

SUPREME COURT OF GEORGIA

Burden v. State

No. S26A0063 (Ga. June 2, 2026) · No. S26A0063 · Decided June 2, 2026

SUMMARY

The Supreme Court of Georgia affirmed Derrick Burden’s convictions for malice murder and related offenses. The court held that the trial court did not clearly abuse its discretion by admitting evidence of Burden’s subsequent Clayton County convictions under Georgia Rule of Evidence 404(b) to prove intent. The court concluded that the evidence was relevant, sufficiently similar and temporally proximate, and not substantially outweighed by unfair prejudice under Rule 403.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	LaGrua, Justice
JURISDICTION	Supreme Court of Georgia
DECIDED	June 2, 2026
DOCKET	S26A0063
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a second amended motion for new trial following convictions for malice murder and other crimes.
STANDARD OF REVIEW	The admission of Rule 404(b) evidence is reviewed for clear abuse of discretion. The Rule 403 balancing determination is also reviewed under that deferential standard, viewing the evidence in the light most favorable to admission and applying a common-sense assessment of the circumstances.
PRECEDENTIAL VALUE	published
PARTIES	Derrick Burden v. The State

TOPICS

- character evidence
- evidence
- standard of review
- appellate procedure
- criminal procedure

PRACTICE AREAS

- criminal law
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by admitting evidence of Burden's 2012 Clayton County convictions under OCGA § 24-4-404(b) to prove intent.
2. Whether the probative value of the Clayton County evidence was substantially outweighed by the danger of unfair prejudice under OCGA § 24-4-403.

HOLDINGS

1. Rule 404(b) evidence is admissible when it is relevant to an issue other than the defendant's character, its probative value is not substantially outweighed by unfair prejudice under Rule 403, and sufficient proof establishes that the defendant committed the other acts.
2. The Clayton County crimes were relevant to prove Burden's intent because they involved the same sort of intent as charged offenses involving aggravated assault with a deadly weapon, armed robbery, and possession of a firearm by a convicted felon.
3. The trial court did not clearly abuse its discretion in determining that the probative value of the Clayton County evidence was not substantially outweighed by the danger of unfair prejudice.

KEY QUOTATIONS

“Rule 404(b) is a rule of inclusion” (8)

“In close cases, balancing under Rule 403 should be in favor of admissibility of the evidence.” (11)

“Rule 403 imposes no requirement that the government choose the least prejudicial method of proving its case.” (11)

“Thus, applying a common sense assessment to all the relevant factors, see Williams, 316 Ga. at 254, we cannot say that the trial court clearly abused its discretion in determining that the probative value of the Clayton County evidence, even if limited, was not substantially outweighed by its prejudicial effect.” (14-15)

FACTUAL BACKGROUND

Streater and Blizzard were shot and killed in an Atlanta apartment, and Blizzard's laptop and computer bag were taken. Evidence linked Burden to the apartment and to the stolen laptop bag, including DNA on a cigarette butt, eyewitness identifications, and the recovery of the laptop bag containing the murder weapon after a man matching descriptions of Burden fled police. The State introduced evidence of Burden's later Clayton County convictions for burglary, aggravated assault with a deadly weapon, and related firearm offenses to prove intent under Rule 404(b).

PROCEDURAL HISTORY

A jury convicted Burden in 2013 of two counts of malice murder and other offenses arising from the shooting deaths of Calvin Streater and Samuel Blizzard, Jr. After multiple changes in appointed appellate counsel, Burden filed a second amended motion for new trial in January 2025. The Superior Court of DeKalb County denied that motion after an evidentiary hearing, and Burden appealed, raising a single claim that the trial court improperly admitted evidence of his 2012 Clayton County convictions under OCGA § 24-4-404(b).

DISPOSITION

affirmed

CASES CITED

- Henderson v. State, 318 Ga. 752, 754-56 (2024)
- Hall v. State, 322 Ga. 378, 382, 385 (2025)
- Lee v. State, 322 Ga. 44, 52 (2025)
- Jones v. State, 299 Ga. 377, 382 (2016)
- Greene v. State, 316 Ga. 584, 598, 600-01 (2023)
- Kirkland v. State, 318 Ga. 639, 653 & n.5 (2024)
- Rooks v. State, 317 Ga. 743, 756 (2023)
- Biggs v. State, 323 Ga. 546, 550-51 (2026)
- State v. Williams, 316 Ga. 249, 254 (2023)
- United States v. Moore, 535 F. App'x 795, 798 (11th Cir. 2013)
- United States v. Dorsey, 819 F.2d 1055, 1061 (11th Cir. 1987)
- United States v. Cenephat, 115 F.4th 1359, 1365 (11th Cir. 2024)
- United States v. Dixon, 698 F.2d 445, 446 (11th Cir. 1983)
- Old Chief v. United States, 519 U.S. 172, 186 (1997)
- Flakes v. State, 323 Ga. 477, 488-89 (2026)
- Taylor v. State, 306 Ga. 277, 283 (2019)
- Momon v. State, 322 Ga. 848, 857 (2025)
- Preston v. State, slip op. S26A0122 at 17 (June 2, 2026)
- Mitchell v. State, 317 Ga. 107, 111 (2023)
- Wilson v. State, 322 Ga. 76, 85-86 (2025)

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