

SUPREME COURT OF GEORGIA

Hill v. State, 276 Ga. 220

576 S.E.2d 886 (2003) · No. S03A0099 · Decided February 10, 2003

SUMMARY

The Supreme Court of Georgia affirmed Cantrell Hill’s convictions for felony murder, armed robbery, and possession of a firearm during the commission of a crime. The court rejected challenges concerning circumstantial-evidence instructions, constructive or joint possession, ineffective assistance of counsel, and testimony about Hill’s prior probation violation.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Justice Carley
JURISDICTION	Georgia
DECIDED	February 10, 2003
DOCKET	S03A0099
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hill appealed his convictions for felony murder, armed robbery, and possession of a firearm during the commission of a crime, and the corresponding sentences, after the trial court denied his motion for new trial.
STANDARD OF REVIEW	The sufficiency of the evidence is reviewed under whether, when construed most strongly in support of the verdict, a rational trier of fact could find the defendant guilty beyond a reasonable doubt. Claims of ineffective assistance are reviewed under the applicable performance-and-prejudice standard, with deference to reasonable trial strategy and factual findings authorized by the trial court.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia.
PARTIES	Cantrell Hill v. State

TOPICS

- criminal procedure
- evidence
- ineffective assistance
- appellate procedure
- reasonable doubt

PRACTICE AREAS

Criminal law

Criminal procedure

Evidence

Appellate procedure

Ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Hill's convictions for felony murder, armed robbery, and possession of a firearm during the commission of a crime.
2. Whether the trial court plainly erred by failing to give, sua sponte, a charge on the standard of proof applicable to circumstantial evidence when the State presented both direct and circumstantial evidence and Hill made no written request.
3. Whether the trial court improperly instructed the jury that Hill could be convicted of the firearm offense based on actual or constructive possession, including joint possession, rather than requiring proof of his own actual possession.
4. Whether trial counsel was ineffective for failing to secure testimony from two former cell mates of a prosecution witness or to obtain a continuance after those witnesses became unavailable.
5. Whether trial counsel was ineffective for failing to object when the prosecutor elicited testimony about Hill's probation violation and resulting boot-camp placement.

HOLDINGS

1. The evidence was sufficient to authorize a rational trier of fact to find Hill guilty beyond a reasonable doubt of felony murder, armed robbery, and possession of a firearm during the commission of a crime.
2. When the State's case is based on both direct and circumstantial evidence, the trial court does not err by failing to give a circumstantial-evidence charge sua sponte absent a written request.
3. Hill's conviction for possession of a firearm during the commission of a crime did not require proof that Hill personally had actual possession of the weapon; possession by an accomplice, including carrying the weapon or being within arm's reach of it, could support the conviction.
4. Hill failed to establish ineffective assistance based on counsel's failure to present testimony from two unavailable former cell mates because Hill, after consulting with counsel, personally waived a continuance and elected to proceed, and the proposed testimony was cumulative of impeachment evidence already presented.
5. Hill failed to establish ineffective assistance from counsel's failure to object to testimony about his boot-camp placement and the probation violation underlying it because Hill opened the door to the subject and counsel's decision not to object was a reasonable tactical strategy.

KEY QUOTATIONS

"Where, as here, the State's case is based upon direct, as well as circumstantial, evidence, the trial court does not err by failing to give the charge sua sponte." (276 Ga. at 221)

"Therefore, Appellant's conviction for that offense need not be based upon proof of his own actual possession of the weapon." (276 Ga. at 221)

“A reasonable attorney might well conclude that impeaching evidence in the form of a prosecution witness' own correspondence is sufficiently compelling to the jury, and obviates the necessity to present any additional testimony about the witness' overheard oral statements to the same effect.” (276 Ga. at 222)

FACTUAL BACKGROUND

The State's evidence showed that Hill conspired with Sheila Randall and others to rob Melvin Walton. Hill attempted to enter Walton's residence, shot through the door and killed Walton, then entered and robbed him while he was still alive; Hill later divided the stolen money with the conspirators and was overheard admitting that he had shot Walton. Randall testified for the State pursuant to a plea agreement, while Hill denied involvement and presented an alibi defense.

PROCEDURAL HISTORY

A jury found Hill guilty on May 31, 2000, and the trial court entered judgments of conviction and imposed concurrent sentences of life imprisonment for felony murder and armed robbery and five years for the weapons offense. The trial court denied Hill's motion for new trial on July 29, 2002. The Supreme Court of Georgia affirmed the judgments.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Sharpe v. State, 272 Ga. 684, 690(12), 531 S.E.2d 84 (2000)
- Mims v. State, 264 Ga. 271, 443 S.E.2d 845 (1994)
- Tesfaye v. State, 275 Ga. 439, 440(1), 569 S.E.2d 849 (2002)
- Victrum v. State, 203 Ga. App. 377, 379(3), 416 S.E.2d 740 (1992)
- McIntosh v. State, 185 Ga. App. 612, 615(5), 365 S.E.2d 454 (1988)
- Morrison v. State, 258 Ga. 683, 686(3), 373 S.E.2d 506 (1988)
- Columbus v. State, 270 Ga. 658, 661-662(2)(b), 513 S.E.2d 498 (1999)
- Whitt v. State, 257 Ga. 8(2)(a), 354 S.E.2d 116 (1987)
- Atkins v. State, 274 Ga. 103, 106(5), 549 S.E.2d 356 (2001)