

Bobby L. HEFLEY *v.* STATE of Arkansas

CR 83-124

663 S.W.2d 732

Supreme Court of Arkansas  
Opinion delivered February 6, 1984

APPEAL & ERROR — WAIVER OF POINT AT TRIAL — EFFECT. — A point  
waived at trial will not be considered for the first time on  
appeal.

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Appeal from Pulaski Circuit Court; *Floyd J. Lofton*,  
Judge; affirmed.

*C. E. Christian*, for appellant.

*Steve Clark*, Atty. Gen., by: *Theodore Holder*, Asst.  
Atty. Gen., for appellee.

ROBERT H. DUDLEY, Justice. Appellant was charged with burglary, robbery, and attempted rape. He pleaded not guilty and filed a suppression motion alleging that the police had conducted a suggestive pre-trial identification procedure which created a substantial likelihood of in-court misidentification. Appellant withdrew the motion before the court ruled on it. His trial strategy was to admit identification. His attorney stipulated that he was illegally in the prosecutrix's home. He testified that he was one of two burglars who entered the prosecutrix's home with the intent to take her money but he denied that he was guilty of attempted rape. There was no objection to any of the identification evidence. Appellant was found guilty of all three crimes.

His point for reversal is that the trial court committed error by allowing the prosecutrix to identify the appellant. The point was waived at trial and will not be considered for the first time on appeal. *Wicks v. State*, 270 Ark. 781, 606 S.W.2d 366 (1980).

Affirmed.

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