

SUPREME COURT OF GEORGIA

Alexander v. State, 259 Ga. 440

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

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.

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/georgia-supreme-court-of-georgia/1989/alexander-v-state-259-ga-440-jn1hd1pk>