

SUPREME COURT OF GEORGIA

Davis v. State, 279 Ga. 786

621 S.E.2d 446 (2005) · No. S05A1320 · Decided October 24, 2005

SUMMARY

The Supreme Court of Georgia affirmed Kenya Davis's convictions for felony murder and possession of a firearm by a convicted felon. The court rejected challenges concerning denial of a continuance, admission of similar-transaction evidence, admission and authentication of recorded conversations and letters, and the sufficiency of the evidence.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Melton, Justice; All other Justices
JURISDICTION	Georgia
DECIDED	October 24, 2005
DOCKET	S05A1320
DISPOSITION	affirmed
PROCEDURAL POSTURE	Davis appealed from the denial of his motion for new trial following convictions for felony murder and possession of a firearm by a convicted felon.
STANDARD OF REVIEW	The sufficiency of the evidence is reviewed under whether a rational trier of fact could find guilt beyond a reasonable doubt. A denial of a motion for continuance is reviewed for clear abuse of discretion. Admission of similar transaction evidence is reviewed for clear error in the trial court's admissibility determination. Evidentiary error is subject to harmless-error review where applicable.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Kenya Davis v. State

TOPICS

- criminal procedure
- evidence
- authentication
- character evidence
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Davis's convictions for felony murder and possession of a firearm by a convicted felon.
2. Whether the trial court abused its discretion by denying a continuance to allow additional review of witness statements concerning similar transaction evidence.
3. Whether the trial court properly admitted evidence of Davis's subsequent shootings under Georgia's similar transaction standard.
4. Whether letters written by Davis to an accomplice were properly admitted as admissions by conduct.
5. Whether the State established an adequate foundation for admitting a recorded jail telephone conversation and its transcript.
6. Whether admission of letters allegedly written by Davis to another accomplice was harmless beyond a reasonable doubt despite an asserted lack of authentication.

HOLDINGS

1. The evidence was sufficient for a rational trier of fact to find Davis guilty beyond a reasonable doubt of felony murder and possession of a firearm by a convicted felon.
2. The trial court did not abuse its discretion by denying Davis's request for a continuance to investigate witness statements related to similar transaction evidence.
3. The trial court properly admitted evidence of the subsequent shootings because the State satisfied the applicable three-part similar transaction standard and the trial court's determination was not clearly erroneous.
4. The trial court did not err in admitting Davis's letters attempting to persuade an accomplice not to speak with police and to adopt a fabricated account.
5. The State established a sufficient foundation for admitting the recording and transcript of the jail telephone conversation.
6. Any error in admitting the letter allegedly written to Hardy was harmless beyond a reasonable doubt.

KEY QUOTATIONS

"Whether to grant a motion for continuance is entirely within the sound discretion of the trial court and will not be disturbed absent a clear abuse of discretion." (at 787)

"Before evidence of prior crimes is admissible, the trial court must determine that the State has affirmatively shown that: (1) the State seeks to admit evidence of the independent offenses or acts for an appropriate purpose; (2) there is sufficient evidence that the accused committed the independent offenses or acts; and (3) there is sufficient connection or similarity between the independent offenses or acts and the crimes charged so that proof of the former tends to prove the latter." (at 788)

FACTUAL BACKGROUND

Evidence showed that Davis was driven to the victim's apartment complex, chased the victim, and shot him four times. A driver and another witness identified Davis, and Davis admitted involvement in a recorded telephone conversation. The State also introduced evidence that Davis later shot two witnesses in retaliation for their cooperation with police, correspondence attempting to influence an accomplice's account, recorded jail telephone conversations, and letters allegedly written by Davis.

PROCEDURAL HISTORY

Davis was indicted in DeKalb County for malice murder, two counts of felony murder, aggravated assault, and possession of a firearm by a convicted felon. A jury found him guilty on all charges except malice murder on June 20, 2003, and he received a life sentence plus a consecutive five-year sentence. His motion for new trial was denied, and an initial appeal was dismissed as untimely. The trial court granted an out-of-time appeal, which was timely filed and docketed in the Supreme Court of Georgia. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Greene v. State, 274 Ga. 220, 221(3), 552 S.E.2d 834 (2001)
- Roberts v. State, 272 Ga. 822, 824(2), 537 S.E.2d 86 (2000)
- Williams v. State, 261 Ga. 640, 642(2)(b), 409 S.E.2d 649 (1991)
- Palmer v. State, 271 Ga. 234, 239(8)(a), 517 S.E.2d 502 (1999)
- Smith v. State, 273 Ga. 356(2), 541 S.E.2d 362 (2001)
- Collins v. State, 273 Ga. 93(3), 538 S.E.2d 47 (2000)
- Gambrel v. State, 260 Ga. 197(2), 391 S.E.2d 406 (1990)
- Page v. State, 249 Ga. 648(2)(b), 292 S.E.2d 850 (1982)
- Myers v. State, 275 Ga. 709, 572 S.E.2d 606 (2002)
- Malcolm v. State, 263 Ga. 369(4), 434 S.E.2d 479 (1993)

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