

HARDIN v. STATE.

4987

339 S. W. 2d 423

Opinion delivered October 31, 1960.

CRIMINAL LAW, CONCUBINAGE, SUFFICIENCY OF EVIDENCE.—*HELD*: Sexual intercourse standing alone is not sufficient evidence of the crime of concubinage. (This case was consolidated for oral argument with the case of *Poland and Stephens v. State, supra*, and the Court's opinion in that appeal clearly disposes of the present case.)

Appeal from St. Francis Circuit Court; *Elmo Taylor*, Judge; reversed and dismissed.

Harold Sharpe and *Carroll C. Cannon*, for appellant.

Bruce Bennett, Atty. General, by *Clyde Calliotte*, Asst. Atty. General, for appellee.

JIM JOHNSON, Associate Justice. Appellant J. A. Hardin, a white man, was convicted of the crime of concubinage which is a felony. See Ark. Stats. §§ 41-806, 41-807. It was established that J. A. Hardin took a negro woman to a tourist court and had sexual intercourse with her. There was no effort on the part of the State to prove that Hardin and the Negro woman ever lived together in any way except in the act of sexual intercourse at the tourist court.

Hardin contended in the lower court and contends here that sexual intercourse standing alone is not sufficient evidence of the crime of concubinage. He raises other questions in this Court but we need not discuss them.

This case of Hardin was consolidated for oral argument in this Court with the case of *Poland and Stephens v. State*, 231 Ark. 669, 339 S. W. 2d 421, and the opinion delivered this day in the Poland and Stephens appeal clearly disposes of the present case. Therefore, in light of the opinion in the said *Poland and Stephens, supra*, the judgment of the Circuit Court in this case is reversed and the cause dismissed.