

SUPREME COURT OF GEORGIA

McKibbins v. State

293 Ga. 843 (2013) · Decided October 21, 2013

SUMMARY

The Georgia Supreme Court affirmed Chaunson McKibbins’s convictions for malice murder, kidnapping with bodily injury, and concealing the death of another. The court held that accomplice testimony was sufficiently corroborated, the indictment adequately charged kidnapping with bodily injury, and the trial court properly handled the challenged prosecutorial statements, evidence, jury instructions, photographs, and documentary exhibits.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Blackwell, Justice; Blackwell; All Justices
JURISDICTION	Georgia
DECIDED	October 21, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	McKibbins appealed his convictions and sentences following a Fulton County jury trial and the trial court's denial of his amended motion for new trial.
STANDARD OF REVIEW	Sufficiency of the evidence was reviewed under whether a rational jury could find guilt beyond a reasonable doubt. Denial of a mistrial was reviewed for abuse of discretion, with reversal warranted only when a mistrial was essential to preserve a fair trial. The unobjected-to jury-charge claim was reviewed for plain error under OCGA § 17-8-58 (b). Evidentiary rulings, including admission of photographs, were reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion; precedential authority.
PARTIES	Chaunson McKibbins v. State

TOPICS

- criminal procedure
- evidence
- appellate procedure
- preservation of error
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to sustain the convictions despite reliance in part on accomplice testimony and circumstantial evidence.
2. Whether the indictment sufficiently charged kidnapping with bodily injury even though it did not specify the manner of injury.
3. Whether the prosecutor's statements during opening statement and closing argument required a mistrial.
4. Whether evidence of an earlier cocaine robbery was inadmissible similar-transaction evidence and required a limiting instruction.
5. Whether photographs of the victim, including one post-autopsy photograph, were improperly admitted.
6. Whether two letters allegedly written by McKibbins to influence witnesses were improperly allowed to go to the jury room during deliberations.
7. Whether the trial court plainly erred by failing to define 'accomplice' in its jury charge.
8. Whether the challenge to the felony-murder charge was moot because McKibbins was not convicted of felony murder.

HOLDINGS

1. The convictions were supported by sufficient evidence because Green's accomplice testimony was independently corroborated by slight evidence directly connecting McKibbins to the crimes or permitting an inference of guilt, and the jury was not required to accept the asserted alternative hypothesis that other participants alone killed Robbins.
2. The indictment sufficiently charged kidnapping with bodily injury because it tracked the language of the valid kidnapping statute and the circumstances did not permit greater certainty concerning the specific injury inflicted.
3. The trial court did not abuse its discretion by denying a mistrial based on the prosecutor's statements that the case was the worst she had seen, that the jury could be next, and that she detested Green and McKibbins.
4. The trial court properly admitted evidence of the earlier cocaine robbery because it was relevant evidence of McKibbins's motive for the charged crimes, not similar-transaction evidence subject to the State's similar-transaction notice requirement or a similar-transaction limiting instruction.
5. The trial court properly admitted the photographs because the pre-autopsy photographs were relevant to material issues including the injuries, malice, confinement, identity, and cause of death, and the post-autopsy photograph was necessary to show cerebral bruising apparent only through the autopsy.
6. The trial court properly permitted the letters allegedly written by McKibbins to go to the jury during deliberations because they were original documentary evidence of an attempt to influence witnesses rather than testimonial documentary evidence.

7. The trial court did not plainly err by failing to define 'accomplice' in its charge on corroboration of accomplice testimony.
8. The challenge to the felony-murder charge was moot because the felony-murder verdict was vacated by operation of law and McKibbins was not convicted of felony murder.

KEY QUOTATIONS

“In Georgia, a felony conviction cannot be sustained solely by the uncorroborated testimony of an accomplice.” (846)

“To warrant a conviction on circumstantial evidence, the proved facts shall not only be consistent with the hypothesis of guilt, but shall exclude every other reasonable hypothesis save that of the guilt of the accused.” (847)

“Whether to declare a mistrial is a question committed to the discretion of the trial judge, and the denial of a mistrial is reversible error only if it appears that “a mistrial [was] essential to preserve the defendant’s right to a fair trial.”” (848)

“on the trial of one charged with murder, evidence of the defendant’s motive for the homicide is always relevant.” (851)

“A photograph that depicts the victim after autopsy incisions ... is admissible when necessary to show some material fact which becomes apparent only because of the autopsy.” (853)

FACTUAL BACKGROUND

McKibbins and associates stole cocaine from a drug dealer, and McKibbins later believed Demetrius Robbins was responsible for the cocaine's disappearance. Robbins was abducted, beaten, transported among several locations, and ultimately killed and dismembered; evidence connected McKibbins to the abduction, killing, concealment, and efforts to influence witnesses. The State's principal accomplice witness was Rico Green, whose testimony was corroborated by independent eyewitness testimony, physical evidence, testimony concerning the various locations and vehicles, and letters attributed to McKibbins.

PROCEDURAL HISTORY

McKibbins was indicted on April 16, 2002, for malice murder, felony murder, kidnapping with bodily injury, concealing the death of another, and tampering with evidence. Following a trial beginning April 29, 2008, the jury found him guilty on all counts. The trial court imposed life sentences for malice murder and kidnapping with bodily injury, plus a consecutive ten-year sentence for concealing the death of another; the felony-murder verdict was vacated by operation of law and tampering merged into concealing the death. The trial court denied his amended motion for new trial on June 26, 2012, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Threatt v. State, 293 Ga. 549, 551 (1) (748 S.E.2d 400) (2013)
- Smith v. State, 257 Ga. 381, 382 (359 S.E.2d 662) (1987)
- Blevins v. State, 291 Ga. 814, 816 (733 S.E.2d 744) (2012)
- Brown v. State, 291 Ga. 887, 888 (1) (732 S.E.2d 41) (2012)
- Jackson v. Virginia, 443 U.S. 307, 319 (III) (B) (1979)
- Stewart v. State, 246 Ga. 70, 72 (2) (268 S.E.2d 906) (1980)
- Hinton v. State, 280 Ga. 811, 815 (3) (631 S.E.2d 365) (2006)
- Phillips v. State, 258 Ga. 228, 228 (1) (367 S.E.2d 805) (1988)
- Watson v. State, 289 Ga. 39, 42 (7) (709 S.E.2d 2) (2011)
- Conner v. State, 251 Ga. 113, 123 (6) (303 S.E.2d 266) (1983)
- Conklin v. State, 254 Ga. 558, 573 (11) (b) (331 S.E.2d 532) (1985)
- McClain v. State, 267 Ga. 378, 383 (3) (a) (477 S.E.2d 814) (1996)
- McGee v. State, 267 Ga. 560, 565 (3) (480 S.E.2d 577) (1997)
- Jones v. State, 292 Ga. 656, 660-662 (2) (740 S.E.2d 590) (2013)
- Moore v. State, 228 Ga. 662, 665 (4) (187 S.E.2d 277) (1972)
- Goodman v. State, 293 Ga. 80, 83-84 (3) (742 S.E.2d 719) (2013)
- Satterfield v. State, 256 Ga. 593, 598 (6) (351 S.E.2d 625) (1987)
- Brown v. State, 250 Ga. 862, 867 (5) (302 S.E.2d 347) (1983)
- Felder v. State, 273 Ga. 844, 847 (5) (545 S.E.2d 918) (2001)
- Johnson v. State, 289 Ga. 106, 107-108 (2) (709 S.E.2d 768) (2011)
- Huey v. State, 263 Ga. 840, 842 (5) (439 S.E.2d 656) (1994)
- Null v. State, 261 Ga. 180, 181 (4) (402 S.E.2d 721) (1991)
- Norton v. State, 293 Ga. 332, 335 (3) (745 S.E.2d 630) (2013)
- Stewart v. State, 286 Ga. 669, 670 (3) (690 S.E.2d 811) (2010)
- Davis v. State, 285 Ga. 343, 348 (8) (676 S.E.2d 215) (2009)
- Bollinger v. State, 272 Ga. App. 688, 692 (2) (613 S.E.2d 209) (2005)
- State v. Kelly, 290 Ga. 29, 31-32 (1) (718 S.E.2d 232) (2011)
- Terrell v. State, 271 Ga. 783, 786 (4) (523 S.E.2d 294) (1999)
- Smith v. State, 209 Ga. App. 540, 543 (5) (433 S.E.2d 694) (1993)
- Smith v. State, 249 Ga. 228, 229 (2) (290 S.E.2d 43) (1982)
- Clark v. Rush, 312 Ga. App. 333, 336-337 (2) (718 S.E.2d 555) (2011)
- Braley v. State, 276 Ga. 47, 49 (2) (572 S.E.2d 583) (2002)
- Malcolm v. State, 263 Ga. 369, 371-372 (4) (434 S.E.2d 479) (1993)
- Kelly, 290 Ga. at 33 (2) (a)