

SUPREME COURT OF GEORGIA

Murray v. State

Murray v. State · No. S21A1098 · Decided November 23, 2021

SUMMARY

The Supreme Court of Georgia vacated an order denying Andrew Murray’s amended motion for new trial and remanded for consideration of the motion’s merits. The court held that the trial court could not deny or dismiss the motion solely because Murray presented no additional evidence at the hearing or failed to appear, although those circumstances could waive the right to a hearing. The court also disapproved prior authority to the extent it permitted dismissal of a motion for new trial on that basis.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Nahmias, Chief Justice
JURISDICTION	Georgia
DECIDED	November 23, 2021
DOCKET	S21A1098
DISPOSITION	vacated
PROCEDURAL POSTURE	Murray appealed the trial court's order denying or dismissing his amended motion for new trial after the court concluded that he failed to appear for the hearing and offered no support for the motion.
STANDARD OF REVIEW	The Supreme Court reviewed whether the trial court properly dismissed or denied the amended motion for new trial on the stated grounds.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Andrew Murray v. The State

TOPICS

- post-conviction relief
- appellate procedure
- criminal procedure
- preservation of error
- right to counsel

PRACTICE AREAS

- criminal procedure
- appellate procedure
- post-conviction relief

QUESTIONS PRESENTED

1. Whether a trial court may deny or dismiss a motion for new trial on the ground that the defendant failed to present additional evidence at the hearing when some claims can be decided from the existing trial record.
2. Whether a defendant's failure to appear at or participate in a scheduled motion-for-new-trial hearing permits the trial court to dismiss the motion without considering its merits.
3. Whether *Scott v. State* and *Mimms v. State* correctly permitted dismissal of a motion for new trial based on failure to appear at the hearing.

HOLDINGS

1. A trial court may not deny the merits of all claims in an amended motion for new trial merely because the defendant presented no additional evidence at the hearing when some claims can be resolved from the existing trial record.
2. A defendant's failure to request or attend a motion-for-new-trial hearing may waive the right to a hearing and the opportunity to expand the record, but it does not waive the right to have the motion decided on its merits based on the existing record.
3. *Scott v. State* is disapproved insofar as it held that dismissal of a motion for new trial is proper when defense counsel fails to appear for the hearing. *Mimms v. State* is disapproved to the extent it indicates that dismissal based on failure to appear may be proper.

KEY QUOTATIONS

“If a defendant does not request a hearing or does not appear at a scheduled hearing, he may waive his right to a hearing and the opportunity to expand the record, but that does not waive his right to have the merits of his motion for new trial considered and decided by the trial court based on the existing record.” (11-12)

“Accordingly, Scott’s holding on this point is hereby disapproved, as is Mimms’s holding to the extent it indicates that dismissal of a motion for new trial based on a failure to appear at a hearing on the motion may be proper.” (14)

FACTUAL BACKGROUND

Murray was convicted by a jury of malice murder and numerous additional crimes arising from the shooting death of Paul Sampleton, Jr., and received consecutive life and term-of-years sentences. During extended motion-for-new-trial proceedings, Murray rejected or sought withdrawal of three appointed attorneys and ultimately proceeded pro se. At the final hearing, he claimed to be an attorney-in-fact named Billy Drew Bey and asserted that he was not present as Murray, leading the trial court to deny the amended motion for new trial without addressing its merits.

PROCEDURAL HISTORY

After a jury convicted Murray of malice murder and other crimes, he filed a motion for new trial that was amended through several changes of counsel and pro se filings. The trial court ultimately denied the amended

motion, characterizing the order as a dismissal, because Murray appeared at the hearing while claiming to be a different person and did not provide additional support. The Supreme Court of Georgia vacated the order and remanded for consideration of the motion's merits.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The trial court must consider and decide the merits of Murray's amended motion for new trial, using the existing record and any properly developed evidence as appropriate.

CASES CITED

- Lopez v. State, 310 Ga. 529, 536 (852 SE2d 547) (2020)
- State v. Cash, 298 Ga. 90, 94 (779 SE2d 603) (2015)
- Bundel v. State, 308 Ga. 317, 319-320 (840 SE2d 349) (2020)
- Wilson v. State, 277 Ga. 195, 198 (586 SE2d 669) (2003)
- Robinson v. State, 309 Ga. 729, 729 n.1 (848 SE2d 441) (2020)
- Shubert v. State, 306 Ga. 490, 491 n.1 (831 SE2d 826) (2019)
- Jones v. State, 276 Ga. 171, 171-173 (575 SE2d 456) (2003)
- Mimms v. State, 254 Ga. App. 483, 484, 486 (562 SE2d 754) (2002)
- Scott v. State, 121 Ga. App. 458, 460-461 (174 SE2d 243) (1970)