

groes were in jail in Scottsboro, he searched them and took a white handled knife and 50¢ from one of them, not the defendant," Weems, was, in the light of the testimony of the prosecutrix that the mob, consisting of the defendant and others, who raped her, took her white handled knife and money, 50¢, tended to corroborate her testimony, and the defendant's objection to this testimony was overruled without error.

All that the bill of exceptions recites in respect to objection to argument is:

"Mr. Leibowitz: Mr. Hutson just said to the jury, 'How would you like to have your daughter on that train with nine negroes in a car?'"

"Now, your honor, I must object to that."

"The Court: The objection is overruled."

"Mr. Leibowitz: on the ground it is inflammatory."

"Mr. Hutson: I submit it is not as inflammatory as your argument."

"Mr. Leibowitz: Exception."

It clearly appears that this meager recital in the bill of exceptions does not present the entire picture, as it was presented to the trial Judge, but it appears that the statement of the Solicitor was used arguendo, and tends to show that it was provoked by inflammatory argument of defendant's counsel.

[8] Therefore, we can not affirm error to reverse in these rulings of the court. *Davis v. State*, 233 Ala. 202, 172 So. 344; *Peterson v. State*, 227 Ala. 361, 150 So. 156; *Id.*, 291 U.S. 661, 54 S.Ct. 439, 78 L.Ed. 1053; *Arant v. State*, 232 Ala. 275, 167 So. 540; *Hudson v. State*, 231 Ala. 492, 165 So. 782; *Peterson v. State*, 231 Ala. 625, 166 So. 20.

The foregoing are the only questions insisted upon in brief and in argument. We have examined all other rulings and find nothing that requires treatment.

The record and proceedings of the trial court appear regular in all things and are

free from reversible errors. The judgment of conviction is due to be affirmed.

It is so ordered by the court.

Affirmed.

ANDERSON, C. J., and THOMAS and KNIGHT, JJ., concur.



182 So. 5

Andy WRIGHT v. STATE.

8 Div. 846.

Supreme Court of Alabama.

June 9, 1938.

Appeal from Circuit Court, Morgan County; W. W. Callahan, Judge.

Appeal from conviction of rape.

Osmond K. Fraenkel and Samuel S. Leibowitz, both of New York City, for appellant.

A. A. Carmichael, Atty. Gen., and Thos. S. Lawson, Asst. Atty. Gen., for the State.

THOMAS, Justice.

The questions presented by this appeal, and argued by counsel for appellant, are fully treated in the opinion of the Court in the case of *Weems v. State*, Ala.Sup., 182 So. 3,¹ this day decided, and are there determined against the appellant's contention.

The other questions presented on the record have been examined and we find nothing in them requiring specific treatment or that could authorize a reversal of the judgment of the court.

The judgment of the circuit court is, therefore, affirmed.

Affirmed.

ANDERSON, C. J., and BROWN and KNIGHT, JJ., concur.

¹ Ante, p. 261.