

SUPREME COURT OF GEORGIA

Durden v. State

274 Ga. 868 (2002) · Decided March 11, 2002

SUMMARY

The Supreme Court of Georgia affirmed Kendra Durden’s convictions for murder, felony murder, attempted armed robbery, aggravated assault, and possession of a firearm during the commission of a crime. The court rejected challenges based on insufficient evidence, ineffective assistance of counsel, crime-scene photographs, victim testimony, and an unsolicited reference to a polygraph examination. The court found no reversible error and affirmed the judgment.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hunstein, Justice
JURISDICTION	Georgia
DECIDED	March 11, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Kendra Durden appealed her convictions for malice murder, felony murder, attempted armed robbery, aggravated assault, and possession of a firearm during the commission of a crime, as well as the denial of her motion for new trial.
STANDARD OF REVIEW	The sufficiency of the evidence is reviewed under whether a rational trier of fact could find the defendant guilty beyond a reasonable doubt. Ineffective-assistance claims require proof of deficient performance and prejudice. Evidentiary rulings and denial of a mistrial were reviewed for reversible error.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Georgia; precedential.
PARTIES	Kendra Durden v. State

TOPICS

- criminal procedure
- ineffective assistance
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to prove beyond a reasonable doubt that Durden was a willing participant in the charged crimes.
2. Whether Durden received ineffective assistance of counsel based on counsel's qualifications, failure to investigate purported psychological abuse and emotional factors, and alleged unprofessional courtroom conduct.
3. Whether crime-scene photographs depicting the victim as found at the scene were relevant and properly admitted.
4. Whether testimony from the victim's mother about a telephone call with the victim before the murder was unduly prejudicial or improper victim-impact testimony during the guilt/innocence phase.
5. Whether an unsolicited reference to a polygraph examination required a mistrial.

HOLDINGS

1. The evidence was sufficient to authorize a rational trier of fact to find Durden guilty beyond a reasonable doubt of malice murder, felony murder, attempted armed robbery, aggravated assault, and possession of a firearm during the commission of a crime.
2. Durden failed to establish ineffective assistance of counsel because she did not prove deficient performance or resulting prejudice, and the record did not substantiate her claims concerning counsel's qualifications, investigation of emotional factors, or courtroom professionalism.
3. The crime-scene photographs depicting the victim as found at the murder scene were relevant and properly admitted.
4. The victim's mother's testimony describing her telephone call with the victim before the murder was relevant and did not exceed acceptable boundaries by unfairly prejudicing Durden or constituting improper victim-impact testimony.
5. The trial court did not commit reversible error by denying a mistrial after a witness spontaneously stated that he had taken a lie-detector test.

FACTUAL BACKGROUND

Durden drove several gang members to a grocery store, where one accomplice noticed the victim carrying a large amount of cash. Durden and the accomplices followed the victim from the store, pursued him in Durden's vehicle, and, after Durden directed an accomplice to act, the accomplice fired several shots into the victim's vehicle. One bullet caused the victim's death. Durden claimed that she participated because of threats and intimidation from a ranking gang member.

PROCEDURAL HISTORY

The crimes occurred on August 28, 1998. Durden was indicted in Walton County on November 16, 1998, and the State filed notice of intent to seek the death penalty on December 17, 1998. A jury trial was held June 19–28,

2000; the jury found Durden guilty on all charges, found no statutory aggravating circumstances, and she received life imprisonment plus consecutive sentences on the armed-robbery and possession convictions. The felony-murder and aggravated-assault convictions were vacated by operation of law. Her motion for new trial was denied on June 15, 2001, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Akins v. State, 269 Ga. 838 (1), 504 S.E.2d 196 (1998)
- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)
- Smith v. Francis, 253 Ga. 782, 783, 325 S.E.2d 362 (1985)
- Taylor v. State, 271 Ga. 629 (2), 523 S.E.2d 322 (1999)
- Jackson v. State, 270 Ga. 494 (8), 512 S.E.2d 241 (1999)
- Butts v. State, 273 Ga. 760 (15), 546 S.E.2d 472 (2001)
- Gulley v. State, 271 Ga. 337 (16), 519 S.E.2d 655 (1999)
- White v. State, 255 Ga. 210 (6), 336 S.E.2d 777 (1985)
- Crawford v. State, 256 Ga. 585 (2), 351 S.E.2d 199 (1987)