

SUPREME COURT OF ALABAMA

Ex parte Carey Dale Grayson

824 So. 2d 844 (Ala. 2001) · No. 1991310 · Decided January 18, 2002

SUMMARY

The Supreme Court of Alabama affirmed Carey Dale Grayson's capital-murder conviction and death sentence, finding no reversible or plain error after reviewing the issues raised on certiorari. On rehearing, the court considered the trial court's failure to select alternate jurors according to Rule 18.4(g), Ala. R. Crim. P., and held that the error did not rise to the level of plain error. Concurring opinions addressed limitations on cross-examination and the admission of codefendants' statements during penalty-phase testimony.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Brown, Justice; Moore, C.J.; Houston, J.; See, J.; Lyons, J.; Woodall, J.; Stuart, J.; Johnstone, J.; Harwood, J.
JURISDICTION	Alabama
DECIDED	January 18, 2002
DOCKET	1991310
DISPOSITION	affirmed
PROCEDURAL POSTURE	Grayson petitioned the Supreme Court of Alabama for a writ of certiorari to review the Court of Criminal Appeals' affirmance of his capital-murder conviction and death sentence and its order vacating his separate intentional-murder conviction on double-jeopardy grounds. The Supreme Court granted certiorari, reviewed the record for plain error, independently considered the propriety of the death sentence, and affirmed. On rehearing, Grayson raised for the first time a challenge to the procedure used to select alternate jurors.
STANDARD OF REVIEW	Plain-error review under former Rule 39(k), Ala. R. App. P., for issues not preserved by objection; independent review of the propriety of the death sentence.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Alabama; precedential.
PARTIES	Carey Dale Grayson v. State

TOPICS

criminal procedure

jury selection

appellate procedure

preservation of error

sentencing

PRACTICE AREAS

criminal law

capital punishment

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QUESTIONS PRESENTED

1. Whether the Court of Criminal Appeals correctly resolved the issues raised in Grayson's capital-murder appeal.
2. Whether the record contained plain error requiring reversal of Grayson's conviction or death sentence.
3. Whether the trial court's random selection of alternate jurors, rather than selection under Rule 18.4(g), constituted plain error requiring reversal.

HOLDINGS

1. The judgment of the Court of Criminal Appeals affirming Grayson's capital-murder conviction and death sentence is affirmed because the Supreme Court found no reversible error, plain or otherwise, and determined that Grayson received a fair trial.
2. Although the trial court's random selection of alternate jurors was inconsistent with Rule 18.4(g), Ala. R. Crim. P., the error did not rise to the level of plain error because Grayson failed to show that his rights were injuriously affected or that the fairness or integrity of the proceedings was seriously impaired.

KEY QUOTATIONS

"We conclude that Grayson received a fair trial." (at 845)

"Error is plain 'if the error is so obvious that the failure to notice it would seriously affect the fairness or integrity of the judicial proceedings.'" (at 847-848)

"Grayson fails to demonstrate that the fairness or integrity of the judicial proceedings was seriously affected by the error." (at 848)

FACTUAL BACKGROUND

Grayson was indicted for two counts of capital murder involving the murder of Vickie Deblieux during a kidnapping and during a robbery. The jury convicted him of capital murder on the kidnapping count and of intentional murder as a lesser-included offense on the robbery count, recommending death by a unanimous vote. At trial, 14 veniremembers were empaneled without designation of alternates, and two were later selected at random as alternates before deliberations; the alternates did not participate in deliberations.

PROCEDURAL HISTORY

A jury convicted Grayson of capital murder during a kidnapping and of the lesser-included offense of intentional murder on a second count. The trial court imposed a death sentence for capital murder and life imprisonment for intentional murder. The Court of Criminal Appeals affirmed the capital-murder conviction and death sentence

but ordered the intentional-murder conviction vacated on double-jeopardy grounds. The Supreme Court affirmed the judgment and, on rehearing, overruled Grayson's application, holding that the trial court's noncompliance with the alternate-juror-selection rule did not constitute plain error.

DISPOSITION

affirmed

CASES CITED

- Grayson v. State, 824 So. 2d 804 (Ala. Crim. App. 1999)
- Ex parte Powell, 796 So. 2d 434, 436 (Ala. 2001)
- Ex parte Myers, 699 So. 2d 1285, 1296 (Ala. 1997), cert. denied, 522 U.S. 1054 (1998)
- Haney v. State, 603 So. 2d 368, 392 (Ala. Crim. App. 1991), aff'd, 603 So. 2d 412 (Ala. 1992), cert. denied, 507 U.S. 925 (1993)