

SUPREME COURT OF GEORGIA

Cook v. State, 273 Ga. 828

546 S.E.2d 487 (2001) · No. S01A0668 · Decided May 7, 2001

SUMMARY

The Supreme Court of Georgia affirmed Larry Middleton Cook’s convictions for malice murder, concealing the death of another, tampering with evidence, and making a false statement to law enforcement. The court rejected challenges concerning sufficiency of the evidence, venue, change of venue, directed verdict, jury instructions, and ineffective assistance of counsel.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Carley, Justice
JURISDICTION	Georgia
DECIDED	May 7, 2001
DOCKET	S01A0668
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions for malice murder, concealing the death of another, tampering with evidence, and making a false statement to a law enforcement officer.
STANDARD OF REVIEW	The evidence is construed to support the verdict, and the conviction is upheld if a rational trier of fact could find guilt beyond a reasonable doubt. Venue and the denial of a directed verdict were reviewed under the applicable statutory venue provisions and sufficiency-of-the-evidence principles. Ineffective-assistance claims were reviewed under the deficient-performance and prejudice framework.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Georgia; precedential.
PARTIES	Larry Middleton Cook v. The State

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Cook's malice-murder conviction when he claimed the victim's death was accidental.
2. Whether venue was proper in Coweta County and whether the trial court properly denied a change of venue and directed verdict and instructed the jury on Georgia's venue provisions.
3. Whether Cook received ineffective assistance of trial counsel.

HOLDINGS

1. The evidence was sufficient for a rational trier of fact to find Cook guilty of malice murder and the other charged offenses. Malice murder does not require proof of a specific intent to kill if the State proves implied malice through conduct exhibiting reckless disregard for human life.
2. The trial court did not err in denying Cook's motions for a change of venue and directed verdict or in charging the jury on OCGA § 17-2-2. Venue was proper in Coweta County because the body was discovered there and the location of the fatal act could not readily be determined; alternatively, the evidence permitted a finding that the homicide might have been committed there.
3. Cook's ineffective-assistance claims were without merit, and the court affirmed without individually addressing every alleged instance.

KEY QUOTATIONS

"It is sufficient for the State to show "implied malice," which is defined as conduct exhibiting a "reckless disregard for human life."" (488)

"If a dead body is discovered in this state and it cannot be readily determined in what county the cause of death was inflicted, it shall be considered that the cause of death was inflicted in the county in which the dead body was discovered." (489)

FACTUAL BACKGROUND

Cook, the victim Jennifer Conklin, and Gibby Patrick were riding in Cook's vehicle while drinking alcohol. After dropping Patrick off, Cook drove the victim to an isolated area and sexually assaulted her; when she screamed, he covered her mouth, causing her death. Cook placed the body in woods in Coweta County and later buried it, while making conflicting statements about the time, location, and circumstances of the death.

PROCEDURAL HISTORY

A jury found Cook guilty of four offenses, and the trial court imposed a life sentence for malice murder plus consecutive terms of years for the remaining offenses. The trial court denied Cook's motion for new trial. Cook appealed, challenging the sufficiency of the evidence, venue, denial of a change of venue and directed verdict, the venue jury instruction, and the effectiveness of trial counsel.

DISPOSITION

affirmed

CASES CITED

- Parker v. State, 270 Ga. 256, 507 S.E.2d 744 (1998)
- Brooks v. State, 262 Ga. 187, 415 S.E.2d 903 (1992)
- Stowe v. State, 272 Ga. 866, 536 S.E.2d 506 (2000)
- Bellamy v. State, 272 Ga. 157, 527 S.E.2d 867 (2000)
- Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979)
- Campbell v. State, 223 Ga. App. 484, 477 S.E.2d 905 (1996)
- Kidwell v. State, 264 Ga. 427, 444 S.E.2d 789 (1994)
- Aldridge v. State, 236 Ga. 773, 225 S.E.2d 421 (1976)
- Nelson v. State, 262 Ga. 763, 426 S.E.2d 357 (1993)
- Felker v. State, 252 Ga. 351, 314 S.E.2d 621 (1984)
- Young v. State, 213 Ga. App. 278, 444 S.E.2d 598 (1994)
- Hooper v. State, 223 Ga. App. 515, 478 S.E.2d 606 (1996)
- Thomas v. State, 268 Ga. 135, 485 S.E.2d 783 (1997)
- Welch v. State, 243 Ga. App. 798, 534 S.E.2d 471 (2000)