

COURT OF APPEALS OF GEORGIA

Morey v. The State

A26A0245 (Ga. Ct. App. June 4, 2026) · No. A26A0245 · Decided June 4, 2026

SUMMARY

The Georgia Court of Appeals affirmed Carl Neil Morey’s conviction for theft by taking from Cordele Metal Works, Inc. Morey argued that trial counsel was ineffective and that the trial court improperly admitted victim-impact evidence, but the court found no deficient performance, prejudicial error, or cumulative error requiring a new trial.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Presiding Judge MCFadden; Judge Watkins; Judge Padgett
JURISDICTION	Georgia Court of Appeals
DECIDED	June 4, 2026
DOCKET	A26A0245
DISPOSITION	affirmed
PROCEDURAL POSTURE	After a jury convicted Morey of theft by taking, the trial court entered judgment on the verdict and denied his motion for new trial. Morey appealed, asserting ineffective assistance of trial counsel, admission of improper victim-impact and character-related evidence, a Bruton violation, a comment on his right to remain silent, and cumulative error.
STANDARD OF REVIEW	The court deferred to the trial court's factual findings and credibility determinations unless clearly erroneous, reviewed legal conclusions concerning ineffective assistance de novo, and applied harmless-error review to the asserted nonconstitutional evidentiary error. For the ineffective-assistance claim, Morey had to prove both deficient performance and prejudice.
PRECEDENTIAL VALUE	Published Georgia Court of Appeals opinion
PARTIES	Carl Neil Morey v. The State

TOPICS

ineffective assistance

evidence

harmless error

criminal procedure

appellate procedure

PRACTICE AREAS

Criminal law

Criminal procedure

Evidence

Appellate procedure

QUESTIONS PRESENTED

1. Whether trial counsel rendered ineffective assistance by failing to address alleged cognitive impairment of lead counsel.
2. Whether trial counsel rendered ineffective assistance by failing to object to evidence concerning employee bonuses, Joe Cook's testimony, employee trustworthiness, the related civil action and insurance claim, the alleged Bruton violation, a comment on Morey's refusal to speak with law enforcement, and the failure to call Morey's wife as a witness.
3. Whether the trial court improperly admitted victim-impact evidence during the guilt/innocence phase and, if so, whether the error was harmful.
4. Whether the combined effect of assumed errors required a new trial.

HOLDINGS

1. Morey failed to prove deficient performance because the testimony did not compel a finding that lead counsel was asleep or cognitively impaired during trial, and the appellate court deferred to the trial court's nonclearly erroneous factual findings.
2. Even assuming the testimony was objectionable and counsel performed deficiently by failing to object, Morey failed to show a reasonable probability that the trial outcome would have been different.
3. Morey failed to show deficient performance because an objection to Joe Cook's testimony would not have been successful; the testimony was relevant and not needlessly cumulative, and its probative value was not substantially outweighed by unfair prejudice.
4. Morey failed to establish deficient performance because the testimony about trusting employees was not impermissible character evidence or an improper opinion on witness credibility.
5. Morey failed to prove deficient performance because counsel's use of the related proceedings was a strategic decision, and he did not show that no reasonable counsel would have made that decision.
6. The challenged testimony did not implicate the Bruton rule because Morey was tried separately from Musselwhite and the State did not introduce Musselwhite's statement or its actual contents.
7. Morey failed to prove deficient performance because counsel could reasonably choose not to object or seek a mistrial and instead provide context for the investigator's reference to Morey's refusal to speak with law enforcement.
8. Morey failed to establish deficient performance because the decision whether to call his wife was a matter of trial strategy and was not shown to be patently unreasonable.
9. Even assuming that the testimony concerning the effect of the alleged theft on employees and their families was improperly admitted, the error was harmless because it was highly probable that the limited

testimony did not contribute to the verdict.

10. The combined prejudicial effect of the assumed ineffective-assistance and evidentiary errors did not require a new trial.

KEY QUOTATIONS

“To prevail on this claim, Morey “must show that his counsel’s performance was deficient and that his deficient performance so prejudiced him that there is a reasonable likelihood that, but for counsel’s errors, the outcome of the trial would have been different.”” (at 9)

“A trial court may exclude relevant evidence “if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.”” (at 15)

“A nonconstitutional trial court error is harmless if the [s]tate shows that it is highly probable the error did not contribute to the verdict, an inquiry that involves consideration of the other evidence heard by the jury.” (at 23)

FACTUAL BACKGROUND

Morey's construction business performed subcontracting work for Cordele Metal Works, and project manager Clint Musselwhite handled most of the relevant projects. Text messages recovered from company phones indicated that Musselwhite and Morey inflated Morey's invoices and that Morey paid Musselwhite portions of the inflated amounts; bank records showed that Morey paid Musselwhite more than \$177,000. Morey denied stealing money and testified that the payments were for legitimate part-time work Musselwhite performed for his construction business. The jury rejected that defense and convicted him of theft by taking.

PROCEDURAL HISTORY

Morey was tried separately from codefendant Clint Musselwhite and convicted of theft by taking, individually and as a party to the crime. The trial court denied his motion for new trial. The Court of Appeals of Georgia affirmed the judgment, holding that Morey failed to establish ineffective assistance, that any assumed error in admitting victim-impact evidence was harmless, and that the asserted errors did not cumulatively require a new trial.

DISPOSITION

affirmed

CASES CITED

- Eaker v. State, 315 Ga. 202, 203(1) (881 SE2d 673) (2022)
- Cross v. State, 377 Ga. App. 764, 776(4) (922 SE2d 447) (2025)
- Jackson v. State, 317 Ga. 139, 145(2) (891 SE2d 878) (2023)
- Grant v. State, 295 Ga. 126, 130(5) (757 SE2d 831) (2014)

- Revere v. State, 302 Ga. 44, 49(2)(a) (805 SE2d 69) (2017)
- Naples v. State, 308 Ga. 43, 53(2) (838 SE2d 780) (2020)
- Lynn v. State, 310 Ga. 608, 617(4)(c)(ii)(B) (852 SE2d 843) (2020)
- Anderson v. State, 337 Ga. App. 739, 748(3)(c) (788 SE2d 831) (2016)
- Clark v. State, 321 Ga. 732, 738(4) (917 SE2d 71) (2025)
- Bruton v. United States, 391 U.S. 123 (88 SCt 1620, 20 LE2d 476) (1968)
- Ardis v. State, 290 Ga. 58, 60(2)(a) (718 SE2d 526) (2011)
- Collins v. State, 312 Ga. 727, 746(8)(b) (864 SE2d 85) (2021)
- Lay v. State, 305 Ga. 715, 720(4) (827 SE2d 671) (2019)
- Park v. State, 314 Ga. 733, 743-744(2)(b) (879 SE2d 400) (2022)
- Lofton v. State, 309 Ga. 349, 364(6)(b)(ii) (846 SE2d 57) (2020)
- Stinski v. State, 286 Ga. 839, 854(55) (691 SE2d 854) (2010)
- Lucas v. State, 274 Ga. 640, 643-644(2)(c) (555 SE2d 440) (2001)
- State v. Lane, 308 Ga. 10, 17(1), 21(4) (838 SE2d 808) (2020)
- O'Neal v. State, 316 Ga. 264, 271(6) (888 SE2d 42) (2023)
- Jackson v. State, 317 Ga. 95, 107(4) (891 SE2d 866) (2023)