

SUPREME COURT OF GEORGIA

Hill v. State, 281 Ga. 795

642 S.E.2d 64 (2007) · No. S06A1714 · Decided February 26, 2007

SUMMARY

The Supreme Court of Georgia affirmed Charles Hill’s convictions arising from an attempted armed robbery and related killing, holding that the evidence was sufficient to establish his participation as a party to the crimes. The court upheld admission of Hill’s videotaped statement and declined to review an unrelated oral contempt ruling and a waived ineffective-assistance claim. It vacated part of the sentence because multiple firearm-possession counts should have been merged.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hunstein, Presiding Justice; All Justices
JURISDICTION	Georgia
DECIDED	February 26, 2007
DOCKET	S06A1714
DISPOSITION	vacated
PROCEDURAL POSTURE	Charles Hill appealed from the denial of his motion for new trial following convictions for felony murder, kidnapping with bodily injury, and other offenses.
STANDARD OF REVIEW	The sufficiency of the evidence was reviewed under whether a rational trier of fact could have found guilt beyond a reasonable doubt under Jackson v. Virginia. The trial court's voluntariness and admissibility determination was reviewed for clear error. The Court also reviewed whether the ineffective-assistance claim was waived by failure to raise it at the earliest practicable moment.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Georgia.
PARTIES	Charles Hill v. State of Georgia

TOPICS

- criminal procedure
- evidence
- sentencing
- ineffective assistance
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

evidence

sentencing

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Hill's convictions for crimes committed in the alley, including the killing, under Georgia's party-to-a-crime statute.
2. Whether the trial court properly sentenced Hill on the armed-robbery count even though armed robbery served as a predicate felony for one felony-murder count.
3. Whether four of the seven firearm-possession counts should have been merged into two sentences.
4. Whether Hill's videotaped statement was involuntary because police improperly induced it by suggesting he might receive a lighter sentence.
5. Whether the trial court's oral contempt ruling was properly before the Supreme Court on this criminal appeal.
6. Whether Hill waived his ineffective-assistance claim by failing to raise it at the earliest practicable moment.

HOLDINGS

1. The evidence was sufficient to support Hill's convictions as a party to the crimes committed in the alley because the jury could infer from his conduct before, during, and after the crimes that he shared the criminal intent of the actual perpetrator.
2. The trial court did not err by sentencing Hill on the armed-robbery count because a separate felony-murder count was predicated on aggravated assault, allowing the court to merge the aggravated assault rather than the armed robbery into the felony-murder count for which sentence was imposed.
3. Four of Hill's seven firearm-possession counts should have been merged into two sentences because the four counts involving Abraham and the two counts involving Crawford corresponded to two crimes involving the person; the separate count involving unlawful entry into a building was properly sentenced.
4. The trial court properly admitted Hill's videotaped statement because, although certain police comments improperly suggested that he might receive a lighter sentence, the State proved voluntariness by a preponderance of the evidence through Hill's own testimony, and the trial court's finding was not clearly erroneous.
5. The Supreme Court declined to address the trial court's oral contempt ruling because it was unrelated to Hill's criminal case, was not shown to affect the proceedings below, and was not shown to have been reduced to a written, signed, and filed order.
6. Hill waived his ineffective-assistance claim by failing to raise it at the earliest practicable moment after new counsel was appointed, including in the motion for new trial, its amendment, or the hearing on the motion.

KEY QUOTATIONS

“Mere presence at the scene of a crime and mere approval of the criminal act are not sufficient evidence to establish that the defendant was a party to the crime.” (at 65-66)

“Since there was evidence that appellant was present when the crimes were committed and the jury could infer from [his] conduct before and after the crimes that [he] shared the criminal intent of the actual perpetrator[], the evidence was sufficient to authorize [appellant's] convictions as a party to those crimes.” (at 66)

FACTUAL BACKGROUND

Hill and Derek Horne planned and armed themselves for a robbery of a Church's Chicken restaurant. During the robbery, they forced two victims into the kitchen; Horne later pursued Abraham into an alley and fatally shot him after Hill responded ambiguously when Horne asked whether he should kill Abraham. Hill fled with Horne and later made statements indicating participation in the crimes. Police obtained a videotaped statement from Hill after making comments suggesting that confession might result in less jail time.

PROCEDURAL HISTORY

Hill was indicted in Chatham County on multiple counts arising from an armed robbery and killing at a fast-food restaurant. He was acquitted of malice murder but convicted of felony murder and 16 other offenses, and the trial court imposed multiple life, prison, and probationary sentences. After the trial court denied his motion for new trial, Hill appealed. The Supreme Court of Georgia affirmed the convictions and vacated part of the sentence.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The sentence was vacated in part because the firearm-possession counts were required to be merged as described by the Court. The convictions were affirmed.

CASES CITED

- Eckman v. State, 274 Ga. 63, 65(1), 548 S.E.2d 310 (2001)
- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Harris v. State, 274 Ga. 835(2), 561 S.E.2d 73 (2002)
- McClellan v. State, 274 Ga. 819(1)(a), 561 S.E.2d 82 (2002)
- State v. Marlowe, 277 Ga. 383(2)(c), 589 S.E.2d 69 (2003)
- Jackson v. Denno, 378 U.S. 368, 84 S. Ct. 1774, 12 L. Ed. 2d 908 (1964)
- State v. Ray, 272 Ga. 450(2), 531 S.E.2d 705 (2000)
- Daniel v. State, 268 Ga. 9, 10(2), 485 S.E.2d 734 (1997)
- Titelman v. Stedman, 277 Ga. 460, 461, 591 S.E.2d 774 (2003)
- Harden v. State, 278 Ga. 40(2), 597 S.E.2d 380 (2004)

- Thompson v. State, 257 Ga. 386(2), 359 S.E.2d 664 (1987)
- Hunt v. State, 247 Ga. App. 464(6), 542 S.E.2d 591 (2000)

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