

SUPREME COURT OF GEORGIA

Shubert v. State

831 S.E.2d 826 (Ga. 2019) · Decided August 5, 2019

SUMMARY

The Georgia Supreme Court affirmed Brent James Shubert’s convictions for malice murder and concealing the death of another. The court held that Shubert failed to establish a prima facie Sixth Amendment fair-cross-section violation because racial identification was unavailable for most individuals on the grand jury master list.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Peterson, Justice
JURISDICTION	Georgia
DECIDED	August 5, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Shubert appealed his convictions for malice murder and concealing the death of another, challenging the composition of the grand jury under the Sixth Amendment's fair-cross-section requirement.
STANDARD OF REVIEW	The court independently reviewed the record for the legal sufficiency of the evidence, viewing the evidence in the light most favorable to the verdicts. The fair-cross-section claim required Shubert to establish the elements of a prima facie constitutional violation.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Brent James Shubert v. State

TOPICS

- grand jury
- jury selection
- sixth amendment
- criminal procedure
- constitutional law

PRACTICE AREAS

- criminal procedure
- constitutional law
- jury selection
- homicide

QUESTIONS PRESENTED

1. Whether the grand jury that indicted Shubert violated the Sixth Amendment's fair-cross-section requirement because the grand-jury list contained duplicate names that were allegedly disproportionately white.
2. Whether the trial evidence was legally sufficient to support Shubert's convictions.

HOLDINGS

1. Shubert failed to establish a prima facie Sixth Amendment fair-cross-section violation because he presented insufficient evidence to determine the racial composition of the grand-jury master list.
2. The evidence was legally sufficient to authorize a rational trier of fact to find beyond a reasonable doubt that Shubert was guilty of the crimes for which he was convicted.

KEY QUOTATIONS

“To successfully make a Sixth Amendment fair-cross-section claim, a defendant must prove three things: (1) the allegedly excluded group is distinctive; (2) representation of that group in jury pools was not fair or reasonable in relation to the number of persons in the community; and (3) that underrepresentation is due to systematic exclusion of the group from the jury selection process.” (831 S.E.2d at 828)

FACTUAL BACKGROUND

Shubert and Bonny Cooner were dating and living together. Evidence showed that Shubert strangled Cooner with a cable at his auto shop, disposed of her body in a well, threatened a witness, and later offered inmates money to kill that witness. Police recovered Cooner's body and obtained hair, blood, and other evidence linking her death to the shop and truck.

PROCEDURAL HISTORY

A Franklin County grand jury indicted Shubert on March 1, 2013, for malice murder, felony murder predicated on aggravated assault, and concealing the death of another. After the State withdrew its notice of intent to seek the death penalty, Shubert waived a jury trial. Following a bench trial, the trial court convicted him and sentenced him to life without parole for malice murder and ten years concurrently for concealing the death of another. The trial court denied his motion to quash the indictment based on an allegedly illegal grand jury venire and later denied his amended motion for new trial. Shubert timely appealed, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Duren v. Missouri, 439 U.S. 357, 364, 99 S. Ct. 664, 58 L. Ed. 2d 579 (1979)
- Ramirez v. State, 276 Ga. 158, 161 (1) (c), 575 S.E.2d 462 (2003)

- *Morrow v. State*, 272 Ga. 691, 693 (1), 532 S.E.2d 78 (2000)
- *Malcolm v. State*, 263 Ga. 369, 371-372 (4), 434 S.E.2d 479 (1993)

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