

CORNELIUS TILLMAN *v.* STATE OF ARKANSAS

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475 S.W. 2d 529

Opinion delivered January 31, 1972

CRIMINAL LAW—FORMATION OF JURY—PEREMPTORY CHALLENGES FOR DEFENDANT.—A defendant being tried for an offense punishable by death or life imprisonment is entitled to 12 peremptory challenges. [Ark. Stat. Ann. § 43-1922 (Repl. 1964).]

Appeal from Pulaski Circuit Court, First Division (Special), *William H. Enfield*, Judge on exchange; reversed.

*Louis W. Rosteck*, for appellant.

*Ray Thornton*, Attorney General; *Henry Ginger*, Deputy Atty. Gen., for appellee.

CONLEY BYRD, Justice. Under Ark. Stat. Ann. § 43-1922 (Repl. 1964) a defendant put to trial upon an offense punishable by either death or life imprisonment is entitled to 12 peremptory challenges. Appellant Cornelius Tillman was put to trial upon a charge of first degree rape. After he had used up eight peremptory challenges, the trial court ruled that, because the State had waived

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the death penalty, appellant had exhausted his peremptory challenges. This was error.

Reversed.

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