

SUPREME COURT OF GEORGIA

Reese v. State

S23A0550 (Ga. Aug. 21, 2023) · No. S23A0550 · Decided August 21, 2023

SUMMARY

The Supreme Court of Georgia reviews Larry Reese’s convictions for malice murder, possession of a firearm during the commission of a felony, and possession of marijuana with intent to distribute. Reese argued that the trial court plainly erred by omitting jury instructions on justification, no duty to retreat, the State’s burden regarding affirmative defenses, and accomplice corroboration, and that trial counsel was ineffective. The court rejected the challenged jury-instruction claims described in the excerpt and analyzed Reese’s ineffective-assistance claims.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Warren, Justice
JURISDICTION	Georgia
DECIDED	August 21, 2023
DOCKET	S23A0550
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a motion for new trial following Reese's jury-trial convictions for malice murder, possession of marijuana with intent to distribute, and possession of a firearm during the commission of a felony.
STANDARD OF REVIEW	Unobjected-to jury-instruction claims are reviewed for plain error. Plain error requires an error or defect that was not affirmatively waived, that is clear or obvious, that affected substantial rights by likely affecting the outcome, and that seriously affected the fairness, integrity, or public reputation of the proceedings. Ineffective-assistance claims involve mixed questions of law and fact: factual findings are reviewed for clear error and legal conclusions de novo.
PRECEDENTIAL VALUE	published
PARTIES	Larry Reese v. The State

TOPICS

criminal procedure

ineffective assistance

fourth amendment

search and seizure

appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether the trial court plainly erred by failing to instruct the jury on justification and no duty to retreat.
2. Whether the trial court plainly erred by failing to instruct the jury that accomplice testimony must be corroborated.
3. Whether Reese received ineffective assistance of counsel because counsel failed to move to suppress evidence allegedly obtained through an unconstitutional search of the curtilage.
4. Whether counsel was ineffective for failing to request an accomplice-corroboration instruction.
5. Whether counsel was ineffective for failing to object to an allegedly impermissible sequential jury instruction.
6. Whether the cumulative effect of any errors required reversal.

HOLDINGS

1. Even assuming that omitting the requested justification and no-duty-to-retreat instructions was clear and obvious error and was not affirmatively waived, Reese failed to show a reasonable probability that the omission affected the outcome of the trial; therefore, plain error was not established.
2. The trial court did not plainly err by failing to give an accomplice-corroboration instruction because Reese failed to show even slight evidence that Reese and Bell shared a common criminal intent or acted together to commit the charged offenses.
3. Reese failed to establish deficient performance because he did not make the required strong showing that a suppression motion challenging the discovery of the key ring, shell casings, or surveillance cameras would have succeeded.
4. Counsel was not ineffective for failing to request an accomplice-corroboration instruction because Reese failed to show that slight evidence supported giving the instruction; requesting it would have been meritless.
5. Counsel was not ineffective for failing to object to the jury instructions because the instructions did not clearly constitute an impermissible sequential instruction under existing precedent.

KEY QUOTATIONS

“The plain-error standard has four prongs.” (15)

“A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to defend himself or herself or a third person against such other’s imminent use of unlawful force[.]” (16)

“A jury instruction on the need for accomplice corroboration should be given if there is slight evidence to support the charge.” (22)

“The Fourth Amendment’s protection of “houses” includes areas surrounding a house to the extent that the area is properly classified as curtilage.” (28)

“mechanically applying the factors is not a guaranteed method of reaching the “‘correct’ answer to all extent-of-curtilage questions.” (29)

FACTUAL BACKGROUND

Ringer was shot and killed in the driver's seat of a Nissan Versa parked in front of Reese's home during an early-morning meeting arranged through text messages about purchasing marijuana. Surveillance footage showed Reese firing a gun from his yard, while the State argued that he intentionally shot Ringer and Reese argued that he fired in self-defense after someone else shot at him. Investigators recovered .45-caliber shell casings and bullets, Reese's keys, and other evidence from the yard and vehicle, and later obtained warrants to search Reese's house, finding surveillance recordings, marijuana, a scale, and cash.

PROCEDURAL HISTORY

A Fulton County grand jury indicted Reese on nine counts arising from the shooting death of Claynesia Ringer. Following a May 2018 jury trial, Reese was convicted on all counts except criminal attempt to sell marijuana and the felony-murder count predicated on that offense. The trial court sentenced him to life imprisonment for malice murder and consecutive terms for the drug and firearm offenses. The trial court denied Reese's amended motion for new trial on February 15, 2022, and Reese timely appealed.

DISPOSITION

affirmed

CASES CITED

- Johnson v. State, No. S23A0338, 2023 WL 4091469, at *11 (Ga. June 21, 2023)
- Taylor v. State, 315 Ga. 630, 637 (884 SE2d 346) (2023)
- Gates v. State, 298 Ga. 324, 327 (781 SE2d 772) (2016)
- Gobert v. State, 311 Ga. 305, 309 (857 SE2d 647) (2021)
- Munn v. State, 313 Ga. 716, 722 (873 SE2d 166) (2022)
- Jones v. State, 310 Ga. 886, 889 (855 SE2d 573) (2021)
- Tarvestad v. State, 261 Ga. 605 (409 SE2d 513) (1991)
- Cadle v. State, 271 Ga. App. 595 (610 SE2d 574) (2005)
- Bishop v. State, 271 Ga. 291 (519 SE2d 206) (1999)
- State v. Alvarez, 299 Ga. 213 (790 SE2d 66) (2016)
- Arnold v. State, 302 Ga. 129, 132 n.6 (805 SE2d 94) (2017)
- Rutland v. State, 315 Ga. 521, 523 (883 SE2d 730) (2023)

- *Stripling v. State*, 304 Ga. 131, 136 (816 SE2d 663) (2018)
- *Ash v. State*, 312 Ga. 771, 795 (865 SE2d 150) (2021)
- *Thornton v. State*, 307 Ga. 121, 125-126 (834 SE2d 814) (2019)
- *Strickland v. Washington*, 466 U.S. 668, 687, 693-694 (1984)
- *Wesley v. State*, 286 Ga. 355, 356 (689 SE2d 280) (2010)
- *Romer v. State*, 293 Ga. 339, 344 (745 SE2d 637) (2013)
- *Lawrence v. State*, 286 Ga. 533, 533-534 (690 SE2d 801) (2010)
- *Green v. State*, 302 Ga. 816, 818 (809 SE2d 738) (2017)
- *Bright v. State*, 292 Ga. 273, 274 (736 SE2d 380) (2013)
- *Tabor v. State*, 315 Ga. 240, 249 (882 SE2d 329) (2022)
- *Tidwell v. State*, 312 Ga. 459, 464 (863 SE2d 127) (2021)
- *Florida v. Jardines*, 569 U.S. 1, 6 (2013)
- *Hester v. United States*, 265 U.S. 57 (1924)
- *Oliver v. United States*, 466 U.S. 170, 176, 180, 182 n.12 (1984)
- *United States v. Dunn*, 480 U.S. 294, 301 (1987)
- *Peacock v. State*, 314 Ga. 709, 719 (878 SE2d 247) (2022)
- *United States v. French*, 291 F.3d 945, 952 (7th Cir. 2002)
- *United States v. Duenas*, 691 F.3d 1070, 1081 (9th Cir. 2012)
- *Ward v. State*, 313 Ga. 265, 275 (869 SE2d 470) (2022)
- *Matthews v. State*, 311 Ga. 531, 545 (858 SE2d 718) (2021)
- *Stewart v. State*, 311 Ga. 471, 473-477 (858 SE2d 456) (2021)
- *Kunselman v. State*, 232 Ga. App. 323 (501 SE2d 834) (1998)
- *Yeager v. State*, 274 Ga. 216, 219 (552 SE2d 809) (2001)
- *Camphor v. State*, 272 Ga. 408, 414 (529 SE2d 121) (2000)
- *Arrington v. Collins*, 290 Ga. 603, 608 (724 SE2d 372) (2012)
- *State v. Lane*, 308 Ga. 10, 17 (838 SE2d 808) (2020)
- *Cantrell v. State*, 266 Ga. 700, 703 (469 SE2d 660) (1996)