

SUPREME COURT OF GEORGIA

Sealey v. State, 277 Ga. 617

593 S.E.2d 335 (2004) · No. S03P1479 · Decided March 1, 2004

SUMMARY

The Supreme Court of Georgia affirmed Richard Lester Sealey’s convictions and death sentences for the malice murders of John and Fannie Mae Tubner and related offenses. The court rejected challenges concerning grand-jury composition, prosecutorial disqualification, juror selection, evidentiary rulings, and the proportionality and statutory sufficiency of the death sentences.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Thompson, Justice
JURISDICTION	Georgia
DECIDED	March 1, 2004
DOCKET	S03P1479
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions for two malice murders and related offenses and from death sentences imposed for the murders.
STANDARD OF REVIEW	Sufficiency of the evidence was reviewed under Jackson v. Virginia. Voir-dire limitations and juror excusals were reviewed for abuse of discretion. The court reviewed the death sentences under the statutory requirements of OCGA § 17-10-35, including whether the sentences were imposed under passion, prejudice, or other arbitrary factors and whether they were excessive or disproportionate.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Georgia; precedential.
PARTIES	Richard Lester Sealey v. The State

TOPICS

- sentencing
- criminal procedure
- jury selection
- evidence
- appellate procedure

PRACTICE AREAS

- Criminal law
- Capital punishment
- Criminal procedure
- Evidence
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Sealey's convictions.
2. Whether the grand-jury indictment was invalid because jury commissioners allegedly excluded prospective grand jurors based on education.
3. Whether the grand- and traverse-jury source lists unlawfully underrepresented Hispanic persons.
4. Whether the entire district attorney's office should have been disqualified because an assistant district attorney had previously represented Sealey in unrelated cases.
5. Whether the trial court improperly limited voir dire or excused prospective jurors for hardship.
6. Whether evidence concerning a polygraph examination of a witness was admissible.
7. Whether the possession-of-a-firearm-by-a-convicted-felon charge should have been bifurcated from the other charges.
8. Whether evidence of Sealey's use of a murdered man's credit card was admissible during the sentencing phase.
9. Whether the statutory aggravating circumstances were sufficiently supported.
10. Whether the death sentences were imposed under passion, prejudice, or another arbitrary factor.
11. Whether the death sentences were excessive or disproportionate compared with similar cases.

HOLDINGS

1. The guilt-phase evidence was sufficient for rational jurors to find Sealey guilty beyond a reasonable doubt on all counts.
2. The alleged use of educational criteria to select grand jurors did not provide a basis for sustaining a challenge to the grand-jury array under the circumstances shown.
3. Sealey's underrepresentation claim failed because he presented no evidence that Hispanic persons constituted a cognizable group in the county or establishing actual underrepresentation and its degree.
4. The trial court properly allowed the district attorney's office to continue prosecuting the case because the assistant district attorney who had previously represented Sealey was screened from direct and indirect participation.
5. The trial court did not abuse its discretion by limiting questions concerning legal terminology, speculative jury deliberations, or prejudgment, or by concluding that the challenged jurors were qualified.
6. The trial court did not abuse its discretion in excusing prospective jurors for personal hardship, and Sealey abandoned any broader claim concerning an allegedly unqualified full panel by failing to identify the jurors or provide record citations.
7. The trial court properly excluded evidence concerning a polygraph examination administered to Sherrie Tubner.
8. The trial court did not err by refusing to bifurcate the possession-of-a-firearm-by-a-convicted-felon charge from the remaining charges.

9. The trial court properly admitted evidence that Sealey illegally used a man's credit card shortly after the man's murder.
10. The evidence supported the statutory aggravating circumstances, the death sentences were not imposed under passion, prejudice, or another arbitrary factor, and the sentences were not excessive or disproportionate.

KEY QUOTATIONS

“Upon our review of the entire record, we conclude that the evidence presented in the guilt/innocence phase was sufficient to authorize rational jurors to conclude beyond a reasonable doubt that Sealey was guilty on all counts.” (at 337)

“reliable evidence of bad character and of past crimes is admissible in the sentencing phase of a death penalty trial.” (at 339)

“Considering both the defendant and the clearly egregious facts of this torture and double murder case, we conclude that Sealey's death sentences are not excessive or disproportionate punishment as compared to the penalty imposed in similar cases.” (at 339)

FACTUAL BACKGROUND

Sealey participated in the murders of John and Fannie Mae Tubner during an attempted robbery. After obtaining Mr. Tubner's handgun, Sealey restrained Ms. Tubner, tortured her with a heated fireplace poker to obtain information about money, and then killed both victims with an ax. The evidence included testimony from Gregory Fahie and Wajaka Battiste, the victims' handgun and jewelry found in Sealey's motel room, and protein residue consistent with blood in the motel bathroom.

PROCEDURAL HISTORY

A Clayton County grand jury indicted Sealey on two counts of malice murder, fourteen counts of felony murder, two counts of possession of a firearm during the commission of a crime, and one count of possession of a firearm by a convicted felon. A jury convicted him on all counts and recommended death sentences for the murders. The trial court imposed the death sentences and consecutive prison terms for the firearm offenses; the felony-murder convictions were not sentenced and were vacated as a matter of law. After denial of his motion for new trial, Sealey appealed to the Supreme Court of Georgia, which affirmed the convictions and sentences.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Frazier v. State, 257 Ga. 690, 362 S.E.2d 351 (1987)
- Dillard v. State, 177 Ga. App. 805, 341 S.E.2d 310 (1986)
- Ramirez v. State, 276 Ga. 158, 575 S.E.2d 462 (2003)

- Smith v. State, 275 Ga. 715, 571 S.E.2d 740 (2002)
- Sallie v. State, 276 Ga. 506, 578 S.E.2d 444 (2003)
- Rhode v. State, 274 Ga. 377, 552 S.E.2d 855 (2001)
- Zellmer v. State, 272 Ga. 735, 534 S.E.2d 802 (2000)
- Lance v. State, 275 Ga. 11, 560 S.E.2d 663 (2002)
- Lively v. State, 262 Ga. 510, 421 S.E.2d 528 (1992)
- Gulley v. State, 271 Ga. 337, 519 S.E.2d 655 (1999)
- Holsey v. State, 271 Ga. 856, 524 S.E.2d 473 (1999)
- King v. State, 273 Ga. 258, 539 S.E.2d 783 (2000)
- Ledford v. State, 264 Ga. 60, 439 S.E.2d 917 (1994)
- Rucker v. State, 272 Ga. 750, 534 S.E.2d 71 (2000)
- Walker v. State, 264 Ga. 79, 440 S.E.2d 637 (1994)
- Jones v. State, 265 Ga. 138, 454 S.E.2d 482 (1995)
- Braley v. State, 276 Ga. 47, 572 S.E.2d 583 (2002)
- Wilson v. State, 271 Ga. 811, 525 S.E.2d 339 (1999)
- Malcolm v. State, 263 Ga. 369, 434 S.E.2d 479 (1993)
- Arevalo v. State, 275 Ga. 392, 567 S.E.2d 303 (2002)
- Raheem v. State, 275 Ga. 87, 560 S.E.2d 680 (2002)
- Lucas v. State, 274 Ga. 640, 555 S.E.2d 440 (2001)
- Colwell v. State, 273 Ga. 634, 544 S.E.2d 120 (2001)
- Heidler v. State, 273 Ga. 54, 537 S.E.2d 44 (2000)
- Morrow v. State, 272 Ga. 691, 532 S.E.2d 78 (2000)
- Pace v. State, 271 Ga. 829, 524 S.E.2d 490 (1999)
- Palmer v. State, 271 Ga. 234, 517 S.E.2d 502 (1999)
- Cook v. State, 270 Ga. 820, 514 S.E.2d 657 (1999)
- Jenkins v. State, 269 Ga. 282, 498 S.E.2d 502 (1998)
- DeYoung v. State, 268 Ga. 780, 493 S.E.2d 157 (1997)
- Raulerson v. State, 268 Ga. 623, 491 S.E.2d 791 (1997)
- McMichen v. State, 265 Ga. 598, 458 S.E.2d 833 (1995)
- Stripling v. State, 261 Ga. 1, 401 S.E.2d 500 (1991)
- Isaacs v. State, 259 Ga. 717, 386 S.E.2d 316 (1989)

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