

SUPREME COURT OF GEORGIA

Drennon v. State

No. S22A0511, Supreme Court of Georgia (October 25, 2022)

SUMMARY

The Supreme Court of Georgia affirmed Drennon's convictions for malice murder and criminal street gang activity, holding that the evidence—including jail calls encouraging gang members to kill the victim—was sufficient under both constitutional due process and Georgia's circumstantial evidence statute (OCGA § 24-14-6). The court also held that the trial court properly exercised its discretion as the "thirteenth juror" under OCGA §§ 5-5-20 and 5-5-21 when denying the general grounds motion for new trial. However, because Drennon raised a right-to-be-present claim for the first time on appeal regarding bench conferences during jury selection, and the record was insufficient to easily reject it, the court vacated that part of the judgment and remanded for the trial court to hold a hearing and rule on the claim.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Warren, Justice; All the Justices
JURISDICTION	Georgia
DECIDED	October 25, 2022
DOCKET	S22A0511
DISPOSITION	other
PROCEDURAL POSTURE	Direct appeal from conviction for malice murder and criminal street gang activity after denial of motion for new trial.
STANDARD OF REVIEW	For sufficiency of evidence: Jackson v. Virginia standard; for general grounds: abuse of discretion; for right-to-be-present claim: de novo but factual findings reviewed for clear error.
PRECEDENTIAL VALUE	Published
PARTIES	Carlos Drennon v. The State

TOPICS

- criminal procedure
- evidence
- conspiracy
- appellate procedure
- standard of review

PRACTICE AREAS

Criminal Law

Appellate Practice

QUESTIONS PRESENTED

1. Whether the trial court failed to exercise its discretion as the thirteenth juror when denying the motion for new trial on general grounds.
2. Whether the evidence was sufficient to support Drennon's conviction for malice murder as a matter of constitutional due process and Georgia statutory law.
3. Whether the evidence was sufficient to support Drennon's conviction for participation in criminal street gang activity.
4. Whether Drennon was denied his constitutional right to be present at bench conferences during jury selection.

HOLDINGS

1. The trial court did not fail to exercise its discretion; it specifically acknowledged the general grounds and found that this was not an exceptional case where the evidence preponderates heavily against the verdict.
2. The evidence, though circumstantial, was sufficient to convict Drennon of malice murder as a party to the crime under both constitutional due process and Georgia statutory law.
3. The evidence was sufficient to show Drennon was associated with the IRC, committed predicate acts of violence, and intended to further the gang's interests.
4. The claim cannot be easily rejected on the existing record; the case is remanded for the trial court to hold a hearing and make factual findings on whether Drennon had a right to be present at each bench conference and whether he waived or acquiesced.

KEY QUOTATIONS

“Even when the evidence is legally sufficient to sustain a conviction, a trial judge may grant a new trial if the verdict of the jury “is contrary to . . . the principles of justice and equity,” OCGA § 5-5-20, or if the verdict is “decidedly and strongly against the weight of the evidence.” OCGA § 5-5-21.” (at 14)

“When evaluating a challenge to the sufficiency of the evidence as a matter of constitutional due process, we view the evidence presented at trial in the light most favorable to the verdicts and ask whether any rational trier of fact could have found the defendant guilty beyond a reasonable doubt for the crimes for which he was convicted.” (at 16-17)

““This Court has long held that the Georgia Constitution guarantees criminal defendants the right to be present, and see and hear, all the proceedings which are had against him on his trial before the court.” Champ, 310 Ga. at 839 (citation and punctuation omitted).” (at 27-28)

““Acquiescence may occur when a defendant remains silent after he becomes aware of the proceedings occurring in his absence, so long as he had sufficient information concerning the matters occurring outside

his presence for his silence to be fairly construed as consent." Id." (at 29)

FACTUAL BACKGROUND

The International Robbing Club (IRC) was a gang that committed robberies. In May 2007, IRC members attempted to rob Randy Griffin; Drennon was shot and arrested. While in jail, Drennon encouraged fellow IRC members to kill Griffin to retaliate. On June 10, 2007, Griffin was shot and killed outside a nightclub. Drennon was convicted of malice murder and criminal street gang activity based on circumstantial evidence including jail calls.

PROCEDURAL HISTORY

Drennon was convicted in May 2009. He filed a motion for new trial, amended in 2015, denied in January 2020. He appealed but the appeal was dismissed because dead-docketed counts remained pending. On remand, the trial court vacated the denial order, entered a new denial, and granted a certificate of immediate review. The Supreme Court granted interlocutory appeal.

DISPOSITION

other

REMAND INSTRUCTIONS

The trial court is directed to hold a hearing to develop the factual record regarding Drennon's right-to-be-present claim at the nine bench conferences during jury selection. The court shall determine whether Drennon had a right to be present at each conference, and if so, whether he personally waived that right or acquiesced to his absence. If the trial court rules against Drennon, he shall have 30 days to file a new notice of appeal. If the trial court grants a new trial, the State may appeal.

CASES CITED

- Morris v. State, 294 Ga. 45 (751 SE2d 74) (2013)
- Stevens v. State, 286 Ga. 692 (690 SE2d 816) (2010)
- Morris v. State, 322 Ga. App. 682 (746 SE2d 162) (2013)
- Seals v. State, 311 Ga. 739 (860 SE2d 419) (2021)
- Spears v. State, 360 Ga. App. 776 (861 SE2d 619) (2021)
- Champ v. State, 310 Ga. 832 (854 SE2d 706) (2021)
- White v. State, 293 Ga. 523 (753 SE2d 115) (2013)
- Hodges v. State, Hodges v. State, 309 Ga. 590 (847 SE2d 538) (2020)
- Myers v. State, 313 Ga. 10 (867 SE2d 134) (2021)
- Jones v. State, 304 Ga. 594 (820 SE2d 696) (2018)
- Jackson v. Virginia, 443 U.S. 307 (1979)
- Smith v. State, 308 Ga. 81 (839 SE2d 630) (2020)

- Ivey v. State, 305 Ga. 156 (824 SE2d 242) (2019)
- Garay v. State, 314 Ga. 16 (875 SE2d 631) (2022)
- Frazier v. State, 308 Ga. 450 (841 SE2d 692) (2020)
- McGruder v. State, 303 Ga. 588 (814 SE2d 293) (2018)
- Nicholson v. State, 307 Ga. 466 (837 SE2d 362) (2019)
- Boyd v. State, 306 Ga. 204 (830 SE2d 160) (2019)
- Chavers v. State, 304 Ga. 887 (823 SE2d 283) (2019)
- Lupoe v. State, 300 Ga. 233 (794 SE2d 67) (2016)
- Hayes v. State, 298 Ga. 339 (781 SE2d 777) (2016)
- Rodriguez v. State, 284 Ga. 803 (671 SE2d 497) (2009)
- Heywood v. State, 292 Ga. 771 (743 SE2d 12) (2013)
- Young v. State, 312 Ga. 71 (860 SE2d 746) (2021)
- Reed v. State, 2022 WL 4085942 (Ga. Sept. 7, 2022)
- Nesby v. State, 310 Ga. 757 (853 SE2d 631) (2021)
- Reeves v. State, 309 Ga. 645 (847 SE2d 551) (2020)
- Sammons v. State, 279 Ga. 386 (612 SE2d 785) (2005)

CITED IN

- Drennon v. State, Drennon v. State, 314 Ga. 854, 861 (3) (880 SE2d 139) (2022)