

SUPREME COURT OF GEORGIA

Vasquez v. State, 306 Ga. 216

830 S.E.2d 143 (2019) · Decided June 24, 2019

SUMMARY

Christian Vasquez appealed the denial of his motion for a new trial following convictions arising from the death and concealment of his two-year-old daughter. The Georgia Supreme Court rejected his challenges concerning the sufficiency of the evidence, tolling of the statute of limitations, jury instructions on limitations and accomplice corroboration, ineffective assistance of counsel, and merger of offenses. The court affirmed the convictions, finding no reversible error.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Justice Bethel; All Justices
JURISDICTION	Georgia
DECIDED	June 24, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Vasquez appealed from the denial of his amended motion for new trial following a jury trial and convictions for malice murder, aggravated assault, two counts of cruelty to children in the first degree, and concealing the death of another. The Supreme Court of Georgia reviewed challenges to sufficiency of the evidence, jury instructions, ineffective assistance of counsel, and merger of offenses.
STANDARD OF REVIEW	Sufficiency of the evidence was reviewed under whether a rational trier of fact could find the defendant guilty beyond a reasonable doubt. Unobjected-to jury-instruction claims were reviewed for plain error. Ineffective-assistance claims were reviewed under the deficient-performance and prejudice test. Merger was reviewed under the required-evidence test and applicable Georgia merger principles.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Christian Vasquez v. State of Georgia

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QUESTIONS PRESENTED

1. Whether sufficient evidence supported Vasquez's conviction for first-degree cruelty to children based on his failure to obtain timely medical care for Prisi.
2. Whether sufficient evidence supported tolling the statute of limitation for concealing the death of another.
3. Whether the trial court plainly erred by instructing the jury that a seven-year limitation period applied to concealing the death of another.
4. Whether the trial court plainly erred by instructing the jury that the limitation period could be tolled when the person committing the crime was unknown or the crime was unknown.
5. Whether the trial court plainly erred by failing to instruct the jury on corroboration of accomplice testimony.
6. Whether trial counsel rendered ineffective assistance by failing to object to evidence of prior child abuse and to the statute-of-limitations instruction.
7. Whether the first-degree cruelty-to-children convictions merged with the malice-murder conviction.

HOLDINGS

1. The evidence was sufficient to support the conviction because Vasquez intentionally and unjustifiably failed to obtain medical care or report Prisi's serious injury, while instead concealing her and fleeing.
2. The evidence was sufficient for the jury to find that the limitation period was tolled from February 4, 2007, through January 17, 2013, while Vasquez was outside Georgia and concealed himself from legal process.
3. Even assuming the seven-year instruction was erroneous, Vasquez failed to show plain error because the evidence established tolling sufficient to make the prosecution timely under either a four-year or seven-year period.
4. The instruction listing additional statutory tolling circumstances did not constitute reversible plain error when the charge was considered as a whole.
5. Although the trial court clearly erred by failing to give an accomplice-corroboration instruction after giving a single-witness instruction, Vasquez intentionally relinquished the right to that instruction as part of a deliberate defense strategy, so plain-error review afforded no basis for reversal.
6. Counsel was not constitutionally ineffective for failing to object to the juvenile-court order describing prior abuse because the decision was a reasonable trial-strategy choice supporting the defense theory that Ruiz was responsible for Prisi's death.
7. Counsel's failure to object did not constitute ineffective assistance because Vasquez could not show a reasonable probability of a different outcome.

8. The cruelty-to-children convictions did not merge with malice murder because each offense requires proof of an element that the other does not, and no other merger provision prohibited separate convictions.

KEY QUOTATIONS

“However, there was also evidence to support a finding that Ruiz was an accomplice of Vasquez, particularly in the failure of both individuals to seek medical care for Prisi or report her injuries and subsequent death to authorities and in their joint efforts to leave their home and flee to Mexico.” (306 Ga. at 227-28)

“Accordingly, the record reflects that trial counsel elected not to request a jury instruction regarding accomplice corroboration as part of a conscious defense strategy to place blame for Prisi's death on Ruiz and to avoid any suggestion by the trial court that Ruiz and Vasquez were accomplices.” (306 Ga. at 230-31)

“Malice murder, but not cruelty to children [in the first degree], requires proof that the defendant caused the death of another human being. Cruelty to children [in the first degree], but not malice murder, requires proof that the victim was a child under the age of 18 who was caused cruel or excessive physical or mental pain.” (306 Ga. at 234-35)

FACTUAL BACKGROUND

Vasquez remained at home with his two-year-old daughter, Prisi, after his wife left on February 3, 2007. Evidence showed that Vasquez struck Prisi in the head with a tube, failed to obtain medical care when she became unresponsive, concealed her body in the attic, and fled with Ruiz and J.E. to Mexico. Prisi's remains were discovered in June 2008, and an autopsy attributed her death to blunt-force head trauma. Vasquez was later extradited and booked in Georgia on January 17, 2013.

PROCEDURAL HISTORY

A Gwinnett County grand jury indicted Vasquez and Amy Ruiz jointly on June 3, 2015. The trial court severed the defendants, and following a December 2016 jury trial Vasquez was convicted on all charged counts; the felony-murder convictions were vacated by operation of law. The trial court denied Vasquez's amended motion for new trial, although it determined that aggravated assault merged with malice murder and amended the sentence. The Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- *Brewton v. State*, 266 Ga. 160, 161 (2), 465 S.E.2d 668 (1996)
- *Delacruz v. State*, 280 Ga. 392, 396 (3), 627 S.E.2d 579 (2006)
- *Johnson v. State*, 269 Ga. 632, 634, 501 S.E.2d 815 (1998)
- *Jenkins v. State*, 278 Ga. 598, 601 (1) (a), 604 S.E.2d 789 (2004)
- *Danuel v. State*, 262 Ga. 349, 351-52, 418 S.E.2d 45 (1992)

- Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979)
- State v. Kelly, 290 Ga. 29, 33 (2) (a), 718 S.E.2d 232 (2011)
- Scott v. State, 302 Ga. 29, 31 (2), 805 S.E.2d 40 (2017)
- Young v. State, 305 Ga. 92, 96 (4), 823 S.E.2d 774 (2019)
- Faulks v. State, 296 Ga. 38, 39 (2), 764 S.E.2d 846 (2014)
- Handley v. State, 289 Ga. 786, 786-87 (1), 716 S.E.2d 176 (2011)
- Parsons v. State, 43 Ga. 197 (1871)
- Childers v. State, 52 Ga. 106, 106 (1874)
- Jones v. State, 268 Ga. 12, 14 (1), 483 S.E.2d 871 (1997)
- Jones v. State, 242 Ga. 893, 893-94 (1), 252 S.E.2d 394 (1979)
- United States v. Olano, 507 U.S. 725, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993)
- Cheddersingh v. State, 290 Ga. 680, 684 (2), 724 S.E.2d 366 (2012)
- Walker v. State, 301 Ga. 482, 485 (2) (a), 801 S.E.2d 804 (2017)
- Brown v. State, 298 Ga. 880, 882 (3), 785 S.E.2d 512 (2016)
- Woodard v. State, 296 Ga. 803, 810 (3) (a), 771 S.E.2d 362 (2015)
- Shank v. State, 290 Ga. 844, 845 (2), 725 S.E.2d 246 (2012)
- United States v. Etienne, 772 F.3d 907, 913 (II) (A) (1) (1st Cir. 2014)
- United States v. Yu-Leung, 51 F.3d 1116, 1122-23 (C) (2d Cir. 1995)
- United States v. Pravato, 505 F.2d 703, 705 (2d Cir. 1974)
- Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)
- Stuckey v. State, 301 Ga. 767, 771 (2), 804 S.E.2d 76 (2017)
- State v. Spratlin, 305 Ga. 585, 826 S.E.2d 36, 41, 43 (2) (2019)
- Hampton v. State, 302 Ga. 166, 172 (4) (b), 805 S.E.2d 902 (2017)
- Linson v. State, 287 Ga. 881, 885-86 (4), 700 S.E.2d 394 (2010)
- Drinkard v. Walker, 281 Ga. 211, 636 S.E.2d 530 (2006)
- Jackson v. State, 294 Ga. 34, 36 (2), 751 S.E.2d 63 (2013)
- Hamm v. State, 294 Ga. 791, 794-97 (2), 756 S.E.2d 507 (2014)
- Manner v. State, 302 Ga. 877, 882-85 (II) (A), 808 S.E.2d 681 (2017)
- Huff v. State, 300 Ga. 807, 812-13 (4), 796 S.E.2d 688 (2017)
- Fisher v. State, 299 Ga. 478, 483-86 (2) (a), 788 S.E.2d 757 (2016)
- Raines v. State, 304 Ga. 582, 590-92 (3), 820 S.E.2d 679 (2018)