

SUPREME COURT OF GEORGIA

Adams v. State, 288 Ga. 695

707 S.E.2d 359 (2011) · No. S10A1563 · Decided February 7, 2011

SUMMARY

The Georgia Supreme Court affirmed Mitchell Lee Adams's convictions and sentences for aggravated child molestation and child molestation. The court held that Adams failed to raise or support an affirmative defense based on his age, that the State was not limited to proving the offenses within the date range alleged in the indictment, and that transfer to juvenile court was properly denied. The court also rejected his proportionality challenge to the mandatory sentencing provision and found no reversible error concerning the admission of the victim's videotaped statement.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Carley, Presiding Justice; Hunstein, Chief Justice; Melton, Justice
JURISDICTION	Georgia
DECIDED	February 7, 2011
DOCKET	S10A1563
DISPOSITION	affirmed
PROCEDURAL POSTURE	Criminal appeal following convictions for child molestation and aggravated child molestation. The Court of Appeals transferred the case to the Supreme Court of Georgia because Adams challenged the constitutionality of the aggravated-child-molestation sentencing statute.
STANDARD OF REVIEW	Sufficiency of the evidence was reviewed under whether a rational trier of fact could find guilt beyond a reasonable doubt. The statutory and jurisdictional issues were reviewed de novo. The proportionality challenge was evaluated under the Eighth Amendment gross-disproportionality framework.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Mitchell Lee Adams v. The State

TOPICS

criminal procedure

sentencing

cruel and unusual punishment

evidence

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Adams was entitled to dismissal or acquittal because the indictment and trial proceedings permitted conviction for conduct occurring before he reached the age of 13 under OCGA § 16-3-1.
2. Whether the State was required to prove that the charged offenses occurred within the date range alleged in the indictment.
3. Whether the superior court lacked jurisdiction or was required to consider transfer to juvenile court under OCGA § 15-11-28(b)(2)(B).
4. Whether the mandatory minimum sentence for aggravated child molestation under OCGA § 16-6-4(d)(1), as applied to Adams, constituted cruel and unusual punishment.
5. Whether the victim's videotaped statement was improperly admitted under Georgia's child-hearsay statute or violated the Confrontation Clause.

HOLDINGS

1. OCGA § 16-3-1 operates as an affirmative defense rather than an immunity from criminal prosecution, and the defendant must present evidence of age at the time of the alleged crimes unless the State's evidence raises the issue. Because no trial evidence established Adams's age, he failed to raise the defense, and the convictions were not invalid on that ground.
2. When an indictment alleges a range of dates without specifically alleging that the dates are material, the State is not restricted at trial to proving that the offenses occurred within that precise range. A variance in dates does not require a new trial absent prejudice to the defense.
3. The superior court was not divested of jurisdiction under OCGA § 15-11-28(b)(2)(B) because the indictment and evidence authorized a finding that Adams committed aggravated child molestation after July 1, 2006, when the offense became punishable by life imprisonment and was no longer transferable under the statute.
4. Adams's mandatory minimum sentence of 25 years followed by life probation for aggravated child molestation was not grossly disproportionate and did not constitute cruel and unusual punishment as applied to him.
5. The trial court satisfied the reliability requirement of OCGA § 24-3-16 because the record contained evidence supporting a finding of sufficient indicia of reliability, even though an express finding was not necessary. Adams waived his Confrontation Clause claim by failing to object on that ground in the trial court.

KEY QUOTATIONS

“Indeed, OCGA § 16-3-1 sets forth an affirmative defense, because such a defense admits the doing of the act charged, but seeks to justify, excuse, or mitigate it.” (698)

“Where, as here, the State alleges a certain range of dates in an indictment and does not specifically allege that those dates are material, the State is not restricted at trial to proving that the crimes occurred within that range of dates.” (699)

“A court must begin by comparing the gravity of the offense and the severity of the sentence.” (701)

FACTUAL BACKGROUND

Adams was charged with child molestation and aggravated child molestation occurring between May 1, 2007, and March 10, 2008, although the indictment stated that the State could not identify a specific date because the victim was a young child. The evidence showed numerous acts of molestation involving a very young victim, including an act involving oral contact and ejaculation. The victim's forensic interview indicated that the molestation occurred at her father's house, and the evidence authorized a finding that at least one aggravated-child-molestation offense occurred after July 1, 2006.

PROCEDURAL HISTORY

Adams was indicted, tried by a jury, convicted of child molestation and aggravated child molestation, and sentenced to life imprisonment with 25 years to be served followed by probation for aggravated child molestation and to a 20-year term with five years to be served followed by probation for child molestation. The trial court denied his challenges concerning his age, the dates alleged in the indictment, transfer to juvenile court, sentencing, and admission of the victim's videotaped statement. Adams appealed to the Court of Appeals, which transferred the case to the Supreme Court of Georgia based on the constitutional challenge. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Ford v. State, 100 Ga. 63, 25 S.E. 845 (1896)
- Curry v. State, 87 Ga. App. 451, 74 S.E.2d 249 (1953)
- K.M.S. v. State of Ga., 129 Ga. App. 683, 200 S.E.2d 916 (1973)
- Roper v. Simmons, 543 U.S. 551, 125 S. Ct. 1183, 161 L. Ed. 2d 1 (2005)
- Luke v. State, 222 Ga. App. 203, 474 S.E.2d 49 (1996)
- Chandle v. State, 230 Ga. 574, 198 S.E.2d 289 (1973)
- Hicks v. State, 287 Ga. 260, 695 S.E.2d 195 (2010)
- Cheesman v. State, 230 Ga. App. 525, 497 S.E.2d 40 (1998)
- State v. Layman, 279 Ga. 340, 613 S.E.2d 639 (2005)
- Reynolds v. State, 266 Ga. 235, 466 S.E.2d 218 (1996)

- *Graham v. Florida*, *Graham v. Florida*, 560 U.S. 48, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010)
- *Ewing v. California*, 538 U.S. 11, 123 S. Ct. 1179, 155 L. Ed. 2d 108 (2003)
- *Humphrey v. Wilson*, 282 Ga. 520, 652 S.E.2d 501 (2007)
- *Romani v. State*, 303 Ga. App. 829, 695 S.E.2d 303 (2010)
- *Crawford v. Washington*, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004)

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