

ACKERSON *v.* STATE.

Opinion delivered July 8, 1905.

CARRYING WEAPONS—INSTRUCTIONS—PREJUDICE.—One convicted of carrying a pistol cannot complain that the court erred in defining what constitutes a journey, within the statutory exception, if the undisputed testimony showed that he had returned from his journey, and stopped at the home of his mother-in-law, where he loitered an hour or more.

Appeal from Monroe Circuit Court.

GEORGE M. CHAPLINE, Judge.

Affirmed.

*H. A. & J. R. Parker*, for appellant.

*Robert L. Rogers*, Attorney General, for appellee.

McCULLOCH, J. This is an appeal from a judgment of conviction of carrying a pistol. Appellant admitted carrying the pistol at the time and place named, but set up a defense that he was on a journey at the time. He complains of the instructions given by the court defining what constitutes a journey, within the meaning of the exception in the statute. The undisputed testimony establishes the fact that appellant was armed with a pistol at the home of his mother-in-law in the immediate neighborhood of his own home. He was not then on a journey, if it be conceded that his peregrinations of the day constituted a journey, within the meaning of the statute. He had returned from his alleged journey, and stopped at the home of his mother-in-law, where he loitered an hour or more, drunk and disorderly. He cannot, under those circumstances, claim the benefit of the exception in the statute. *Holland v. State*, 73 Ark. 425. The essential facts constituting appellant's guilt of the offense charged being undisputed, no error in the instructions could have been prejudicial. Judgment affirmed.

Hill, C. J., absent and not participating.