

SUPREME COURT OF GEORGIA

Bryant v. State

298 Ga. 703 (2016) · No. S15A1738 · Decided March 21, 2016

SUMMARY

The Supreme Court of Georgia affirmed Vonterry Bryant’s convictions for malice murder, aggravated assault, and firearm offenses arising from a shooting outside a sports bar. The court rejected claims involving alleged Brady and Giglio violations, suggestive photographic lineups, and ineffective assistance of counsel. The court held that the evidence was sufficient and that no reversible error occurred.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| COURT                 | Supreme Court of Georgia                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Benham, Justice; All Justices                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | Georgia                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DECIDED               | March 21, 2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| DOCKET                | S15A1738                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Direct appeal from convictions for malice murder, aggravated assault, and firearm-possession offenses, following the trial court’s denial of a motion for new trial and grant of an out-of-time appeal.                                                                                                                                                                                                                                                                                                |
| STANDARD OF REVIEW    | The sufficiency of the evidence is reviewed under whether a rational trier of fact could find guilt beyond a reasonable doubt. A ruling denying a mistrial is reviewed for abuse of discretion. The determination whether an identification procedure was unduly suggestive is reviewed under the applicable identification-procedure standard. Ineffective-assistance claims require proof of deficient performance and resulting prejudice, and failure to establish either prong defeats the claim. |
| PRECEDENTIAL VALUE    | Published, precedential decision of the Supreme Court of Georgia.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| PARTIES               | Vonterry Bryant v. The State                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

TOPICS

criminal procedure

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## PRACTICE AREAS

criminal law

criminal procedure

constitutional criminal procedure

evidence

appellate practice

## QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Bryant's convictions.
2. Whether the State violated *Brady v. Maryland* and *Giglio v. United States* by failing to disclose outstanding warrants involving State witnesses Cook and Carmichael, and whether the trial court erred in denying a mistrial.
3. Whether photographic lineups identifying Bryant were unduly suggestive and created a substantial likelihood of irreparable misidentification.
4. Whether trial counsel rendered ineffective assistance by failing to discover the warrants before trial, failing to obtain missing discovery, and failing to investigate or present alibi witnesses.

## HOLDINGS

1. The trial evidence was sufficient for a rational trier of fact to find Bryant guilty beyond a reasonable doubt of the offenses for which he was convicted.
2. There was no *Brady* or *Giglio* violation because the defense obtained the outstanding-warrant information through its own investigation and therefore could not show that the State suppressed evidence unavailable to the defense; the trial court did not abuse its discretion in denying a mistrial.
3. The photographic lineup procedures were not unduly suggestive, and there was no reversible error in admitting the lineups.
4. Bryant failed to establish ineffective assistance of counsel because he did not demonstrate deficient performance and resulting prejudice for the challenged omissions.

## KEY QUOTATIONS

*“The suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.”* (298 Ga. at 704)

*“An unduly suggestive procedure is one which leads the witness to the virtually inevitable identification of the defendant as the perpetrator, and is equivalent to the authorities telling the witness, “This is our suspect.””* (298 Ga. at 705)

*“In order to prevail on a claim of ineffective assistance of counsel, appellant must show counsel’s performance was deficient and that deficient performance prejudiced him to the point that a reasonable probability exists that, but for counsel’s errors, the outcome of the trial would have been different.”* (298 Ga. at 707)

## FACTUAL BACKGROUND

After an argument at a sports bar concerning a woman, Bryant approached Edward Hawkins and Allen Cook outside the bar while displaying a gun. Hawkins and Cook ran, Bryant pursued them, shot Hawkins multiple times, and struck Cook with the gun; Hawkins died from his wounds. Witnesses identified Bryant, and one witness testified that Bryant later admitted shooting Hawkins and said he would have shot Cook if his gun had not jammed.

## PROCEDURAL HISTORY

A Richmond County grand jury indicted Bryant on malice murder, felony murder, aggravated assault, two counts of possessing a firearm during the commission of a crime, and possession of a firearm by a convicted felon. A jury convicted him on all counts in October 2005; the felony-murder count was vacated as a matter of law, and the trial court imposed a life sentence for malice murder, concurrent imprisonment for aggravated assault, and consecutive terms for the firearm offenses. After denying Bryant's amended motion for new trial, the trial court granted an out-of-time appeal in December 2013. The Supreme Court of Georgia affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Jackson v. Virginia, 443 U.S. 307 (1979)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Giglio v. United States, 405 U.S. 150 (1972)
- Danforth v. Chapman, 297 Ga. 29 (2015)
- Williams v. State, 290 Ga. 533 (2012)
- Pruitt v. State, 282 Ga. 30 (2007)
- Wright v. State, 291 Ga. 869 (2012)
- Andrews v. State, 293 Ga. 701 (2013)

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