

SUPREME COURT OF GEORGIA

Lofton v. The State

S20A1101 · No. S20A1101 · Decided February 15, 2021

SUMMARY

The Supreme Court of Georgia affirmed Hakim Lofton's convictions for malice murder and possession of a firearm during the commission of a felony. The court held that the evidence was sufficient to establish Lofton's identity and rejected his challenge to the admission of cell-site location information obtained without a warrant, concluding that the exclusionary rule did not apply under the law and circumstances existing at the time. The opinion also addresses jury instructions, exhibits submitted to the jury, alleged racial discrimination in jury selection, and ineffective assistance of counsel.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Ellington, Justice; All other Justices of the Supreme Court of Georgia
JURISDICTION	Georgia
DECIDED	February 15, 2021
DOCKET	S20A1101
DISPOSITION	affirmed
PROCEDURAL POSTURE	Lofton appealed his convictions for malice murder and possession of a firearm during the commission of a felony, challenging the sufficiency of the evidence, admission of warrantlessly obtained cell-phone records, jury instructions, exhibits sent to the jury room, Batson rulings, and the effectiveness of trial counsel.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed under the constitutional standard of whether a rational trier of fact could find guilt beyond a reasonable doubt, viewing the evidence in the light most favorable to the verdict. The reasonableness of an alternative hypothesis in a circumstantial-evidence case is generally for the jury unless the finding is insupportable as a matter of law. A trial court's Batson ruling is reviewed for clear error and receives great deference. Whether evidence authorizes a requested jury instruction is a question of law. Ineffective-assistance claims require proof of deficient performance and prejudice under Strickland.

PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Hakim Lofton v. The State

TOPICS

criminal procedure suppression of evidence fourth amendment ineffective assistance jury selection

PRACTICE AREAS

criminal law criminal procedure constitutional law evidence appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Lofton's murder and firearm convictions despite the circumstantial nature of the evidence and Eatmon's inability to make a positive in-court identification.
2. Whether the exclusionary rule required suppression of cell-phone records, including four days of historical cell-site location information, obtained voluntarily from MetroPCS without a warrant under the exigent-circumstances provision of the Stored Communications Act.
3. Whether trial counsel was ineffective for allegedly failing to adequately cross-examine the detective at the suppression hearing.
4. Whether the trial court violated Georgia's continuing-witness rule by allowing documentary exhibits, photographic-identification materials, phone records, text messages, and cell-tower information to go to the jury room.
5. Whether the trial court erred in denying Lofton's request to discharge appointed counsel and obtain a continuance to retain other counsel.
6. Whether the State exercised peremptory strikes with racially discriminatory intent in violation of Batson v. Kentucky.
7. Whether the trial court erred by refusing to instruct the jury that accomplice testimony required corroboration.

HOLDINGS

1. The evidence was sufficient to authorize a rational jury to find Lofton guilty beyond a reasonable doubt and to reject every reasonable hypothesis except guilt, even assuming the evidence was entirely circumstantial.
2. The exclusionary rule did not require suppression of Lofton's cell-phone records or evidence derived from them.
3. Lofton failed to establish ineffective assistance because he identified no specific omitted question or line of inquiry and failed to show prejudice.
4. The trial court properly allowed the challenged exhibits to go to the jury because they were original documentary evidence, not written testimony, and did not derive their evidentiary value solely from the

makers' credibility.

5. Lofton did not preserve any challenge to the denial of his request to change counsel because he withdrew the request, and dissatisfaction with appointed counsel alone does not establish ineffective assistance.
6. The trial court did not clearly err in finding that Lofton failed to prove discriminatory intent in the State's peremptory strikes.
7. The trial court did not err in refusing to instruct the jury on accomplice corroboration because no evidence showed that Eatmon shared Lofton's criminal intent to commit the charged murder, robbery, aggravated assault, or firearm offense.

KEY QUOTATIONS

“In arguing for this Court to reverse the trial court’s denial of Lofton’s motion to suppress the first tranche of cell phone records, and evidence derived from those records, Lofton seeks an extension of the holding in Carpenter: from a government-compelled production of cell phone records under 18 USC § 2703 (c) (1) (B) and (d) to a request under 18 USC § 2702 (c) (4) for the voluntary disclosure of records to address an emergency, and from seven days of historical CSLI to four days of historical CSLI.” (24-25)

“Although there was evidence in this case that Eatmon shared a common criminal intent with Lofton for the drug deal to take place, there was no evidence that Eatmon shared a common criminal intent with Lofton for any of the crimes charged: murder, armed robbery, aggravated assault, and possession of a firearm.” (42-43)

FACTUAL BACKGROUND

Lofton, known as Lil Tony, was connected through Cedric Brown to Joseph Eatmon and Jason Walker for a planned Xanax transaction. Eatmon testified that after entering Walker's car, Lofton directed them toward an apartment complex, exited the car, shot Walker, and fled. Brown identified Lofton as Lil Tony, phone records connected Lofton, Brown, and Eatmon before and during the transaction, and cell-site information placed Lofton's phone near the shooting when it occurred. Police later found ammunition and shell casings of the same caliber as the bullet that killed Walker in Lofton's bedroom, although no firearm was found.

PROCEDURAL HISTORY

A Fulton County grand jury indicted Lofton for malice murder, two counts of felony murder, armed robbery, aggravated assault, and possession of a firearm during the commission of a felony. After a 2014 jury trial, he was acquitted of felony murder predicated on armed robbery and armed robbery but convicted of the remaining charges; the trial court sentenced him to life imprisonment for murder and five consecutive years for the firearm conviction. The trial court denied Lofton's amended motion for a new trial on August 8, 2019, and Lofton timely appealed to the Supreme Court of Georgia, which affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 319 (1979)
- Schell v. State, Case No. S20A1383 (Ga. Dec. 7, 2020)
- Payne v. State, 273 Ga. 317, 318 (1) (540 S.E.2d 191) (2001)
- Carpenter v. United States, Carpenter v. United States, 138 S. Ct. 2206 (2018)
- Registe v. State, 292 Ga. 154, 155-158 (734 S.E.2d 19) (2012)
- Davis v. United States, 564 U.S. 229, 231, 236-241 (2011)
- Illinois v. Krull, 480 U.S. 340, 349-360 (1987)
- Mobley v. State, 307 Ga. 59, 75-78 (834 S.E.2d 785) (2019)
- Reed v. State, 307 Ga. 527, 535 (2) (b) (837 S.E.2d 272) (2019)
- Smarr v. State, 317 Ga. App. 584, 593 (3) (c) (732 S.E.2d 110) (2012)
- Smith v. Maryland, 442 U.S. 735, 742-746 (1979)
- United States v. Miller, 425 U.S. 435, 442-443 (1976)
- United States v. Davis, 754 F.3d 1205, 1217 (11th Cir. 2014)
- United States v. Davis, 785 F.3d 498, 507-513 (11th Cir. 2015)
- Alexander v. Verizon Wireless Services, 875 F.3d 243, 250 (5th Cir. 2017)
- United States v. Gilliam, 842 F.3d 801, 803 (2d Cir. 2016)
- Riley v. California, 573 U.S. 373, 393, 403 (2014)
- United States v. Jones, 565 U.S. 400, 407 (2012)
- United States v. Wilson, 960 F.3d 136, 146 (3d Cir. 2020)
- United States v. Curtis, 901 F.3d 846, 849 (7th Cir. 2018)
- United States v. Zodiates, 901 F.3d 137, 143 (2d Cir. 2018)
- Styles v. State, 309 Ga. 463, 471 (5) (847 S.E.2d 325) (2020)
- Strickland v. Washington, 466 U.S. 668, 687 (1984)
- Gaston v. State, 307 Ga. 634, 642 (2) (d) (837 S.E.2d 808) (2020)
- Wainwright v. State, 305 Ga. 63, 69 (3) (823 S.E.2d 749) (2019)
- Baker v. State, 293 Ga. 811, 815 (3) (750 S.E.2d 137) (2013)
- Clark v. State, 296 Ga. 543, 548-549 (4) (769 S.E.2d 376) (2015)
- Keller v. State, 308 Ga. 492, 505-506 (9) (842 S.E.2d 22) (2020)
- Clarke v. State, 308 Ga. 630, 636 (4) (842 S.E.2d 863) (2020)
- Wilkins v. State, 291 Ga. 483, 484 (6) (731 S.E.2d 346) (2012)
- Lane v. State, 299 Ga. 791, 794 (2) (792 S.E.2d 378) (2016)
- McCullough v. State, 304 Ga. 290, 296 (2) (b) (818 S.E.2d 520) (2018)
- Batson v. Kentucky, 476 U.S. 79 (1986)
- Thomas v. State, 309 Ga. 488, 490-491 (847 S.E.2d 147) (2020)
- Jackson v. State, 291 Ga. 25, 26-27 (2) (727 S.E.2d 120) (2012)
- Lord v. State, 304 Ga. 532, 536 (3) (820 S.E.2d 16) (2018)

- Pye v. State, 269 Ga. 779, 780 (1) (505 S.E.2d 4) (1997)
- Taylor v. State, 303 Ga. 624, 631-635 (3) (814 S.E.2d 353) (2018)
- Myrick v. State, 306 Ga. 894, 899 (2) (b) (834 S.E.2d 542) (2019)
- Johnson v. State, 302 Ga. 774, 780-782 (3) (b) (809 S.E.2d 769) (2018)
- Walter v. State, 304 Ga. 760, 766 (3) (b) (822 S.E.2d 266) (2018)
- Christian v. State, 277 Ga. 775, 776 (1) (596 S.E.2d 6) (2004)
- Higuera-Guiterrez v. State, 298 Ga. 41, 43 (2) (779 S.E.2d 288) (2015)
- Rammage v. State, 307 Ga. 763, 767 (4) (838 S.E.2d 249) (2020)
- Barron v. State, 297 Ga. 706, 708 (2) (777 S.E.2d 435) (2015)
- Yeomans v. State, 229 Ga. 488, 493 (5) (192 S.E.2d 362) (1972)
- Parks v. State, 294 Ga. App. 646, 651 (7) (669 S.E.2d 684) (2008)
- Thornton v. State, 307 Ga. 121, 125 (2) (c) (834 S.E.2d 814) (2019)
- Stripling v. State, 304 Ga. 131, 136 (2) (816 S.E.2d 663) (2018)
- Bradley v. State, 305 Ga. 857, 858 n.1 (828 S.E.2d 322) (2019)
- State v. Rosenbaum, 305 Ga. 442, 449-450 (2) (826 S.E.2d 18) (2019)
- Deen v. Stevens, 287 Ga. 597, 601 (2) (b) (698 S.E.2d 321) (2010)
- United States v. Davis, 573 F. App'x 925 (11th Cir. Sept. 4, 2014)
- Gary v. State, 262 Ga. 573, 577 (422 S.E.2d 426) (1992)
- Brown v. State, 330 Ga. App. 488, 492-493 & n.6 (2) (767 S.E.2d 299) (2014)