeline Riddick](#)

Edited by [Robert "Duncan" Jones](#) & [Emily Phillips](#)

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SPEARMAN V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - APPELLATE PROCEDURE - LINDSEY BRIEFS - To file a *Lindsey* brief, counsel must certify that there are no arguable issues supporting the client’s appeal, and he or she has reached this conclusion after scouring the record thoroughly, specifically examining: (a) the reason for the arrest and the circumstances surrounding arrest; (b) any possible violations of the client’s right to counsel; (c) the entire trial transcript; (d) all rulings of the trial court; (e) possible prosecutorial misconduct; (f) all jury instructions; (g) all exhibits, whether admitted into evidence or not; and (h) possible misapplication of the law in sentencing.

CRIMINAL PROCEDURE - APPELLATE PROCEDURE - LINDSEY BRIEFS - To comply with the law, counsel must then send a copy of the appellate brief to the defendant, inform the client that counsel could find no arguable issues in the record, and advise the client of his or her right to file a pro se brief

CRIMINAL PROCEDURE - APPELLATE PROCEDURE - LINDSEY BRIEFS - Only after briefing is complete can an appellate court consider the merits of a case

FACTS

Anthony Spearman and Jackuan Baker engaged in an exchange of gunfire with LeeKedrick Moore. As a result, Spearman and Baker were charged with aggravated assault. At trial, Moore testified that Spearman approached him and initiated the shooting, and video surveillance footage corroborated his testimony. Additionally, during the exchange, Moore was shot in the foot. On cross-examination, when asked if he could have shot himself, Moore testified that the bullet retrieved from his foot was a .45 caliber, whereas he was firing a 9-millimeter weapon. Neither Spearman nor Baker presented any evidence at trial. The trial court refused to give the defendants’ proposed self-defense instruction, finding that there was no evidence for the jury to consider in support of their self-defense claim, and subsequently found them guilty. Spearman then filed a motion for a judgment notwithstanding the verdict or, alternatively, a new trial, arguing that the verdict was against the weight of the evidence and that the trial court erred in refusing the self-defense instruction. The trial court denied the motion. Spearman filed a notice of appeal, and his appellate counsel filed a *Lindsey* brief.

ISSUE

Whether the trial court erred in denying Spearman’s motion for a judgment notwithstanding the verdict or, alternatively, a new trial.

HOLDING

Because Spearman did not file a pro se supplemental brief after being provided forty days to do so, and because the Court of Appeals thoroughly reviewed the record, finding that the State presented sufficient evidence to support the conviction and that there was no evidence to support a self-defense instruction, the trial court did not err in denying Spearman’s motion for a judgment notwithstanding the verdict or, alternatively, a new trial. Therefore, the Court of Appeals affirmed the judgment of the Grenada County Circuit Court.

Affirmed - 2023-KA-01091-COA (Aug. 28, 2023)

Opinion by Chief Judge Barnes

Hon. Alan D. Lancaster (Grenada County Circuit Court)

Zakia Butler Chamberlain (Pub. Def. Office) for Appellant - Katy Taylor Sarver (Att’y Gen. Office) for Appellee

Briefed by [Zuri Williams](#)

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

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TAYLOR V. STATE

CRIMINAL - FELONY

CONSTITUTIONAL LAW - RIGHT TO A SPEEDY TRIAL - BARKER BALANCING TEST - To determine if a defendant's right to a speedy trial was violated, the court considers (1) the length of the delay, (2) the reasons for the delay, (3) whether the defendant asserted his right to a speedy trial, and (4) whether the defendant has been prejudiced by the delay

CONSTITUTIONAL LAW - RIGHT TO A SPEEDY TRIAL - PRESUMPTIVELY PREJUDICIAL DELAY - A delay of eight months or longer between the date of the arrest and the defendant's trial is presumptively prejudicial and therefore triggers a *Barker* analysis

CONSTITUTIONAL LAW - RIGHT TO A SPEEDY TRIAL - INVESTIGATIVE DELAY - Delays that occur before an indictment are considered investigative delays and should be weighted only slightly against the State

CONSTITUTIONAL LAW - RIGHT TO A SPEEDY TRIAL - ASSERTION OF THE RIGHT - A failure to demand a speedy trial between arrest and indictment is critical to a speedy-trial analysis; if the defendant fails to assert his right, it would make it difficult for him to prove that he was denied a speedy trial

CONSTITUTIONAL LAW - RIGHT TO A SPEEDY TRIAL - PREJUDICE - To determine whether the delay caused actual prejudice, the court considers the following three interests that the right to a speedy trial seeks to protect: (1) to prevent oppressive pretrial incarceration, (2) to minimize anxiety and concern of the accused, and (3) to limit the possibility that the defense would be impaired

FACTS

On March 25, 2015, Timothy Dewayne Taylor shot Elvadus Rhodes after a verbal altercation. The victim and witnesses identified Taylor as the assailant, and he was arrested for aggravated assault with a deadly weapon on that same day. Taylor was indicted for that offense only on December 15, 2016. He was also indicted for a different aggravated assault charge in July 2015, leading to plea negotiations with the State for both offenses until the negotiations broke down. On June 14, 2017, Taylor's request for a mental evaluation was granted. Because the state facility required to conduct the evaluation was unable to do so in a timely manner, Taylor submitted another request in March 2018. Based on the evaluation results, the court found Taylor competent to stand trial on October 4, 2018. The court initially set the trial date for August 21, 2019. However, based on observations and reports about Taylor's behavior while incarcerated, the court ordered a second mental evaluation of Taylor on August 19, 2019, which caused the trial date to be continued to August 2020. Due to the COVID-19 pandemic, the court issued an order continuing the trial date to February 2021. On August 17, 2020, based on the results of the second mental evaluation, the court again found Taylor competent to stand trial. In September 2020, Taylor filed a motion to dismiss on grounds of his right to a speedy trial being violated. With the COVID-19 restrictions still in place, the court entered two more orders of continuance in January and August 2021, delaying the trial until February 15, 2022. On September 22, 2021, the court held a hearing on Taylor's September 2020 motion to dismiss. During this hearing, Taylor requested another mental evaluation. The court continued Taylor's case to August 29, 2022, to allow the completion of the third mental evaluation. On July 11, 2022, the court found Taylor competent to stand trial once again. On September 13, 2022, the court set the trial date for February 14, 2022. A jury trial found Taylor guilty of aggravated assault with a deadly weapon. Following the trial, Taylor filed a motion for a judgment notwithstanding the verdict, or in the alternative, for a new trial, and also a motion to dismiss alleging the lack of a speedy trial. The trial court denied both motions. Taylor appealed.

ISSUE

Whether Taylor's right to a speedy trial was violated.

HOLDING

Because the period between Taylor's arrest and trial exceeded eight months, because, out of 2,883 days that passed from the arrest to trial, 1,613 days of delay were attributed to neutral factors, 501 days of delay were counted against the State due to lack of evidence explaining the delay, and 769 days of delay were attributed to Taylor by requesting mental health evaluations, trying to fire his attorneys on multiple occasions, and seeking recusals of the trial judge, because Taylor's assertion of the right to a speedy trial was weakened due to his actions contributing to the delays, and because Taylor did not provide any specific instances of how the delay impaired his defense, thus, failing to show actual prejudice, Taylor's right to a speedy trial was not violated. Therefore, the Court of Appeals affirmed the judgment of the Jefferson Davis County Circuit Court.

SPECIAL CONCURRENCE

Judge McCarty pointed out that while the majority’s decision aligned with binding precedent, an imperative need existed to reassess the Supreme Court’s jurisprudence on speedy trial claims. He argued that the current judicially crafted exceptions to enacted statutes were not only unworkable but also undermined a defendant’s constitutional rights by ignoring the plain language of statutory law, which required that an accused be tried no later than 270 days after his or her arraignment.

Affirmed - 2023-KA-00245-COA (Feb. 18, 2025)

Opinion by Judge Westbrook - Special Concurrence by Judge McCarty

Hon. Prentiss Greene Harrell (Jefferson Davis County Circuit Court)

Mollie Marie McMillin (Pub. Def. Office) for Appellant - Julianne Kay Bailey (Att’y Gen. Office) for Appellee

Briefed by [Mira Radu](#)

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

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WALLACE V. STATE

CRIMINAL - FELONY

CRIMINAL LAW - EVIDENCE - UNCORROBORATED TESTIMONY - Uncorroborated testimony is sufficient in capital cases to convict the accused, but not when it is unreasonable, self-contradictory or substantially impeached

CRIMINAL LAW - EVIDENCE - HARMLESS ERROR - Where it is clear beyond a reasonable doubt that an evidentiary error doesn’t contribute to the verdict by affecting a substantial right of a party, a court need not reverse the conviction

CRIMINAL LAW - EVIDENCE - OBJECTIONS - Failure to make a contemporaneous objection serves as a waiver of any error

CONSTITUTIONAL LAW - RIGHT TO A SPEEDY TRIAL - BARKER BALANCING TEST - To determine whether a Sixth Amendment speedy and public trial violation has occurred, the trial judge balances, by a totality of the circumstances: (i) length of delay, (ii) the reason for the delay, (iii) the defendant’s assertion of his right, and (iv) prejudice to the defendant

APPELLATE REVIEW - SEVERANCE - DENIAL OF SEVERANCE - When severance of a case is denied, the denial is reviewed by assessing (1) whether the testimony of one co-defendant tends to exculpate that defendant at the expense of the other defendant, and (2) whether the balance of the evidence introduced at trial tends to go more to the guilt of one defendant rather than the other

CRIMINAL LAW - INEFFECTIVE ASSISTANCE OF COUNSEL - TRIAL STRATEGY - In considering a claim of ineffective assistance of counsel, an appellate court must strongly presume that counsel’s conduct falls within a wide range of reasonable professional assistance, and the challenged act or omission might be considered sound trial strategy; counsel’s choice of whether or not to file certain motions, call certain witnesses, ask certain questions, or make certain objections falls within the ambit of trial strategy

FACTS

In February of 2014, the dead body of Christopher Burnett was found in his home by law enforcement. Among evidence recovered from the crime scene by law enforcement were three DNA samples. However, neither the DNA samples nor any other evidence pointed law enforcement to potential suspects. Beuncle Triplett was arrested in Washington County for three burglaries unrelated to the death. A few days after his arrest, Triplett provided a statement to law enforcement personnel regarding the death of Burnett. Triplett was taken by law enforcement to the site of the killing, where she identified the house it took place in, the car that was used by the perpetrators, as well as items stolen from the home. Her identifications corroborated with the previous findings of investigators. Triplett, LeMarus Wallace (“L. Wallace”), Patrick Wallace (“P. Wallace”), and Kerry Wallace (“K. Wallace”) were charged with crimes involving Burnett’s death. During the subsequent trial, Triplett testified extensively about their collective involvement in the burglary of Burnett’s

home, with K. and P. Wallace being the ones who actually went into the home. Triplett further testified that approximately a month after those events, K. Wallace confided to her that a death took place during the burglary of Burnett's home. At trial, an investigator testified as to prior statements of Triplett regarding the police investigation. The investigator also testified Triplett was not offered a deal on her three burglaries in exchange for her testimony regarding Burnett's murder. However, she was in jail when the Wallace brothers' trial for a parole violation associated with her other burglary offenses took place. Triplett told the jury that in exchange for her truthful testimony in the Wallace brothers' trial, the State had agreed to reduce the charge against her to manslaughter. Triplett further testified to the various prior acts of K. Wallace, whose attorney did not object to this testimony. The Wallace brothers were found guilty of capital murder. Each brother appealed, and the Mississippi Court of Appeals consolidated the cases.

ISSUES

Whether (1) Triplett's testimony was sufficient; (2) the trial court erred in allowing an investigator's testimony regarding Triplett's prior statements; (3) the trial court erred in allowing Triplett to testify regarding prior bad acts; (4) P. Wallace's trial was speedy; and (5) P. Wallace's counsel was ineffective.

HOLDINGS

(1) Because the uncorroborated testimony was not found insufficient, and because it was sufficient to either convict directly or to demonstrate aiding and abetting, Triplett's testimony was sufficient. (2) Because the admittance of the investigator's testimony did not contribute to the verdict and was, therefore, harmless error, the trial court did not err in allowing an investigator's testimony regarding Triplett's prior statements. (3) Because K. Wallace's attorney failed to timely object, relief regarding the prior bad acts testimony could not be sought. (4) Because totality of circumstances did not weigh in P. Wallace's favor, his right to a speedy trial was not violated. (5) Because P. Wallace was not entitled to a separate trial as a matter of right, his claim that his counsel was ineffective was without merit. Therefore, the Court of Appeals affirmed the judgment of the Sunflower County Circuit Court.

Affirmed - 2023-KA-00721-COA (Feb. 18, 2025)

Opinion by Judge Emfinger

Hon. W. Ashley Hines (Sunflower County Circuit Court)

Hunter Nolan Aikens (Pub. Def. Office) for Appellant - Abbie Eason Koonce (Att'y Gen. Office) for Appellee

Consolidated with:

Affirmed - 2023-KA-00723-COA (Feb. 18, 2025)

Hon. W. Ashley Hines (Sunflower County Circuit Court)

Katherine C. Curren & *Pro se* for Appellant - Barbara Wakeland Byrd (Att'y Gen. Office) for Appellee

Consolidated with:

Affirmed - 2023-KA-00888-COA (Feb. 18, 2025)

Hon. W. Ashley Hines (Sunflower County Circuit Court)

Demetrice Williams Wells (Pub. Def. Office) for Appellant - Parker Alan Proctor (Att'y Gen. Office) for Appellee

Briefed by [Grant Hughes](#)

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

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