

Joe WILSON *v.* CITY OF PINE BLUFF

CR 82-149

643 S.W.2d 569

Supreme Court of Arkansas
Opinion delivered December 20, 1982

1. CONSTITUTIONAL LAW — INTERPRETATION OF IDENTICAL STATE AND FEDERAL CONSTITUTIONAL PROVISIONS PRESENTS FEDERAL QUESTION. — When the language of the federal and state constitution is identical, as in the confrontation clause, the due process clause, and several others, and there is no reason for the Arkansas Supreme Court to construe the state constitution other than in the same way as the federal constitution has been construed, the Arkansas Supreme Court takes the view that the case presents a federal question, not a state one under Rule 29 (1) (a), Rules of the Arkansas Supreme Court and Court of Appeals.
2. CONSTITUTIONAL LAW — CASE INVOLVING INTERPRETATION OF FEDERAL, NOT STATE, CONSTITUTION — DENIAL OF PETITION FOR REVIEW PROPER. — Since the case at bar does not involve an interpretation of the Arkansas Constitution, but of the federal constitution, there was no reason for the appeal to have been filed in the Arkansas Supreme Court or to have been transferred by the Court of Appeals; therefore, the petition for review must be denied.
3. COURTS — SUPREME COURT — DENIAL BY SUPREME COURT OF PETITION FOR REVIEW — IMPLICATION. — The denial by the Arkansas Supreme Court of a petition for review does not imply that the Court approves or disapproves of the decision of the Court of Appeals.

On Writ of Certiorari to the Court of Appeals to review its affirmance of the Jefferson Circuit Court; *H. A. Taylor*, Judge; writ denied.

Thurman Ragar, Jr., for petitioner.

Berlin Jones, for respondent.

GEORGE ROSE SMITH, Justice. The petitioner seeks a review of the decision of the Court of Appeals on the ground that the case involves the interpretation of the United States

Constitution and of the Arkansas Constitution (the right of a person to be confronted with the witnesses against him). We do not agree. When the language of the federal and state constitution is identical, as in the instance of the confrontation clause, the due process clause, and several others, and there is no reason for us to construe our constitution other than in the same way as the federal constitution has been construed, we take the view that the case presents a federal question, not a state one under Rule 29 (1) (a). Here, for example, the main Arkansas case cited in the petition for certiorari merely followed decisions elsewhere with respect to the confrontation clause. *Smith v. State*, 200 Ark. 1152, 143 S.W.2d 190 (1940).

Since the case does not involve an interpretation of our constitution, there was no reason for the appeal to have been filed here or to have been transferred by the Court of Appeals. The petition for review must therefore be denied. *Moose v. Gregory*, 267 Ark. 86, 590 S.W.2d 662 (1979). As indicated by the *Moose* case, our denial of the petition for review does not imply that we approve or disapprove of the decision of the Court of Appeals.

Writ denied.