

SUPREME COURT OF GEORGIA

Perryman-Henderson v. State

S23A0228 · No. S23A0228 · Decided June 21, 2023

SUMMARY

The Supreme Court of Georgia affirmed Anthony Perryman-Henderson’s convictions and sentence for malice murder and related offenses arising from the shooting death of Tanaya Dunlap. The court rejected his ineffective-assistance claim concerning counsel’s cross-examination of the medical examiner and concluded that, even assuming the trial court’s comment on the range-of-fire testimony was erroneous, Perryman-Henderson failed to establish plain error affecting his substantial rights.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Justice Pinson
JURISDICTION	Georgia
DECIDED	June 21, 2023
DOCKET	S23A0228
DISPOSITION	affirmed
PROCEDURAL POSTURE	Perryman-Henderson appealed his convictions and sentence after the trial court denied his amended motion for new trial. He raised ineffective assistance of trial counsel and an unpreserved claim that the trial court improperly commented on the evidence.
STANDARD OF REVIEW	Ineffective-assistance claims require proof of both objectively deficient performance and resulting prejudice under Strickland; the court may resolve the claim on either component. Decisions concerning cross-examination are generally matters of trial strategy and do not constitute deficient performance unless no competent attorney would have acted similarly. Because the alleged judicial-comment error was not preserved by a trial objection, it was reviewed for plain error, requiring a showing that the error was obvious, affected substantial rights, and ordinarily affected the outcome of the trial.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Georgia
PARTIES	Anthony Perryman-Henderson v. The State

TOPICS

ineffective assistance

evidence

criminal procedure

preservation of error

appellate procedure

PRACTICE AREAS

Criminal law

Criminal procedure

Appellate procedure

Evidence

QUESTIONS PRESENTED

1. Whether trial counsel provided ineffective assistance by failing to correct or otherwise challenge the medical examiner's estimate that the fatal shot was fired from two to three feet away.
2. Whether the trial court plainly erred under OCGA § 17-8-57 by commenting on the State's characterization of the medical examiner's range-of-fire testimony.

HOLDINGS

1. Perryman-Henderson failed to establish ineffective assistance because counsel's cross-examination of the medical examiner elicited testimony favorable to the defense and was not so unreasonable that no competent attorney would have pursued it.
2. Assuming without deciding that the trial court's statement violated OCGA § 17-8-57, Perryman-Henderson failed to show plain error because he did not establish that the passing comment affected his substantial rights or probably affected the outcome of the trial.

KEY QUOTATIONS

“Decisions regarding trial tactics and strategy may form the basis for an ineffectiveness claim only if they were so patently unreasonable that no competent attorney would have followed such a course.” (at 8)

“Assuming without deciding that the court’s comment violated OCGA § 17-8-57, Perryman-Henderson has not established that this passing comment affected his substantial rights.” (at 13)

FACTUAL BACKGROUND

Anthony Perryman-Henderson was convicted in connection with the fatal shooting of his girlfriend, Tanaya Dunlap, in a restaurant parking lot. The medical examiner estimated that the gun was fired approximately two to three feet from Dunlap's head, while Perryman-Henderson testified that Dunlap had been holding the gun during a struggle when it discharged. Eyewitness testimony, surveillance video, and Perryman-Henderson's conduct and statements after the shooting provided evidence inconsistent with his account.

PROCEDURAL HISTORY

A DeKalb County grand jury indicted Perryman-Henderson for malice murder and related offenses arising from the shooting death of Tanaya Dunlap. A jury convicted him on all counts, and the trial court imposed a sentence of life imprisonment plus five years followed by fifteen years of probation, with other counts merged or vacated by operation of law. The trial court denied his amended motion for new trial, and the Supreme Court of Georgia affirmed the convictions and sentence.

DISPOSITION

affirmed

CASES CITED

- Strickland v. Washington, 466 U.S. 668, 687-694 (III) (A)-(B) (104 SCt 2052, 80 LE2d 674) (1984)
- Lee v. State, 314 Ga. 724, 727 (1) (879 SE2d 416) (2022)
- Washington v. State, 313 Ga. 771, 773 (3) (873 SE2d 132) (2022)
- Bonner v. State, 314 Ga. 472, 476 (2) (877 SE2d 588) (2022)
- Payne v. State, 314 Ga. 322, 332 (3) (f) (877 SE2d 202) (2022)
- Evans v. State, 315 Ga. 607, 611 (2) (b) (884 SE2d 334) (2023)
- Moore v. State, 315 Ga. 263, 272-273 (4) (882 SE2d 227) (2022)
- Shaw v. State, 292 Ga. 871, 873 (2) (742 SE2d 707) (2013)
- Merritt v. State, 311 Ga. 875, 889 (6) (860 SE2d 455) (2021)

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