

SUPREME COURT OF GEORGIA

Lassic v. State, 278 Ga. 701

606 S.E.2d 266 (2004) · No. S04A1535 · Decided November 22, 2004

SUMMARY

The Supreme Court of Georgia affirmed Michael Lassic's convictions for felony murder and cocaine possession. The court held that the trial judge did not improperly comment on the evidence by rebuking defense counsel for misstating the evidence during closing argument and explaining the interruption to the jury. The court also rejected Lassic's claims of ineffective assistance of counsel, concluding that counsel's decisions regarding impeachment and testimony were reasonable trial strategy.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Sears, Presiding Justice; All other Justices
JURISDICTION	Georgia
DECIDED	November 22, 2004
DOCKET	S04A1535
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from convictions for felony murder, aggravated assault, and cocaine possession following a second jury trial, after the first trial ended in a mistrial. The Supreme Court of Georgia reviewed claims of ineffective assistance of trial counsel and improper judicial comment on the evidence.
STANDARD OF REVIEW	The evidence is viewed in the light most favorable to the verdict to determine whether a rational trier of fact could find the defendant guilty. Ineffective-assistance claims require proof of deficient performance and a reasonable probability that the result would have been different. Counsel's decisions concerning cross-examination and whether the defendant should testify are reviewed as strategic and tactical decisions.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Georgia.
PARTIES	Michael Lassic v. The State

TOPICS

criminal procedure

ineffective assistance

evidence

appellate procedure

standard of review

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate procedure

post-conviction relief

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Lassic's convictions.
2. Whether the trial court improperly injected its opinion into the proceedings by interrupting closing argument, privately rebuking defense counsel, and explaining the interruption to the jury.
3. Whether trial counsel was ineffective for failing to impeach Spears regarding alleged drug use and for advising Lassic not to testify at the second trial.

HOLDINGS

1. The evidence, construed in the light most favorable to the verdict, was sufficient for rational triers of fact to find Lassic guilty of the charged crimes.
2. The trial court acted properly by interrupting closing argument to address defense counsel's prejudicial misstatement of the evidence, rebuking counsel privately, and explaining the interruption to the jury.
3. Trial counsel was not ineffective because the challenged decisions were reasonable strategic and tactical choices, and the record did not establish deficient performance or prejudice.

KEY QUOTATIONS

"Where counsel in the hearing of the jury make statements of prejudicial matters which are not in evidence, it is the duty of the court to interpose and prevent the same." (278 Ga. at 702)

"Deciding ... whether and how to conduct cross-examination [is a] strategic and tactical decisions within the exclusive province of the attorney after consultation with the client." (278 Ga. at 702)

FACTUAL BACKGROUND

Lassic and Sonya Cleveland were using cocaine at Cleveland's mobile home when a drug dealer arrived and argued with Cleveland about a drug debt. After the dealer left, Cleveland remained alone with Lassic; the next day she was found dead from multiple blunt-force injuries. Lassic's palm print was found above the bed, one of his blood-stained shirts was found in the home, Cleveland's blood was found on another shirt at Lassic's home, and post-mortem testing indicated that Lassic and Cleveland had engaged in sex on the night of the murder. Lassic offered an alibi, but the testimony of his cousin, Spears, contradicted it.

PROCEDURAL HISTORY

Lassic was tried twice. His first trial ended in a mistrial, and at the second trial he was convicted of felony murder, aggravated assault, and cocaine possession; the aggravated assault conviction merged, and he received

life imprisonment plus a consecutive fifteen-year sentence. His motion for new trial was denied, and he appealed to the Supreme Court of Georgia, which affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Fincher v. State, 276 Ga. 480, 578 S.E.2d 102 (2003)
- McClain v. State, 267 Ga. 378, 477 S.E.2d 814 (1996)
- Strickland v. Washington, 466 U.S. 668, 687, 694, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)
- Van Alstine v. State, 263 Ga. 1, 3, 426 S.E.2d 360 (1993)
- Simpson v. State, 277 Ga. 356, 589 S.E.2d 90 (2003)