

SUPREME COURT OF GEORGIA

White v. State, 278 Ga. 499

604 S.E.2d 159 (2004) · No. S04A1394 · Decided October 12, 2004

SUMMARY

The Supreme Court of Georgia reviewed Antonio Dewayne White's convictions for felony murder, attempted armed robbery, armed robbery, and aggravated assault. The court held that the evidence was sufficient to establish White's participation as a party to the crimes, including reliance on a co-indictee's prior inconsistent statement as substantive evidence. It affirmed the convictions in part but vacated the separate conviction and sentence for attempted armed robbery because that offense merged into the felony murder conviction.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Carley, Justice; All Justices
JURISDICTION	Georgia
DECIDED	October 12, 2004
DOCKET	S04A1394
DISPOSITION	vacated
PROCEDURAL POSTURE	White appealed convictions and sentences following a jury trial. The Court of Appeals transferred the case to the Supreme Court of Georgia.
STANDARD OF REVIEW	Whether, construing the evidence in support of the verdicts, a rational trier of fact could find the defendant guilty beyond a reasonable doubt; the court applied the Jackson v. Virginia standard.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Antonio Dewayne White v. The State

TOPICS

- criminal procedure
- evidence
- reasonable doubt
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate practice

QUESTIONS PRESENTED

1. Whether the evidence was sufficient for a rational trier of fact to find beyond a reasonable doubt that White was a party to the charged crimes.
2. Whether the trial court properly entered a separate conviction and sentence for attempted armed robbery when that offense merged into the felony-murder conviction.

HOLDINGS

1. The evidence was sufficient for a rational trier of fact to find beyond a reasonable doubt that White was a party to the charged crimes. Although mere presence at a crime scene is insufficient by itself, presence combined with companionship and conduct before and after the offenses supported an inference of participation and criminal intent.
2. The trial court erred by entering a separate judgment of conviction and sentence for the attempted armed robbery because that offense merged into the felony-murder conviction.

KEY QUOTATIONS

“While mere presence at the scene of the commission of a crime is not sufficient evidence to convict one of being a party thereto, presence, companionship, and conduct before and after the offense are circumstances from which one's participation in the criminal intent may be inferred.” (604 S.E.2d 160)

“a prior inconsistent statement of a witness who takes the stand and is subject to cross-examination is admissible as substantive evidence, and is not limited in value only to impeachment purposes.” (604 S.E.2d 160)

FACTUAL BACKGROUND

White and four other people riding in the same car participated in two violent incidents. During the first, they robbed Walter Bivens at gunpoint, forced him from his car, and fired shots as he fled. Shortly afterward, at an apartment-complex cookout, members of the group ordered victims to give up their property and Leon Wimberly shot and killed Terrence Thomas. Although Wimberly testified at trial that White lacked prior knowledge of the robbery plan, Wimberly had previously told police that White and two others pointed a gun at him and ordered him to commit the crime, and White's own statement contained details suggesting participation.

PROCEDURAL HISTORY

A jury found White guilty of felony murder committed during attempted armed robbery, attempted armed robbery, two counts of armed robbery, and two counts of aggravated assault. The trial court imposed multiple consecutive and concurrent sentences and denied White's motion for new trial. White appealed, and the Court of Appeals transferred the case to the Supreme Court of Georgia. The Supreme Court affirmed in part but vacated the separate conviction and sentence for attempted armed robbery because that offense merged into the felony-murder conviction.

DISPOSITION

vacated

CASES CITED

- Johnson v. State, 275 Ga. 650, 654(8), 571 S.E.2d 782 (2002)
- Felder v. State, 270 Ga. 641, 642(1), 644(4), 514 S.E.2d 416 (1999)
- Walsh v. State, 269 Ga. 427, 429(1), 499 S.E.2d 332 (1998)
- Berry v. State, 268 Ga. 437, 438(1), 490 S.E.2d 389 (1997)
- Gibbons v. State, 248 Ga. 858, 862, 286 S.E.2d 717 (1982)
- Jones v. State, 271 Ga. 433, 434, 520 S.E.2d 690 (1999)
- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- McKenzie v. State, 271 Ga. 47(1), 518 S.E.2d 404 (1999)
- Mainer v. State, 267 Ga. 448, 449(4), 450(4), 479 S.E.2d 731 (1997)
- Hawkins v. State, 267 Ga. 124(2), 475 S.E.2d 625 (1996)
- Curtis v. State, 275 Ga. 576, 577(1), 571 S.E.2d 376 (2002)