

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-001948-MR

CODY ALAN ARNETT

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE LAURENCE VANMETER, JUDGE
ACTION NO. 03-CR-00112-002

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** * * *

BEFORE: GUIDUGLI AND KNOPF, JUDGES; EMBERTON, SENIOR JUDGE.¹

EMBERTON, SENIOR JUDGE. Cody Arnett, a juvenile, entered a conditional guilty plea to two counts of robbery, first degree. He alleges that the trial court erroneously denied his motion to suppress a confession made by him while in the custody of the

¹ Senior Judge Thomas D. Emberton sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

police without the presence of his parents in violation of KRS² 610.200. We affirm.

On December 12, 2002, the police arrived at Arnett's home to investigate an armed robbery that occurred at a local Dairy Mart. The officers inquired as to the location of Arnett's parents and were told that his mother was incarcerated and his father was working a construction job and could not be contacted. Arnett was then escorted to the police station where he was advised of his Miranda rights. The police, without the presence of either of Arnett's parents, questioned him and Arnett confessed to the crimes.

Arnett was found to be a youthful offender and transferred to the Fayette Circuit Court to be tried as an adult. The trial court denied the motion to suppress and Arnett entered a guilty plea reserving his right to appeal the suppression issue.

A trial court's decision on a suppression motion must be upheld if the factual findings of the court are supported by substantial evidence and the decision is correct as a matter of law.³

There is no factual dispute that Arnett was Mirandized prior to the interrogation. Arnett does not contend that his

² Kentucky Revised Statutes.

³ Adcock v. Commonwealth, Ky., 967 S.W.2d 6 (1998).

plea was involuntary but only that his statement should have been suppressed because the police violated KRS 610.200 when they interrogated him without the presence of his parents.

In Murphy v. Commonwealth,⁴ the court rejected the same argument now advanced and held that the failure to comply with KRS 610.200 does not mandate suppression of the juvenile's statement. The record is clear that Arnett was advised of his Miranda rights, and that he acknowledged he understood those rights. Neither did he request counsel nor await his father's arrival before making a statement. We conclude that no error occurred in refusing to suppress the statement.

The judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

John Rampulla
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BRIEF FOR APPELLEE:

Gregory D. Stumbo
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⁴ Ky., 50 S.W.3d 173 (2001).