

Robert LEONARD *v.* STATE of Arkansas

CR 80-50

599 S.W. 2d 138

Supreme Court of Arkansas
Opinion delivered June 2, 1980

CRIMINAL LAW — CONFESSION OF 16-YEAR-OLD — VOLUNTARINESS. —
A confession made by a 16-year-old boy is not involuntary as a
matter of law.

Appeal from Washington Circuit Court, *Mablon Gibson*,
Judge; affirmed.

Michael Dabney, Public Defender, for appellant.

Steve Clark, Atty. Gen., by: *Mary Davies Scott*, Asst. Atty. Gen., for appellee.

GEORGE ROSE SMITH, Justice. Robert Leonard was convicted of burglary and sentenced by the jury to eight years' imprisonment and a \$1,000 fine. His only argument for reversal is, in effect, that his confession was involuntary as a matter of law.

The facts, undisputed, came largely from Robert's own testimony at the Denno hearing and before the jury. In late 1978 Robert, aged 16, was confined to a boys' home in Nebraska for breaking and entering. In February, 1979, he and another youth, Luke Soule, fled by bus to Winslow, Arkansas, where Robert meant to stay with his uncle and aunt if they would not turn him in to be sent back to Nebraska.

Upon reaching Winslow on the morning of February 6 the two boys broke into a house to steal money and food. They ransacked the house, taking money and loading a shotgun, a rifle, and a pistol. When the owner of the house returned with his family and started to enter the house, Luke shot him several times, not fatally. The two boys ran away, Robert throwing away a shotgun and a pistol as he ran. They were picked up later in the day.

Robert made a full confession after he had been warned of his rights. He admits that he told the truth. He did not ask that the officers call an attorney or his parents or his uncle and aunt, whom he was avoiding until he could learn through their son whether they would turn him in. A psychologist who interviewed Robert testified that he was of average intelligence and actually gave no reason for a finding that the confession was not voluntary. We have independently reviewed the facts, but we could not set aside the trial judge's ruling without saying in substance that any confession made by a 16-year-old boy is involuntary as a matter of law. That is not true. *Mosley v. State*, 246 Ark. 358; 438 S.W. 2d 311 (1969).

That case, essentially similar to this one, involved a 15-year-old boy.

Affirmed.
