

SUPREME COURT OF GEORGIA

Cohen v. State, 275 Ga. 528

570 S.E.2d 301 (2002) · No. S02A1181 · Decided September 30, 2002

SUMMARY

The Supreme Court of Georgia affirmed Jeremine Jerome Cohen's convictions for two counts of malice murder and two counts of possession of a firearm during the commission of a felony. The court held that the evidence was sufficient and rejected challenges concerning alleged character evidence, crime-scene photographs and video, and the jury's use of a transcript while listening to an interview recording.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                              |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Georgia                                                                                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Hines, Justice                                                                                                                                                                                                                                                                                                                               |
| JURISDICTION          | Georgia                                                                                                                                                                                                                                                                                                                                      |
| DECIDED               | September 30, 2002                                                                                                                                                                                                                                                                                                                           |
| DOCKET                | S02A1181                                                                                                                                                                                                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Cohen appealed his jury convictions for two counts of malice murder and two counts of possession of a firearm during the commission of a crime, challenging the sufficiency of the evidence and several evidentiary rulings.                                                                                                                 |
| STANDARD OF REVIEW    | The sufficiency of the evidence is reviewed under whether, viewing the evidence in the light most favorable to the verdict, a rational trier of fact could find the defendant guilty beyond a reasonable doubt. Evidentiary rulings are reviewed for abuse of discretion, and unpreserved objections generally are not reviewable on appeal. |
| PRECEDENTIAL VALUE    | Published opinion of the Supreme Court of Georgia; precedential.                                                                                                                                                                                                                                                                             |
| PARTIES               | Jeremine Jerome Cohen v. The State                                                                                                                                                                                                                                                                                                           |

TOPICS

- criminal procedure
- evidence
- reasonable doubt
- appellate procedure
- preservation of error

## PRACTICE AREAS

Georgia criminal law

criminal evidence

appellate criminal procedure

## QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Cohen's convictions for the two malice murders and related firearm offenses.
2. Whether the trial court improperly admitted testimony that Cohen possessed or displayed a firearm several weeks before the murders as impermissible bad-character evidence.
3. Whether the trial court improperly admitted a crime-scene videotape and still photographs as duplicative, inflammatory, or prejudicial.
4. Whether the trial court improperly allowed jurors to use a transcript of an audiotaped interview while listening to the tape during trial.

## HOLDINGS

1. The evidence, including multiple eyewitness accounts and corroborating circumstantial evidence, was sufficient for the jury to find Cohen guilty beyond a reasonable doubt of the malice murders and related offenses, even though no witness identified him at the crime scene and the firearm was not recovered.
2. Cohen could not challenge the admission of testimony concerning his prior possession or display of a firearm because the testimony was elicited from his own witness on cross-examination and Cohen made no objection.
3. The crime-scene videotape and photographs depicting the victim's body were admissible because they were relevant to show the nature and extent of the wounds and the location of the body, and the duplicative or inflammatory nature of the evidence did not require exclusion.
4. The trial court did not err by providing jurors with a transcript of an audiotaped interview as a listening aid where the court instructed that the transcript was not evidence, identified the audio recording as the evidence, collected the transcripts afterward, and did not send them into the jury room.

## KEY QUOTATIONS

*"Gun ownership and the custom of carrying a gun do not, by themselves, impute bad character."* (570 S.E.2d at 304)

*"Under these circumstances, there was no error in permitting the use of the transcript."* (570 S.E.2d at 304)

## FACTUAL BACKGROUND

Two convenience-store employees were fatally shot during a robbery-related incident in Chatham County. Multiple eyewitnesses described the shooter's clothing and conduct, and several witnesses connected Cohen to the scene, including testimony that he wore clothing matching the shooter's, made statements about robbing the store and retaliating against one victim, and was seen immediately after the shootings. Cohen later gave police an account of his whereabouts that conflicted with testimony from the purported alibi witnesses.

## PROCEDURAL HISTORY

A Chatham County grand jury indicted Cohen on multiple malice-murder, felony-murder, and firearm-possession counts. After a jury trial from February 12 through February 15, 2001, Cohen was convicted on all counts; several felony-murder counts were vacated by operation of law, and he received consecutive life and five-year sentences. The trial court denied his amended motion for new trial on March 8, 2002. Cohen filed a notice of appeal on March 13, 2002; the appeal was docketed in the Supreme Court of Georgia on April 19, 2002, and submitted on June 10, 2002.

## DISPOSITION

affirmed

## CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Holmes v. State, 269 Ga. 124, 125(1), 498 S.E.2d 732 (1998)
- Edmond v. State, 267 Ga. 285, 288(4), 476 S.E.2d 731 (1996)
- Davis v. State, 272 Ga. 327, 329(2), 528 S.E.2d 800 (2000)
- Hayes v. State, 268 Ga. 809, 812(5), 493 S.E.2d 169 (1997)
- Floyd v. State, 272 Ga. 65, 68(4), 525 S.E.2d 683 (2000)
- Ottis v. State, 269 Ga. 151, 156(4), 496 S.E.2d 264 (1998)
- Washington v. State, 268 Ga. 598, 600(3), 492 S.E.2d 197 (1997)
- Malcolm v. State, 263 Ga. 369, 372(4), 434 S.E.2d 479 (1993)