

SUPREME COURT OF GEORGIA

Herrera v. State, 288 Ga. 231

702 S.E.2d 854 (2010) · No. S10A1030 · Decided November 1, 2010

SUMMARY

The Supreme Court of Georgia affirmed Ernesto Domingo Herrera's convictions for malice murder, felony obstruction of a law enforcement officer, and fleeing to elude arrest. The court held that the warrant affidavit established probable cause to obtain Herrera's hospital records despite omissions, the State sufficiently established the chain of custody for the urine sample, and any Confrontation Clause error concerning the laboratory report was harmless. The court also upheld admission of the victim's statements under the necessity exception to hearsay and declined to require removal of a potentially biased juror for cause.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Thompson, Justice; All the Justices
JURISDICTION	Georgia
DECIDED	November 1, 2010
DOCKET	S10A1030
DISPOSITION	affirmed
PROCEDURAL POSTURE	Herrera appealed his convictions for malice murder, felony obstruction of a law enforcement officer, and fleeing to elude arrest, challenging, among other things, the denial of suppression of hospital records and the admission of related evidence.
STANDARD OF REVIEW	The evidence on review of the denial of a motion to suppress is construed to uphold the trial court's findings unless clearly erroneous. Admission of evidence and rulings on hearsay trustworthiness and juror challenges are reviewed under the applicable abuse-of-discretion standards. Sufficiency of the evidence is reviewed under whether any rational trier of fact could find guilt beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Georgia
PARTIES	Ernesto Domingo Herrera v. State

TOPICS

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search and seizure

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the evidence was sufficient to disprove Herrera's claim of self-defense and support his convictions.
2. Whether a search-warrant affidavit established probable cause to search Herrera's hospital records despite omissions concerning the reliability and corroboration of information supplied by Herrera's wife.
3. Whether the State established a sufficient chain of custody for Herrera's urine sample when the testifying laboratory director did not personally receive or process the sample.
4. Whether admission of the laboratory report violated Herrera's confrontation rights because the report was testimonial hearsay, and if so, whether the error was harmless.
5. Whether the victim's statements to his wife were admissible under Georgia's necessity exception to the hearsay rule.
6. Whether the trial court abused its discretion by refusing to excuse a prospective juror for cause based on racial bias.

HOLDINGS

1. The evidence was sufficient for a rational trier of fact to find beyond a reasonable doubt that Herrera did not act in self-defense and was guilty of malice murder, felony obstruction, and fleeing to elude arrest.
2. The search-warrant affidavit established probable cause to search Herrera's hospital records notwithstanding omissions concerning facts that could impeach the reliability of his wife's statements and the lack of corroboration.
3. The State established with reasonable certainty that the substance tested was the same urine sample obtained from Herrera, and the trial court properly admitted the test results.
4. Even assuming admission of the laboratory report itself was erroneous testimonial hearsay, any error was harmless beyond a reasonable doubt because the laboratory supervisor independently testified about the testing procedures and results.
5. The victim's statements to his wife were admissible under Georgia's necessity exception because the victim was unavailable and the statements bore a sufficient circumstantial guaranty of trustworthiness.
6. The trial court did not abuse its discretion by refusing to excuse the prospective juror for cause where the juror expressed bias but stated that he believed he could decide the case solely on the evidence.

KEY QUOTATIONS

"The test for probable cause is not hypertechnical" (857)

“The two requirements for the admission of hearsay under this exception are the unavailability of the declarant and a circumstantial guaranty of trustworthiness.” (858)

FACTUAL BACKGROUND

Herrera and Osvaldo Navarro lived together and quarreled throughout the day before Herrera borrowed a pistol and returned to Navarro's house. Navarro was shot twice in the back and died; Herrera fled in a vehicle, crashed, and was hospitalized. Herrera's urine tested positive for amphetamine, methamphetamine, and cocaine metabolites. Hospital personnel found a folding knife in Navarro's pocket, while Herrera told police that he believed Navarro was about to attack him with a knife.

PROCEDURAL HISTORY

The crimes occurred on April 14, 2007. Herrera was indicted on September 27, 2007, tried beginning July 15, 2008, and convicted on July 18, 2008. The trial court sentenced him to life imprisonment for murder, five years for obstruction, and twelve months for fleeing to elude. His motion for a new trial was denied February 5, 2010; he filed a notice of appeal February 17, 2010. The Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Holmes v. State, 273 Ga. 644, 645(1), 543 S.E.2d 688 (2001)
- Russell v. State, 267 Ga. 865, 866(1), 485 S.E.2d 717 (1997)
- Smith v. State, 281 Ga. 185(2), 640 S.E.2d 1 (2006)
- Carter v. State, 283 Ga. 76, 77, 656 S.E.2d 524 (2008)
- Curry v. State, 255 Ga. 215, 217(1), 336 S.E.2d 762 (1985)
- Maldonado v. State, 268 Ga. App. 691, 693, 603 S.E.2d 58 (2004)
- Johnson v. State, 271 Ga. 375, 382(13), 519 S.E.2d 221 (1999)
- Melendez-Diaz v. Massachusetts, 557 U.S. 305, 129 S. Ct. 2527, 174 L. Ed. 2d 314 (2009)
- Neal v. Augusta-Richmond County Board of Education, 304 Ga. App. 115, 695 S.E.2d 318 (2010)
- Carolina v. State, 302 Ga. App. 40, 690 S.E.2d 435 (2010)
- Haywood v. State, 301 Ga. App. 717, 722, 689 S.E.2d 82 (2009)
- Dunn v. State, 292 Ga. App. 667, 669(1), 665 S.E.2d 377 (2008)
- Gay v. State, 279 Ga. 180, 182(2), 611 S.E.2d 31 (2005)
- Roper v. State, 263 Ga. 201, 202, 429 S.E.2d 668 (1993)
- Myers v. State, 275 Ga. 709(2), 572 S.E.2d 606 (2002)
- Thomason v. State, 281 Ga. 429, 433(12), 637 S.E.2d 639 (2006)
- Patterson v. State, 239 Ga. 409, 411(1), 238 S.E.2d 2 (1977)

- Byrd v. State, 277 Ga. 554, 556(2), 592 S.E.2d 421 (2004)
- Holmes v. State, 269 Ga. 124, 125(2), 498 S.E.2d 732 (1998)
- Nance v. State, 280 Ga. 125, 128, 623 S.E.2d 470 (2005)

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