

SUPREME COURT OF GEORGIA

Tarpley v. State

298 Ga. 442 (2016) · No. S15A1457 · Decided February 8, 2016

SUMMARY

The Supreme Court of Georgia affirmed Hoke Smith Tarpley’s convictions for malice murder and felony murder arising from the shooting death of his uncle. The court rejected challenges concerning evidence of the victim’s prior violent acts, jury instructions on voluntary manslaughter, no duty to retreat, and missing evidence, as well as alleged reciprocal-discovery violations. The court also upheld the refusal to reopen the evidence to admit photographs and rejected Tarpley’s related ineffective-assistance claim.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hunstein, Justice
JURISDICTION	Georgia
DECIDED	February 8, 2016
DOCKET	S15A1457
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a judgment of conviction for malice murder and a life sentence, following denial of an amended motion for new trial.
STANDARD OF REVIEW	Sufficiency of the evidence was reviewed under the rational-trier-of-fact standard. The exclusion of victim-character evidence, discovery-violation remedies, reopening of evidence, and related trial-management decisions were reviewed for abuse of discretion. Ineffective-assistance claims were reviewed under the deficient-performance and prejudice requirements.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Georgia.
PARTIES	Hoke Smith Tarpley v. The State

TOPICS

- criminal procedure
- self defense
- evidence
- jury instructions
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

jury instructions

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court properly excluded evidence of Estes's prior specific acts of violence because Tarpley failed to make a prima facie showing of justification.
2. Whether the trial court erred by refusing to charge the jury on voluntary manslaughter.
3. Whether the trial court erred by including the word "imminent" in the no-duty-to-retreat instruction.
4. Whether Tarpley's unsupported claim that the State failed to produce evidence entitled him to a missing-evidence jury instruction.
5. Whether the trial court abused its discretion in addressing the State's reciprocal-discovery violations by allowing the defense to interview the medical examiner, granting a continuance, and permitting additional witness examination instead of excluding the medical examiner's testimony.
6. Whether the trial court abused its discretion by refusing to reopen the evidence to admit photographs taken during trial.
7. Whether trial counsel was ineffective for failing to ensure that the photographs were disclosed and introduced.

HOLDINGS

1. The evidence was sufficient for a rational trier of fact to find Tarpley guilty of malice murder beyond a reasonable doubt.
2. The trial court did not abuse its discretion by excluding evidence of Estes's prior specific acts of violence because Tarpley failed to make a prima facie showing of justification.
3. The trial court properly refused to give a voluntary-manslaughter instruction because the evidence showed fear and an attempt at self-defense, not the passion required for voluntary manslaughter.
4. The trial court did not err by including the word "imminent" in the no-duty-to-retreat instruction because the charge substantially and accurately stated the applicable law and was unlikely to confuse the jury.
5. Tarpley's missing-evidence instruction claim was abandoned because he provided no supporting argument or citation of authority.
6. The trial court did not abuse its discretion by declining to exclude the medical examiner's testimony and instead employing less severe remedies for the State's discovery violations.
7. The trial court did not abuse its discretion by refusing to reopen the evidence to admit photographs taken during trial and not previously provided to the State.
8. Tarpley failed to establish ineffective assistance because the photographs were cumulative and he could not show prejudice.

KEY QUOTATIONS

“While jury charges on self-defense and voluntary manslaughter are not mutually exclusive, the provocation necessary to support a charge of voluntary manslaughter is different from that which will support a claim of self-defense.” (298 Ga. at 445)

“When the State fails to comply with reciprocal discovery requirements, the trial court may, pursuant to OCGA § 17-16-6, ‘order the state to permit the discovery or inspection, ... grant a continuance, or, upon a showing of prejudice and bad faith, prohibit the state from introducing the evidence not disclosed.’” (298 Ga. at 448)

FACTUAL BACKGROUND

Tarpley shot his uncle, Earnest Claude Estes, twice through a front-yard window after leaving Estes's residence, returning to his own home to retrieve a shotgun, and then going back to Estes's property. Tarpley claimed that Estes had assaulted and choked him and threatened him with a cocked gun, but Estes's revolver was found unloaded and holstered, there was no apparent struggle, and the lighting suggested Estes could not have seen Tarpley in the yard. The jury convicted Tarpley of malice murder and felony murder and imposed a life sentence for malice murder.

PROCEDURAL HISTORY

A Laurens County grand jury indicted Tarpley for malice murder and felony murder. After a June 2008 trial, the jury found him guilty of both offenses, and the trial court imposed a life sentence for malice murder. The trial court denied Tarpley's amended motion for new trial in October 2014, and Tarpley appealed to the Supreme Court of Georgia.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307 (1979)
- Austin v. State, 268 Ga. 602 (492 S.E.2d 212) (1997)
- Chandler v. State, 261 Ga. 402 (405 S.E.2d 669) (1991)
- Laster v. State, 268 Ga. 172 (486 S.E.2d 153) (1997)
- Hendrix v. State, 298 Ga. 60 (779 S.E.2d 322) (2015)
- Smith v. State, 292 Ga. 316 (737 S.E.2d 677) (2013)
- Chapman v. State, 258 Ga. 214 (367 S.E.2d 541) (1988)
- Shackelford v. State, 270 Ga. App. 12 (606 S.E.2d 22) (2004)
- Miller v. State, 223 Ga. App. 311 (477 S.E.2d 430) (1996)
- Browning v. State, 283 Ga. 528 (661 S.E.2d 552) (2008)
- Worthem v. State, 270 Ga. 469 (509 S.E.2d 922) (1998)
- Jackson v. State, 282 Ga. 494 (651 S.E.2d 702) (2007)

- Keita v. State, 285 Ga. 767 (684 S.E.2d 233) (2009)
- Zamora v. State, 291 Ga. 512 (731 S.E.2d 658) (2012)
- Brown v. State, 281 Ga. App. 557 (636 S.E.2d 717) (2006)
- Higuera-Hernandez v. State, 289 Ga. 553 (714 S.E.2d 236) (2011)
- Bryant v. State, 288 Ga. 876 (708 S.E.2d 362) (2011)
- Norris v. State, 289 Ga. 154 (709 S.E.2d 792) (2011)
- Carruth v. State, 267 Ga. 221 (476 S.E.2d 739) (1996)
- Terry v. State, 284 Ga. 119 (663 S.E.2d 704) (2008)
- Rector v. State, 285 Ga. 714 (681 S.E.2d 157) (2009)

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