

Robert McCOY v. STATE of Arkansas

CR 87-46

732 S.W.2d 156

Supreme Court of Arkansas
Opinion delivered July 13, 1987

1. APPEAL & ERROR — CONVICTION AFFIRMED IF SUBSTANTIAL EVIDENCE TO SUPPORT VERDICT. — The appellate court affirms the conviction on appeal if there is any substantial evidence to support the verdict.
2. CRIMINAL LAW — RAPE — VICTIM'S STATEMENT ALONE IS SUFFICIENT TO SUPPORT RAPE CONVICTION. — The statement of the alleged victim, standing alone, is enough to support a conviction of rape.
3. CRIMINAL LAW — RAPE — EVIDENCE SUFFICIENT. — Where the testimony of the victim's husband and the police officers who investigated the incident corroborated the alleged victim's positive identification of appellant, the evidence of rape in this case was more than sufficient to support the conviction.

Appeal from Pulaski Circuit Court, Fifth Division; *Jack L. Lessenberry*, Judge; affirmed.

William R. Simpson, Jr., Public Defender, *Donald K. Campbell III*, Deputy Public Defender, by: *Cecilia F. Roberts*, Deputy Public Defender, for appellant.

Steve Clark, Att'y Gen. by: *Lee Taylor Franke*, Asst. Att'y Gen., for appellee.

DAVID NEWBERN, Justice. The sole issue presented in this appeal of the appellant's conviction for rape is whether the evidence was sufficient to sustain the conviction. We find the evidence was sufficient, and thus the conviction is affirmed.

The alleged victim testified that she was in her apartment and asleep with her infant son on a mattress in her living room in the early morning hours of April 5, 1986. She was awakened and realized that a person was lying with her and whispering to her that she should do as he said in order to keep from being hurt, and to keep her baby from being harmed. She further testified that her assailant, whom she positively identified as the appellant, had a "butter knife" and she was in fear for her life and for the safety of her son. She testified that the appellant was engaged in sexual intercourse with her when her husband arrived.

The remainder of the testimony, given by the alleged victim's husband and by the officers who were summoned to the scene, was to the effect that the husband subdued the appellant after a fight and held him until the police arrived. An arresting officer testified that a screwdriver was found in the pants pocket of the appellant and that marks around a window in the alleged victim's apartment showed that a screen had been pried up. The window was open.

The appellant testified that the alleged victim had invited him to her apartment and submitted consensually to intercourse with him.

Trial by jury was waived by the appellant, and the case was heard by the judge. In reaching his judgment, the judge noted that he found the appellant not to be a credible witness as he had been convicted previously of a number of offenses involving dishonesty.

[1-3] We affirm the conviction on appeal if there is any substantial evidence to support the verdict. *Fountain v. State*, 273 Ark. 457, 620 S.W.2d 936 (1981). The statement of the alleged victim, standing alone, is enough to support a conviction of rape. *Sales v. State*, 291 Ark. 338, 724 S.W.2d 469 (1987); *Hamm v. State*, 214 Ark. 171, 214 S.W.2d 917 (1948). Thus, in this case, the evidence was more than sufficient, given the corroborating testimony of the victim's husband and the police officers who investigated the incident.

Affirmed.