WEIST *v.* STATE

5160 401 S. W. 2d 565

Opinion delivered April 18, 1966

CRIMINAL LAW—APPEAL & ERROR—RULING ON MOTION TO STRIKE EVIDENCE.—In a prosecution for negligent homicide upon proof that accused's drunken driving caused the collision, no prejudice resulted to accused where trial court permitted prosecuting attorney, over defense counsel's objection, to ask a witness if he knew accused drank and the question was never answered.

Appeal from Craighead Circuit Court, Jonesboro Dist., *John S. Mosby,* Judge; affirmed.

Frank Sloan, W. B. Howard and *Jack Segars,* for appellant.

Bruce Bennett, Attorney General, *Fletcher Jackson,* Asst. Atty. General, for appellee.

GEORGE ROSE SMITH, Justice. The appellant was convicted of negligent homicide upon proof that his drunken driving caused a traffic collision in which Don Taylor Gazaway was killed. The jury fixed the penalty at imprisonment for one year and a fine of $500.00.

For reversal the appellant urges a single point, that the trial court erred in permitting the prosecuting attorney, over the objection of defense counsel, to ask the witness Gage if he knew that the accused drank. A complete answer to this contention is simply that the question was never answered; so there could have been no prejudice. *Reynolds* v. *State,* 220 Ark. 188, 246 S. W. 2d 724 (1952).

Affirmed.

AMSLER, J., not participating.