

SUPREME COURT OF GEORGIA

Curry v. State

291 Ga. 446 (2012) · Decided July 9, 2012

SUMMARY

The Supreme Court of Georgia affirmed Michael Curry’s convictions and consecutive life sentences for the malice murders of his wife and two children. The court rejected challenges concerning the sufficiency of circumstantial evidence, preindictment delay, comments on silence, an unsolicited reference to a lie detector test, evidence implicating another person, and a jury instruction on circumstantial evidence.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hines, Justice
JURISDICTION	Georgia
DECIDED	July 9, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Curry appealed his convictions for three malice murders and related offenses following a jury trial. The Supreme Court of Georgia reviewed his challenges to the sufficiency of the evidence, preindictment delay, comments on his silence, denial of a mistrial, exclusion of third-party-crime evidence, and jury instructions.
STANDARD OF REVIEW	The sufficiency of the evidence was reviewed under whether a rational trier of fact could find guilt beyond a reasonable doubt, with the jury deciding the reasonableness of competing circumstantial-evidence hypotheses unless the verdict was insupportable as a matter of law. The denial of a mistrial was reviewed for manifest abuse of discretion. Unpreserved jury-charge error was reviewed for plain error under OCGA § 17-8-58(b).
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Michael Curry v. State

TOPICS

- criminal procedure
- evidence
- preservation of error
- due process
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate litigation

evidence

constitutional law

QUESTIONS PRESENTED

1. Whether the circumstantial evidence was sufficient to support Curry's murder convictions under OCGA § 24-4-6.
2. Whether the nearly twenty-four-year delay between the crimes and indictment violated Curry's due process rights.
3. Whether testimony and closing argument concerning Curry's failure to answer questions improperly commented on his right to remain silent or otherwise required reversal.
4. Whether the trial court abused its discretion by denying a mistrial after a witness spontaneously mentioned taking a lie-detector test.
5. Whether the trial court improperly excluded evidence of similar crimes committed by a neighbor as evidence implicating another person.
6. Whether the trial court plainly erred in its recharge concerning direct and circumstantial evidence and the use of the word 'assume.'

HOLDINGS

1. The evidence was sufficient to authorize the jury to find Curry guilty beyond a reasonable doubt because the jury was authorized to determine that the circumstantial evidence excluded every reasonable hypothesis except guilt.
2. Curry failed to establish that the nearly twenty-four-year delay violated due process.
3. The challenged testimony and closing argument did not require reversal because several challenges were not preserved, the interview testimony concerned unanswered questions after Miranda warnings and waiver without invocation, and any reference to termination of the interview or invocation of counsel caused no reversible error.
4. The trial court did not abuse its discretion by denying a mistrial after a witness spontaneously stated that he had taken a lie-detector test.
5. The trial court properly excluded evidence of Grable's later crimes because the crimes were not sufficiently similar, did not directly connect Grable to the corpus delicti, and at most cast a bare suspicion on him.
6. The jury recharge was not plainly erroneous, and Curry's objection was untimely because it was made after the jury had resumed deliberations.

KEY QUOTATIONS

“The possibilities that memories will dim, witnesses become inaccessible, and evidence be lost are inherent in any extended delay, and, these possibilities are not in themselves enough to demonstrate that [the appellant] cannot receive a fair trial.” (450)

“A defendant is entitled to introduce relevant and admissible evidence implicating another person in the commission of the crime or crimes for which the defendant is being tried.” (453)

“Evidence that merely casts a bare suspicion on another or “raise[s] a conjectural inference as to the commission of the crime by another, is not admissible.” (453)

FACTUAL BACKGROUND

On August 29, 1985, police found Curry's pregnant wife, Ann Curry, and their children, Erika and Ryan, dead inside the Curry home from severe axe-related injuries. The home showed little evidence of forced entry or burglary, and the axe was found bloodied inside. Curry gave investigators inconsistent accounts of his movements and how he entered and exited the house, and evidence showed unexplained gaps in his timeline. The State's evidence was circumstantial, including the condition of the scene, Curry's conduct, and evidence concerning his workplace and relationships.

PROCEDURAL HISTORY

The crimes occurred in 1985. A Muscogee County grand jury indicted Curry in 2009; the trial court dismissed the aggravated-assault and feticide counts. Following a 2011 jury trial, Curry was convicted of the remaining charges and sentenced to three consecutive life terms for malice murder; the felony-murder counts were vacated by operation of law. The Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Robbins v. State, 269 Ga. 500, 501 (1) (499 SE2d 323) (1998)
- Jackson v. Virginia, 443 U.S. 307 (1979)
- Hilton v. State, 288 Ga. 201, 206-208 (5) (702 SE2d 188) (2010)
- Manley v. State, 281 Ga. 466, 467-468 (640 SE2d 9) (2007)
- Jackson v. State, 279 Ga. 449, 451 (2) (614 SE2d 781) (2005)
- Johnson v. State, 289 Ga. 106, 109-110 (4) (709 SE2d 768) (2011)
- Mallory v. State, 261 Ga. 625, 629-630 (5) (409 SE2d 839) (1991)
- Clark v. State, 271 Ga. 6, 9-10 (5) (515 SE2d 155) (1999)
- Reynolds v. State, 285 Ga. 70, 71 (673 SE2d 854) (2009)
- Moore v. State, 278 Ga. 397, 399 (2) (a) (603 SE2d 228) (2004)
- Martin v. State, 281 Ga. 778 (2) (642 SE2d 837) (2007)
- Rogers v. State, 290 Ga. 401, 404-406 (2) (721 SE2d 864) (2012)
- McClarin v. State, 289 Ga. 180, 182-183 (3) (a) (710 SE2d 120) (2011)
- Butler v. State, 273 Ga. 380 (8) (541 SE2d 653) (2001)
- Smith v. State, 284 Ga. 599 (2) (a) (669 SE2d 98) (2008)

- Davis v. State, 285 Ga. 343, 345 (4) (676 SE2d 215) (2009)
- Durden v. State, 274 Ga. 868, 870 (5) (561 SE2d 91) (2002)
- Mutazz v. State, 290 Ga. 389, 391 (2) (722 SE2d 47) (2012)
- Azizi v. State, 270 Ga. 709, 714 (6) (512 SE2d 622) (1999)
- Livingston v. State, 271 Ga. 714, 721 (7) (524 SE2d 222) (1999)
- Klinect v. State, 269 Ga. 570, 573 (3) (501 SE2d 810) (1998)
- State v. Kelly, 290 Ga. 29, 32-33 (2) (a) (718 SE2d 232) (2011)
- Guajardo v. State, 290 Ga. 172, 176 (4) (718 SE2d 292) (2011)
- Malcolm v. State, 263 Ga. 369, 371-372 (4) (434 SE2d 479) (1993)
- Miranda v. Arizona, 384 U.S. 436 (1966)