

SUPREME COURT OF GEORGIA

Dinkins v. State

300 Ga. 713 (2017) · Decided March 6, 2017

SUMMARY

The Supreme Court of Georgia affirmed Trey Dinkins's convictions for malice murder and related offenses arising from the shooting death of DaJohn Milton. The court held that the evidence was sufficient, that claims concerning a co-defendant's invocation of the Fifth Amendment and alleged prosecutorial misconduct were waived, and that trial counsel was not constitutionally ineffective.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Benham, Justice
JURISDICTION	Georgia
DECIDED	March 6, 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	Dinkins appealed his convictions for malice murder and related crimes after the trial court denied his motion for a new trial.
STANDARD OF REVIEW	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, with a strong presumption that counsel's conduct falls within the broad range of professional conduct. Unpreserved claims are generally deemed waived on appeal.
PRECEDENTIAL VALUE	Published opinion; binding precedent of the Supreme Court of Georgia.
PARTIES	Trey Dinkins v. State

TOPICS

- ineffective assistance
- criminal procedure
- fifth amendment
- prosecutorial misconduct
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate practice
- constitutional law
- evidence

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Dinkins's convictions.
2. Whether the trial court erred by dismissing Lowe after Lowe invoked his Fifth Amendment right without determining whether he could answer any nonincriminating questions.
3. Whether the prosecution engaged in misconduct by knowingly eliciting false testimony from John Robbins.
4. Whether trial counsel rendered ineffective assistance by failing to challenge the handling of Lowe's Fifth Amendment invocation and by failing to impeach Robbins and Davidson.

HOLDINGS

1. The evidence was sufficient to authorize a rational trier of fact to find Dinkins guilty beyond a reasonable doubt of the crimes for which he was convicted.
2. Dinkins's claim that the trial court should have determined whether Lowe could answer nonincriminating questions was waived because Dinkins did not make a contemporaneous objection to the manner in which the court handled Lowe's invocation.
3. The alleged discrepancies among Robbins's testimony, telephone records, and 911 dispatch records did not establish prosecutorial misconduct, and the claim was independently waived because Dinkins made no trial objection.
4. Trial counsel was not ineffective for failing to pursue Lowe's testimony concerning his height because the proposed testimony would have been cumulative and potentially incriminating.
5. Dinkins failed to establish ineffective assistance based on counsel's failure to impeach Robbins and Davidson because the record showed the jury was made aware of the relevant inconsistencies and Dinkins did not prove deficient performance or prejudice.

KEY QUOTATIONS

“Generally, to preserve appellate review of a claimed error, ‘there must be a contemporaneous objection made on the record at the earliest possible time. Otherwise, the issue is deemed waived on appeal.’” (300 Ga. at 715)

“In order to prevail on a claim of ineffective assistance of counsel, appellant must show counsel’s performance was deficient and that the deficient performance prejudiced him to the point that a reasonable probability exists that, but for counsel’s errors, the outcome of the trial would have been different.” (300 Ga. at 716)

FACTUAL BACKGROUND

Dinkins and Lowe approached DaJohn Milton at an apartment complex, where witnesses saw two men standing over Milton and one of them firing a gun. Milton identified the shooter as “Trey Deuce,” Dinkins's nickname, before dying from multiple gunshot wounds. Police recovered two firearms and clothing discarded by the fleeing men; bullets from Milton's body and the crime scene were matched to a recovered Bersa .380 pistol. Dinkins denied shooting Milton but admitted being with Lowe shortly after the shooting.

PROCEDURAL HISTORY

A Houston County grand jury indicted Dinkins and Marquis Lowe for malice murder, two counts of felony murder, aggravated assault, aggravated battery, and three counts of firearm possession during the commission of a crime. The defendants' trials were severed, and Dinkins was tried from March 12 through March 15, 2012; the jury found him guilty on all charges. The trial court sentenced him to life imprisonment for malice murder and five consecutive years for one firearm-possession count, with the remaining charges vacated or merged. The trial court denied Dinkins's motion for a new trial, and he timely appealed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307 (1979)
- Benton v. State, 300 Ga. 202, 205 (2) (794 S.E.2d 97) (2016)
- Spickler v. State, 276 Ga. 164, 167-168 (5) (575 S.E.2d 482) (2003)
- Vega v. State, 285 Ga. 32 (1) (673 S.E.2d 223) (2009)
- Pruitt v. State, 282 Ga. 30, 34 (4) (644 S.E.2d 837) (2007)
- Williams v. State, 265 Ga. 681 (1) (461 S.E.2d 530) (1995)
- Wilson v. State, 297 Ga. 86, 88 (2) (772 S.E.2d 689) (2015)
- Nix v. State, 280 Ga. 141 (3) (b) (625 S.E.2d 746) (2006)