

# ARKANSAS COURT OF APPEALS

DIVISION IV  
No. CACR12-497

ANTHONY SURRETT, JR.

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered:** MARCH 6, 2013

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
SEVENTH DIVISION  
[NO. CR-2010-3814]

HONORABLE BARRY SIMS, JUDGE

AFFIRMED

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**RHONDA K. WOOD, Judge**

A jury convicted Anthony Surratt, Jr., of first-degree murder and sentenced him to twenty years' imprisonment.<sup>1</sup> Additionally, because Surratt used a firearm in the murder, the jury enhanced Surratt's prison term by five years. *See* Ark. Code Ann. § 16-90-120(a)-(b) (Supp. 2011). Surratt's sole argument on appeal is that the five-year enhancement provided by section 16-90-120(a)-(b) is prohibited by section 5-4-104(a). According to the latter section, "[n]o defendant convicted of an offense shall be sentenced otherwise than in accordance with this chapter." Ark. Code Ann. § 5-4-104(a) (Supp. 2011). Surratt reasons that because the five-year enhancement is located in a different chapter of the

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<sup>1</sup> On appeal, Surratt makes no challenge to the sufficiency of the evidence.

Code, his sentence is illegal. Our supreme court has already rejected this argument, and we must affirm.

In *Williams v. State*, our supreme court held that “§ 5-4-104(a) and § 16-90-120(a–b) can be read harmoniously to mean that § 16-90-120(a–b) is only a sentence enhancement, while the Arkansas Criminal Code provides the minimum sentences to be imposed for each specific offense.” 364 Ark. 203, 209, 217 S.W.3d 817, 820 (2005). The supreme court has extended its reasoning in *Williams* to a number of cases. *See, e.g., Neely v. State*, 2010 Ark. 452, at 5, 370 S.W.3d 820, 823 (holding that “§ 5-4-505 and § 16-90-120 can be read harmoniously to mean that § 16-90-120 is only a sentence enhancement, apart from the punishment for the felony itself, while § 5-4-505 provides an increase in the maximum sentence to be imposed for a felonious offense”); *Sesley v. State*, 2011 Ark. 104, 380 S.W.3d 390 (declining to overturn *Neely*); *Hervey v. State*, 2011 Ark. 113 (same).

The court of appeals is bound to follow the decisions of our supreme court. *Scott v. State*, 69 Ark. App. 121, 10 S.W.3d 476 (2000). It is clear that our supreme court does not find that the firearm enhancement of section 16-90-120 is in conflict with the Criminal Code—this question has been settled. Surratt’s sentence of twenty years for first-degree murder, plus an enhancement of five years for using a firearm, is legal.

Affirmed.

HARRISON and VAUGHT, JJ., agree.

*Dan Hancock*, Deputy Public Defender, by: *Clint Miller*, Deputy Public Defender, for appellant.

*Dustin McDaniel*, Att’y Gen., by: *Kathryn Henry*, Ass’t Att’y Gen., for appellee.