

SUPREME COURT OF GEORGIA

Simms v. The State

S26A0086 · No. S26A0086 · Decided March 17, 2026

SUMMARY

The Supreme Court of Georgia vacated the denial of Michael Eric Simms’s motion for a new trial and remanded for application of the proper standard concerning implied waiver of a claim that an ineligible, non-U.S.-citizen juror served on the jury. The court held that failure to object alone does not establish waiver; the trial court must determine whether Simms or his counsel knew, or through ordinary diligence could have learned, of the juror’s ineligibility.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Pinson, Justice; All participating Justices
JURISDICTION	Supreme Court of Georgia
DECIDED	March 17, 2026
DOCKET	S26A0086
DISPOSITION	vacated
PROCEDURAL POSTURE	Defendant appealed the denial of his amended motion for new trial, arguing that his felony-murder conviction was invalid because a juror was not a United States citizen. The Supreme Court of Georgia vacated the judgment and remanded for the trial court to apply the proper implied-waiver and preservation standard.
STANDARD OF REVIEW	A trial court's application of the legal standard governing preservation and implied waiver is reviewed for abuse of discretion; applying the wrong legal standard constitutes an abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Michael Eric Simms v. The State

TOPICS

- jury selection
- preservation of error
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court properly found that Simms waived his challenge to the participation of a noncitizen juror merely because he did not object at trial.
2. Whether the judgment denying Simms's motion for new trial should be vacated and remanded because the trial court failed to determine whether Simms or his counsel knew, or could have discovered through ordinary diligence, the juror's ineligibility.

HOLDINGS

1. Failure to object to an ineligible juror does not by itself establish waiver. Implied waiver requires that the party knew of the juror's ineligibility, or could have discovered it through the timely exercise of ordinary diligence, and nevertheless remained silent.
2. The judgment denying the motion for new trial must be vacated and the case remanded for the trial court to determine whether Simms or his counsel knew that F.S. was not a United States citizen or could have learned that fact through ordinary diligence; if the claim was preserved, the trial court must address the claim on the merits.

KEY QUOTATIONS

“So a court considering whether a party has “impliedly waived” an objection to an ineligible juror must determine not only whether the party failed to object, but also whether the party knew that the juror was ineligible, and if not, whether the party could have learned of the juror’s ineligibility through the exercise of ordinary diligence.” (7)

“And because we are generally a court of review, not of first view” (8)

FACTUAL BACKGROUND

Michael Eric Simms was convicted of felony murder and other offenses arising from the shooting death of Seadee Karram Jones. Juror F.S., who had stated during voir dire that he was originally from Mexico, was seated on the jury and was later shown to be a noncitizen. Simms's counsel learned of F.S.'s citizenship after trial and raised the issue in an amended motion for new trial. The trial court denied relief solely because counsel had not objected at trial, without determining whether Simms or his counsel knew, or through ordinary diligence could have learned, that F.S. was ineligible.

PROCEDURAL HISTORY

A Fulton County grand jury indicted Simms in 2015, and a jury convicted him of all charged offenses after a February 2017 trial. The trial court imposed consecutive sentences, and Simms timely filed and repeatedly amended a motion for new trial. After evidentiary hearings, the trial court denied the motion on August 11, 2023, finding that Simms had waived the noncitizen-juror claim because he did not object at trial. The Supreme Court of Georgia held that the trial court applied an incomplete legal standard and remanded for further findings and, if the claim is preserved, consideration of its merits.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The trial court must determine in the first instance whether Simms or his counsel knew that juror F.S. was not a United States citizen or could have learned that fact through the timely exercise of ordinary diligence. If the court determines that the claim was preserved, it must address the claim on the merits.

CASES CITED

- Lucky v. State, 286 Ga. 478, 480 (2010)
- Lewis v. State, 291 Ga. 273, 275 (2012)
- Sinkfield v. State, 311 Ga. 524, 528 (2021)
- State v. Towns, 307 Ga. 351, 355 (2019)
- State v. Embert, 322 Ga. 199, 207-208 (2025)
- Williams v. State, 206 Ga. 107, 109 (1949)
- State v. Brinkley, 316 Ga. 689, 690 (2023)
- Drennon v. State, Drennon v. State, 314 Ga. 854, 871 (2022)
- State v. Sims, 322 Ga. 769, 778 (2025)
- State v. Mickel, 321 Ga. 751, 759 (2025)