

SUPREME COURT OF GEORGIA

Johnson v. State

292 Ga. 785 (2013) · Decided April 15, 2013

SUMMARY

The Supreme Court of Georgia affirmed Paris Leroy Johnson Jr.'s convictions for malice murder and related offenses arising from the fatal beating of Antonio Milton. The court held that the evidence did not warrant a voluntary manslaughter jury instruction, that appellate review of the challenge to cross-examination about Johnson's failure to mention fear was waived and otherwise meritless, and that testimony concerning a marijuana transaction was admissible res gestae evidence or harmless if erroneous.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Blackwell, Justice; All Justices
JURISDICTION	Georgia
DECIDED	April 15, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Johnson was convicted by a Walton County jury of malice murder and appealed after the trial court denied his amended motion for new trial.
STANDARD OF REVIEW	The sufficiency of the evidence was reviewed under the rational-trier-of-fact standard. The preserved evidentiary claims were reviewed for trial-court error and, alternatively, for harmless error; the unpreserved cross-examination claim was reviewed for preservation and waiver.
PRECEDENTIAL VALUE	Published opinion; precedential authority of the Supreme Court of Georgia.
PARTIES	Paris Leroy Johnson, Jr. v. State of Georgia

TOPICS

- criminal procedure
- evidence
- preservation of error
- harmless error
- self defense

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate practice
- evidence

QUESTIONS PRESENTED

1. Whether the trial court was required to charge the jury on voluntary manslaughter as a lesser included offense.
2. Whether the State improperly cross-examined Johnson about his failure to mention his claimed fear during his pretrial statement and before trial.
3. Whether the cross-examination claim was preserved for appellate review.
4. Whether testimony concerning Johnson's alleged marijuana transaction impermissibly placed his character in evidence.
5. Whether any evidentiary error warranted reversal in light of the overwhelming evidence of guilt.

HOLDINGS

1. The evidence was sufficient to authorize a rational trier of fact to find Johnson guilty of murder beyond a reasonable doubt.
2. The trial court was not required to charge the jury on voluntary manslaughter because the evidence did not provide even slight evidence that Milton seriously provoked Johnson and that Johnson killed him solely as the result of sudden, violent, and irresistible passion.
3. Johnson waived appellate review of his challenge to the State's cross-examination because he did not object at the time of the challenged questions.
4. Even if the issue had been preserved, it was not improper for the prosecutor to cross-examine Johnson about his failure to mention his claimed fear when he gave his statement or before trial.
5. The trial court did not err in admitting testimony about Johnson's alleged marijuana transaction because the testimony was relevant to the res gestae of the murder, explained the witnesses' presence and Johnson's movements, and was relevant to his state of mind even though it incidentally placed his character in issue.
6. Even assuming the admission of the marijuana-transaction testimony was erroneous, reversal was not warranted because the evidence of guilt was overwhelming and it was highly probable that the testimony did not contribute to the verdict.

KEY QUOTATIONS

“A trial court is required to give such a charge on request “if there is slight evidence showing that the victim seriously provoked the defendant, causing the defendant to kill the victim ‘solely as the result of a sudden, violent, and irresistible passion,’ OCGA § 16-5-2 (a).”” (at 786)

“Georgia “has long followed the contemporaneous objection rule, which provides that counsel must make a proper objection on the record at the earliest possible time to preserve for review the point of error.”” (at 787)

“It was not improper for the prosecutor to cross-examine [him] regarding his failure to mention [his fear] to officers or others when he made his statement or at any other time before trial.” (at 788)

“The State is entitled to present evidence of the entire res gestae of the crime. Even though a defendant is not charged with every crime committed during [or near the time of] a criminal transaction, every aspect of it relevant to the crime charged may be presented at trial.” (at 788-789)

FACTUAL BACKGROUND

Johnson attacked Antonio Milton with a baseball bat outside Johnson's residence after becoming angry about Milton's relationship with Johnson's former girlfriend. Milton was unarmed, made no threats or aggressive movements, and suffered fatal blunt-force trauma to the head. Johnson claimed he struck Milton to scare him away because he feared Milton based on prior reported threats, but admitted Milton had not threatened or attacked him during the encounter. Evidence also showed that Johnson had been arranging a marijuana transaction near the residence shortly before the attack.

PROCEDURAL HISTORY

Johnson was indicted for malice murder, felony murder, and aggravated assault arising from the beating death of Antonio Milton. The jury found him guilty on all counts; the felony-murder verdict was vacated, aggravated assault merged into malice murder, and the trial court imposed a sentence of life without parole. The trial court denied Johnson's amended motion for new trial, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 319 (1979)
- Glover v. State, 291 Ga. 152, 153 (1) (2012)
- Merritt v. State, 292 Ga. 327, 331 (2) (2013)
- Howard v. State, 288 Ga. 741, 745-746 (4) (2011)
- Robinson v. State, 129 Ga. 336, 338 (2) (1907)
- Izzo v. State, 265 Ga. App. 143, 143 (1) (2004)
- Hayward v. State, 258 Ga. App. 566, 569 (2)(a) (2002)
- Jolly v. Zarella, 252 Ga. App. 130, 131-132 (2001)
- State v. Larocque, 268 Ga. 352, 353 (1997)
- Whitehead v. State, 287 Ga. 242, 246-248 (2) (2010)
- Martin v. State, 281 Ga. 778, 780 (2) (2007)
- Sanders v. State, 289 Ga. 655, 659 (2) (2011)
- Stringer v. State, 285 Ga. 842, 845-846 (4) (2009)
- Kendrick v. State, 287 Ga. 676, 677-678 (2) (2010)
- Collins v. State, 289 Ga. 666, 668-669 (2011)
- Pearson v. State, 277 Ga. 813, 817 (5)(c) (2004)

- Johnson v. State, 264 Ga. 456, 457 (1) (1994)
- Roberts v. State, 282 Ga. 548, 551 (6) (2007)
- Shealey v. State, 257 Ga. 437, 438 (2) (1987)
- Carter v. State, 269 Ga. 891, 892 (3) (1998)
- Frazier v. State, 257 Ga. 690, 698 (16) (1987)
- Walker v. State, 282 Ga. 703, 705 (2) (2007)
- Malcolm v. State, 263 Ga. 369, 371-374 (4)-(5) (1993)
- Miranda v. Arizona, 384 U.S. 436 (1966)
- Holland v. State, 176 Ga. App. 343, 344 (3) (1985)
- Dasher v. State, 285 Ga. 308, 311 (4) (2009)
- Askew v. State, 254 Ga. App. 137, 139 (2) (2002)

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