

SUPREME COURT OF GEORGIA

Austin v. State

300 Ga. 889 (2017) · Decided April 17, 2017

SUMMARY

The Georgia Supreme Court affirmed Eric Robius Austin’s convictions arising from the shooting death of his girlfriend, rejecting his challenges to the sufficiency of the evidence and the trial court’s refusal to give a sudden-emergency instruction. The court vacated the sentence to the extent the firearm-possession conviction was merged into the malice-murder conviction and remanded for resentencing on that count.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Presiding Justice Melton; All the Justices
JURISDICTION	Georgia
DECIDED	April 17, 2017
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Austin appealed his convictions and sentences following a jury trial, challenging the sufficiency of the evidence and the trial court's refusal to give a requested sudden-emergency jury instruction. The Supreme Court of Georgia also addressed the trial court's merger of the firearm-possession count into the malice-murder count for sentencing.
STANDARD OF REVIEW	The evidence is viewed in the light most favorable to the verdict, and the conviction is upheld if a rational trier of fact could find the defendant guilty beyond a reasonable doubt. A trial court does not err by refusing a requested jury instruction that is not adjusted to the evidence presented at trial.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion; precedential.
PARTIES	Eric Robius Austin v. State

TOPICS

- jury instructions
- sentencing
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Austin's convictions.
2. Whether the trial court erred by refusing to give Austin's requested criminal-law sudden-emergency instruction concerning his possession of a firearm as a convicted felon.
3. Whether the trial court improperly merged the possession-of-a-firearm-by-a-convicted-felon count into the malice-murder count for sentencing.

HOLDINGS

1. The evidence was sufficient to enable a rational trier of fact to find Austin guilty beyond a reasonable doubt of the charged offenses.
2. The trial court did not err by refusing to give the requested sudden-emergency instruction because the instruction was not adjusted to the evidence.
3. The trial court erred by merging the possession-of-a-firearm-by-a-convicted-felon count into the malice-murder count; the sentence on that count must be vacated and the case remanded for resentencing.

KEY QUOTATIONS

"Where, upon a sudden emergency, one suddenly acquires actual possession of a pistol for the purpose of defending himself, if you find that to have been the purpose, [Austin] would not be in violation of any law prohibiting a felon from being in possession of a firearm." (300 Ga. at 891)

"Austin provided no evidence of any sudden emergency that caused him to suddenly possess a firearm to defend himself; rather, the evidence he presented showed, at most, that he already possessed a firearm that he chose to use before being placed in any situation that required him to actually defend himself." (300 Ga. at 892)

FACTUAL BACKGROUND

Austin, a convicted felon, was at the apartment he shared with his girlfriend, Sade Danmola, when the two argued after she returned home from work. A neighbor heard Danmola plead for her life, after which Austin shot her in the abdomen with a .380 pistol. Austin called 911 but fled before officers arrived, leaving the couple's infant son in the apartment; Danmola later died at the hospital. Austin testified that he mistakenly shot Danmola while believing she was a burglar, but he also testified that he already possessed the firearm before seeing the bedroom doorknob turn.

PROCEDURAL HISTORY

Austin was indicted on murder, aggravated assault, and firearm-possession charges and was convicted on all counts after a February 28–March 2, 2012 jury trial. He received a life sentence for malice murder and a consecutive five-year sentence for possession of a firearm during the commission of a felony; other counts were vacated by operation of law or merged for sentencing. The trial court denied his amended motion for new trial,

and Austin timely appealed. The Supreme Court affirmed the convictions and legal rulings, vacated the firearm-possession sentencing merger, and remanded for resentencing on that count.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the portion of the sentence that merged the possession-of-a-firearm-by-a-convicted-felon count into the malice-murder count and remand to the trial court for resentencing on the firearm-possession count.

CASES CITED

- Jackson v. Virginia, 443 U.S. 307 (1979)
- Dean v. State, 273 Ga. 806, 807 (1) (2001)
- Cauley v. State, 260 Ga. 324, 326 (2)(c) (1990)
- Young v. State, 327 Ga. App. 852, 856 (4)(a) (2014)
- Whitaker v. State, 269 Ga. 462 (6) (1998)
- Chester v. State, 284 Ga. 162, 162 (1) (2008)
- Williams v. State, 287 Ga. 192, 194 (2010)
- Harper v. State, 286 Ga. 216, 218 (1) (2009)
- Hulett v. State, 296 Ga. 49, 55 (2)(b) (2014)
- Malcolm v. State, 263 Ga. 369 (4) (1993)
- MARTA v. Mehretab, 224 Ga. App. 263, 264 (1) (1997)
- Meeks v. State, 216 Ga. App. 630, 631 (1) (1995)

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