

SUPREME COURT OF GEORGIA

Gunter v. Hickman, 256 Ga. 315

348 S.E.2d 644 (1986) · No. 43649 · Decided October 8, 1986

SUMMARY

The Supreme Court of Georgia affirmed the dismissal of Gail Gunter’s successive habeas corpus petition. The court held that her claim concerning insufficient corroboration of accomplice testimony had already been litigated on direct appeal and could not be reasserted in habeas proceedings. The court also held that the alleged denial of trial severance did not rise to the level of a miscarriage of justice permitting relief in a successive petition.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Marshall, Chief Justice
JURISDICTION	Georgia
DECIDED	October 8, 1986
DOCKET	43649
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the dismissal of a successive state habeas corpus petition by the Fulton Superior Court.
STANDARD OF REVIEW	The court reviewed whether the successive-habeas dismissal was legally proper and whether the asserted claims were cognizable notwithstanding procedural bars.
PRECEDENTIAL VALUE	Published opinion; precedential Supreme Court of Georgia decision.
PARTIES	Gail Gunter v. Hickman et al.

TOPICS

- state post-conviction relief
- successive petitions
- habeas corpus
- appellate procedure
- criminal procedure

PRACTICE AREAS

- criminal procedure
- state post-conviction relief
- habeas corpus
- appellate procedure

QUESTIONS PRESENTED

1. Whether Gunter could relitigate in habeas corpus her Jackson v. Virginia sufficiency-of-the-evidence claim when the issue had already been raised and decided on direct appeal.
2. Whether a claim waived under OCGA § 9-14-51 could be raised in a successive habeas petition under the miscarriage-of-justice exception in OCGA § 9-14-48(d).
3. Whether the trial court's refusal to sever Gunter's trial from her husband's trial constituted a miscarriage of justice warranting relief.

HOLDINGS

1. A habeas petitioner may not reassert a claim in habeas proceedings when the issue was actually litigated, raised, and decided on direct appeal.
2. Assuming without deciding that a miscarriage-of-justice claim may be cognizable in a successive habeas petition despite waiver under OCGA § 9-14-51, the denial of a motion for trial severance did not rise to the level of a miscarriage of justice.

KEY QUOTATIONS

"This issue was actually litigated, i.e., raised and decided, in the appellant's direct appeal." (256 Ga. at 316)

"Assuming, without deciding, that a 'miscarriage of justice' claim is cognizable in a successive habeas petition, we hold that the denial of the motion for trial severance does not rise to the level of a claimed 'miscarriage of justice.'" (256 Ga. at 317)

FACTUAL BACKGROUND

Gail Gunter and her husband, Tommy Gunter, were convicted of murdering Tommy's former wife, Betty Parsons, and received life sentences. On direct appeal, the convictions were affirmed. Gunter later filed multiple state habeas petitions, including the present petition, asserting that the evidence was constitutionally insufficient because of inadequate corroboration of accomplice testimony and that the trial court improperly refused to sever the trials.

PROCEDURAL HISTORY

Gail Gunter and her husband were convicted of murder, and their convictions and life sentences were affirmed on direct appeal. Gunter's first habeas petition was dismissed after she refused to present supporting evidence, and the Supreme Court of Georgia denied a certificate of probable cause to appeal. Her later habeas petitions in Fulton Superior Court were dismissed as successive under OCGA § 9-14-51; the Supreme Court granted a certificate of probable cause for review of the sufficiency-of-the-evidence and trial-severance claims, then affirmed.

DISPOSITION

affirmed

CASES CITED

- Gunter v. State, 243 Ga. 651, 256 S.E.2d 341 (1979)
- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Hammock v. Zant, 243 Ga. 259, 253 S.E.2d 727 (1979)
- Valenzuela v. Newsome, 253 Ga. 793, 325 S.E.2d 370 (1985)
- Parker v. Abernathy, 253 Ga. 673, 324 S.E.2d 191 (1985)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/georgia-supreme-court-of-georgia/1986/gunter-v-hickman-256-ga-315-bw8e1841>