Cite as 2012 Ark. App. 377

ARKANSAS COURT OF APPEALS

DIVISION II
No. CA11-999

Opinion Delivered May 30, 2012

C.L. APPELLANT	APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT, FIRST DIVISION
V.	[NO. CR-11-847]
STATE OF ARKANSAS APPELLEE	HONORABLE LEON JOHNSON, JUDGE
	AFFIRMED

WAYMOND M. BROWN, Judge

Appellant C.L. appeals from a decision of the Pulaski County Circuit Court denying his motion to transfer his criminal case to juvenile court. He was charged by information on March 14, 2011, with capital murder and aggravated robbery. After a hearing, the trial court denied C.L.'s motion to transfer. This appeal followed. C.L. contends that the trial court abused its discretion by allowing the State to introduce into evidence testimony of a previous nolle-prossed juvenile adjudication. We affirm.

C.L.'s juvenile transfer hearing took place on June 15, 2011. C.L.'s mother, Linda Burton, testified on direct that C.L. had previously been charged with residential burglary for which he was under the supervision of the juvenile court. According to Burton, the charge had been nolle- prossed in September 2010.

On cross-examination, Burton testified that she was called to the Little Rock Police Department on December 24, 2009, after C.L. was arrested for residential burglary. However, she denied signing C.L.'s *Miranda*-rights form. She was then presented with the signed form and acknowledged that she had, in fact, signed it. Burton testified about the facts surrounding C.L.'s arrest for residential burglary and the subsequent dismissal of the charge.

The court denied C.L.'s motion to transfer his case to juvenile court. The order was filed on June 15, 2011, finding that (1) the seriousness of the alleged offense and the protection of society justified prosecution in the criminal division; (2) the alleged offense was committed in an aggressive, violent, premeditated or willful manner; (3) the offense was committed against a person; (4) C.L.'s culpability, including the level of planning and participation in the alleged offense was great; (5) C.L.'s history justified prosecution in the criminal division;[1] (6) C.L.'s sophistication or maturity justified prosecution in the criminal division; (7) although there are facilities or programs available, they were unlikely to rehabilitate C.L.; and (8) C.L. was part of a group in the commission of the alleged offense. This appeal followed.

C.L. does not challenge the findings of the court on appeal. Instead, he argues that the State should not have been allowed to cross-examine his mother about the details surrounding the nolle-prossed residential-burglary charge and that the court abused its discretion by admitting this evidence. C.L. contends that Arkansas Code Annotated section 9-27-309(a)(2)[2]

---

[1]The court stated that it was taking note of C.L.'s behavior while on supervised release.

[2](Repl. 2009).

only permits records of prior juvenile-court proceedings to be considered in a subsequent juvenile-court proceeding if the prior adjudication was a delinquency adjudication. He argues that since his residential-burglary charge was nolle-prossed, evidence concerning that juvenile proceeding should not have been admitted. He acknowledges that this issue was not raised before the circuit court, but contends that our court may address the issue pursuant to Arkansas Rule of Evidence 103(d)[3] because it affects his substantial rights.

The State contends that C.L.'s argument is not preserved. We agree. A contemporaneous objection is generally required to preserve an issue for appeal, even a constitutional issue.[4] However, our supreme court has recognized four exceptions to the contemporaneous-objection rule, commonly referred to as the *Wicks* exceptions.[5] The four *Wicks* exceptions are (1) when the trial court fails to bring to the jury's attention a matter essential to its consideration of the death penalty itself; (2) when defense counsel has no knowledge of the error and hence no opportunity to object; (3) when the error is so flagrant and so highly prejudicial in character as to make it the duty of the court on its own motion to have instructed the jury correctly; and (4) Arkansas Rule of Evidence 103(d) provides that the appellate court is not precluded from taking notice of errors affecting substantial rights,

[3](2011).

[4]*Anderson v. State*, 353 Ark. 384, 108 S.W.3d 592 (2003).

[5]*Wicks v. State*, 270 Ark. 781, 606 S.W.2d 366 (1980).

although they were not brought to the attention of the trial court.[6] These are narrow exceptions that are to be rarely applied.[7]

Here, C.L. does not cite *Wicks*. He only argues that this court should address the issue on appeal because it affects C.L.'s substantial rights. We decline to do so. Because C.L. did not make a contemporaneous objection and has not made an effective argument for application of any *Wicks* exception, his argument is not preserved for our review.[8] Accordingly, we affirm.

Affirmed.

VAUGHT, C.J., and MARTIN, J., agree.

---

[6] *Anderson*, *supra*.

[7] *Id*.

[8] *See Mathis v. State*, 2012 Ark. App. 285, ___ S.W.3d ___.