

SUPREME COURT OF GEORGIA

Washington v. State, 276 Ga. 655

581 S.E.2d 518 (2003) · No. No. S03A0047 · Decided June 2, 2003

SUMMARY

The Supreme Court of Georgia affirmed Demetrios Washington's convictions for malice murder, hijacking a motor vehicle, kidnapping with bodily injury, and two firearm-possession offenses. The court held that it had jurisdiction to review the denial of an out-of-time motion for new trial, found the evidence sufficient, and concluded that trial counsel was not ineffective under Strickland v. Washington. The court also reiterated that malice murder and kidnapping with bodily injury do not merge as a matter of law or fact.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Benham, Justice
JURISDICTION	Georgia
DECIDED	June 2, 2003
DOCKET	No. S03A0047
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from the denial of an out-of-time motion for new trial following convictions for malice murder, hijacking a motor vehicle, kidnapping with bodily injury, and two counts of possession of a firearm during the commission of a felony.
STANDARD OF REVIEW	The court reviewed the sufficiency of the evidence under whether a rational trier of fact could find guilt beyond a reasonable doubt. It deferred to the trial court's factual findings on ineffective assistance unless clearly erroneous and reviewed its legal conclusions de novo.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Georgia; precedential.
PARTIES	Demetrios Washington v. The State

TOPICS

- criminal procedure
- appellate jurisdiction
- ineffective assistance
- sentencing
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate procedure

ineffective assistance of counsel

sentencing

QUESTIONS PRESENTED

1. Whether the Supreme Court of Georgia had jurisdiction to review the appeal from the denial of Washington's out-of-time motion for new trial.
2. Whether the evidence was sufficient to support Washington's convictions.
3. Whether malice murder and kidnapping with bodily injury merged as a matter of law or fact for sentencing purposes.
4. Whether trial counsel provided ineffective assistance by failing to impeach a witness in the manner proposed by appellate counsel, failing to present a coercion defense, and failing to call character witnesses.

HOLDINGS

1. When a trial court permits a defendant to file an out-of-time motion for new trial and denies that motion on its merits, the defendant may pursue a direct appeal addressing the merits of the motion and the underlying appeal.
2. The evidence was sufficient to authorize a rational trier of fact to find Washington guilty beyond a reasonable doubt of the offenses for which he was convicted.
3. Malice murder and kidnapping with bodily injury do not merge as a matter of law or fact when each offense requires proof of an element that the other does not.
4. The trial court did not clearly err in rejecting Washington's ineffective-assistance claims because counsel's challenged decisions constituted reasonable trial strategy and Washington failed to establish deficient performance warranting relief.

KEY QUOTATIONS

“The evidence was sufficient to authorize a rational trier of fact to find appellant guilty beyond a reasonable doubt of the crimes for which he was convicted.” (581 S.E.2d at 521)

“We take this opportunity to reiterate that the imposition of separate sentences on the convictions for malice murder and kidnapping with bodily injury is not error.” (581 S.E.2d at 521)

FACTUAL BACKGROUND

Jinwon Lee disappeared from Gwinnett County, Georgia, and his body was found approximately one month later in rural Mississippi. His vehicle contained a bloodied trunk, a bullet, and shell casings, and an autopsy established that he died from multiple gunshot wounds. In a videotaped interview, Washington admitted that he and a co-indictee hijacked Lee and his vehicle, placed Lee in the trunk, transported the body to Mississippi, and returned to Georgia.

PROCEDURAL HISTORY

Washington was convicted and sentenced in the trial court in June 1998. He filed an out-of-time motion for new trial in July 1998, later supplemented with ineffective-assistance claims after new appellate counsel was appointed. Following an evidentiary hearing, the trial court denied the motion on July 16, 2002. The Supreme Court of Georgia held that the trial court had implicitly authorized the out-of-time motion and therefore had jurisdiction to review the merits, then affirmed the convictions and denial of a new trial.

DISPOSITION

affirmed

CASES CITED

- Rowland v. State, 264 Ga. 872(1), 452 S.E.2d 756 (1995)
- Porter v. State, 271 Ga. 498, 521 S.E.2d 566 (1999)
- Bohannon v. State, 262 Ga. 697, 425 S.E.2d 653 (1993)
- Vick v. State, 237 Ga.App. 762, 516 S.E.2d 815 (1999)
- Balkcom v. State, 227 Ga.App. 327, 328, 489 S.E.2d 129 (1997)
- Jordan v. State, 247 Ga.App. 551, 553, 544 S.E.2d 731 (2001)
- Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979)
- Pryor v. State, 238 Ga. 698, 701, 234 S.E.2d 918 (1977)
- Potts v. State, 241 Ga. 67, 79, 243 S.E.2d 510 (1978)
- Braley v. State, 276 Ga. 47(28), 572 S.E.2d 583 (2002)
- High v. Zant, 250 Ga. 693(18), 300 S.E.2d 654 (1983)
- Waters v. State, 248 Ga. 355(11), 283 S.E.2d 238 (1981)
- Brown v. State, 247 Ga. 298(9), 275 S.E.2d 52 (1981)
- High v. State, 247 Ga. 289(12), 276 S.E.2d 5 (1981)
- Wilson v. Zant, 249 Ga. 373, 290 S.E.2d 442 (1982)
- Griffin v. State, 266 Ga. 115, 118 n.5, 464 S.E.2d 371 (1995)
- Wilson v. State, 264 Ga. 287(4)(b), 444 S.E.2d 306 (1994)
- Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)
- Stansell v. State, 270 Ga. 147, 149(2), 510 S.E.2d 292 (1998)
- Callendar v. State, 275 Ga. 115(3), 561 S.E.2d 113 (2002)
- Lawrence v. State, 274 Ga. 794(3), 560 S.E.2d 17 (2002)
- Brown v. State, 237 Ga.App. 231(2), 517 S.E.2d 529 (1999)
- Brown v. State, 268 Ga. 354(4)(a), 490 S.E.2d 75 (1997)
- Nihart v. State, 227 Ga.App. 272(1)(c), 488 S.E.2d 740 (1997)