

# SUPREME COURT OF GEORGIA

## Alexander v. State, 259 Ga. 440

383 S.E.2d 877 (1989) · No. S89A0009 · Decided September 28, 1989

### SUMMARY

The Supreme Court of Georgia affirmed Joe Alexander's felony-murder conviction and life sentence for shooting and killing Jeffrey Clowers. The court held that the evidence was sufficient under Jackson v. Virginia and that the trial court's justification instruction adequately informed the jury that self-defense could apply to the aggravated-assault underlying felony.

### CASE DETAILS

|                       |                                                                                                                                                                                          |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Georgia                                                                                                                                                                 |
| WRITING FOR THE COURT | Weltner, Justice; All other Justices                                                                                                                                                     |
| JURISDICTION          | Georgia                                                                                                                                                                                  |
| DECIDED               | September 28, 1989                                                                                                                                                                       |
| DOCKET                | S89A0009                                                                                                                                                                                 |
| DISPOSITION           | affirmed                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Alexander appealed his conviction for felony murder and life sentence following a jury trial.                                                                                            |
| STANDARD OF REVIEW    | The evidence is viewed in the light most favorable to the verdict; the conviction is upheld if a rational trier of fact could have found the defendant guilty beyond a reasonable doubt. |
| PRECEDENTIAL VALUE    | Published precedential opinion of the Supreme Court of Georgia                                                                                                                           |
| PARTIES               | Joe Alexander, Jr. v. The State                                                                                                                                                          |

### TOPICS

- criminal procedure
- jury instructions
- self defense
- standard of review
- appellate procedure

### PRACTICE AREAS

- Criminal law
- Homicide
- Jury instructions
- Appellate review

### QUESTIONS PRESENTED

1. Whether the evidence was sufficient for a rational trier of fact to find Alexander guilty of felony murder beyond a reasonable doubt.
2. Whether the trial court erred by failing to expressly instruct the jury that justification was a defense to aggravated assault, the underlying felony for the felony-murder conviction.

## HOLDINGS

1. The evidence, viewed in the light most favorable to the verdict, was sufficient for a rational trier of fact to find Alexander guilty of felony murder beyond a reasonable doubt.
2. The trial court's justification instruction was legally sufficient because a reasonable juror would understand that the justification defense applied not only to the homicide charge but also to the underlying aggravated-assault felony.

## KEY QUOTATIONS

*“We find, however, that a fair reading of the trial court's charge clearly indicates that the court charged that the defendant's defense of self-defense could apply to the underlying felony.” (441)*

## FACTUAL BACKGROUND

Alexander, Jeffrey Clowers, and Bertha Alexander lived together. Alexander and Clowers engaged in altercations on the morning of the killing, and Alexander fled when police arrived. After returning later, Alexander fatally shot Clowers with a handgun; no weapon was found on or near Clowers's body.

## PROCEDURAL HISTORY

Alexander was indicted for malice murder, convicted by a jury of felony murder, and sentenced to life imprisonment on May 4, 1988. His motion for new trial was overruled, and he appealed to the Supreme Court of Georgia. The appeal was submitted without oral argument.

## DISPOSITION

affirmed

## CASES CITED

- Jackson v. Virginia, 443 U.S. 307 (1979)
- Jolley v. State, 254 Ga. 624, 628, 331 S.E.2d 516 (1985)

## OPINION

WELTNER, J.

259 Ga. 440 (1989) 383 S.E.2d 877 ALEXANDER v. THE STATE. S89A0009. Supreme Court of Georgia. Decided September 28, 1989. A. Nevell Owens, for appellant. Lewis R. Slaton, District Attorney, Michael J. Bowers, Attorney General, Andrew S. Ree, for appellee. WELTNER, Justice.

Joe Alexander, Jr. shot and killed Jeffrey Clowers with a handgun. He was indicted for malice murder, found guilty of felony murder by a jury, and sentenced to life imprisonment.[1] Alexander, Clowers, and Bertha Alexander lived together.

Early on the morning of the killing, Alexander and Clowers became engaged in a fistfight. When police arrived, Alexander fled. Later that day there was another altercation between Alexander and Clowers. When the police arrived, they again were unable to find Alexander. Later, Alexander returned to the home and fatally shot Clowers. No weapon was found on or near Clowers' body.

1. Considering the evidence in a light most favorable to the verdict, we conclude that from the evidence a rational trier of fact could have found Alexander guilty of felony murder beyond a reasonable doubt. *Jackson v. Virginia*, 443 U. S. 307 (99 SC 2781, 61 LE2d 560) (1979). 2.

The trial court instructed the jury on justification. Alexander complains that it did not charge specifically that justification is a defense to aggravated assault, that being the underlying felony in the felony murder conviction. He contends that the failure so to charge precluded the jury from considering his defense of self-defense to aggravated assault, the underlying felony.

The trial court's charge on justification was correct. No reasonable juror would have understood that it applied only to the charge of homicide and did not apply to the underlying felony of aggravated assault. The same contention was rejected in *Jolley v. State*, 254 Ga. 624, 628 (331 SE2d 516) (1985): "We find, however, that a fair reading of the trial court's charge clearly indicates that the court charged that \*441 [the defendant's] defense of self-defense could apply to the underlying felony."

Judgment affirmed. All the Justices concur. NOTES [1] The crime was committed on November 19, 1987, and Alexander was indicted on January 22, 1988. He was found guilty of felony murder on May 4, 1988, and on the same date was sentenced to life imprisonment. He filed his motion for new trial on May 16, 1988, and it was overruled by order dated January 9, 1989, and filed on March 23, 1989.

His notice of appeal was filed on April 18, 1989, and was docketed in this court on May 16, 1989. This appeal was submitted without oral argument on June 30, 1989.