

SUPREME COURT OF GEORGIA

Blankenship v. State, 258 Ga. 43

365 S.E.2d 265 (1988) · No. 44877 · Decided February 19, 1988

SUMMARY

The Supreme Court of Georgia affirmed Blankenship's death sentence following his third appellate review in a felony murder and rape case. The court rejected challenges concerning juror qualification and voir dire, grand-jury issues, disclosure of allegedly exculpatory information, evidentiary rulings, counsel, and the statutory aggravating circumstances. The court also held that the death sentence was not excessive or disproportionate.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Weltner, Justice; All Justices
JURISDICTION	Georgia
DECIDED	February 19, 1988
DOCKET	44877
DISPOSITION	affirmed
PROCEDURAL POSTURE	Third appeal in a Georgia capital case following a resentencing trial at which Blankenship was again sentenced to death for felony murder and rape.
STANDARD OF REVIEW	The court applied abuse-of-discretion review to discretionary trial-court rulings, including juror excusals, voir dire limitations, evidentiary rulings, and enforcement of sequestration. It reviewed the sufficiency of the evidence supporting statutory aggravating circumstances and conducted the statutory proportionality review required by OCGA § 17-10-35.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia.
PARTIES	Blankenship v. The State

TOPICS

- sentencing
- jury selection
- criminal procedure
- evidence
- appellate procedure

PRACTICE AREAS

criminal law

capital sentencing

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether death-qualification of prospective jurors is unconstitutional.
2. Whether the trial court improperly excused two prospective jurors despite allegedly inadequate voir dire answers when Blankenship failed to object.
3. Whether the excusal of three prospective jurors under OCGA § 15-12-1(a) was an abuse of discretion.
4. Whether delayed disclosure of information concerning an autopsist's observations and comparison to another case violated Brady or denied Blankenship a fair trial.
5. Whether the trial court erred by failing to complete a grand-jury certificate under Rule II(A)(6) of the Unified Appeal Procedure and by refusing to hear a late challenge to the grand-jury array.
6. Whether the trial court improperly limited voir dire concerning prospective jurors' views about circumstances warranting the death penalty.
7. Whether photographs of the crime scene and victim were properly admitted at resentencing.
8. Whether Blankenship's pretrial statement was inadmissible in its entirety because it referred to sodomy, an offense for which he had been acquitted.
9. Whether the trial court properly enforced the rule of sequestration.
10. Whether Blankenship was entitled to appointment of an additional attorney to assist him in responding to the Unified Appeal Procedure inquiry concerning satisfaction with trial counsel.
11. Whether Georgia's death-penalty procedures were constitutionally defective and whether prior Witherspoon error required reversal of the convictions as well as the sentence.
12. Whether the evidence supported the statutory aggravating circumstances and whether the form of the jury's verdict was defective.
13. Whether the death sentence was excessive or disproportionate because Blankenship was convicted of felony murder rather than malice murder or because of the circumstances of the case.

HOLDINGS

1. Death-qualification of prospective jurors is not unconstitutional.
2. A defendant waives an objection to the trial court's ruling on whether a juror is qualified by failing to object to that ruling.
3. The trial court did not abuse its discretion by excusing a prospective juror who requested an exemption to attend a one-time legal-assistance workshop for a nonprofit organization of which she was president.
4. The State's delayed disclosure of information about an autopsist's observations did not require reversal because the information was not exculpatory in the circumstances and was available to Blankenship before the resentencing trial.

5. The trial court properly declined to complete a grand-jury certificate under Rule II(A)(6) and properly refused to consider Blankenship's challenge to the grand-jury array.
6. The trial court did not abuse its discretion by refusing to permit voir dire asking prospective jurors to identify the types of cases that, in their opinions, should warrant a death sentence.
7. The crime-scene and victim photographs were properly admitted in evidence at the resentencing trial.
8. The trial court properly admitted Blankenship's entire statement because it admitted rape and denied sodomy, and the statement was not offered to prove commission of the acquitted offense.
9. The trial court did not abuse its discretion in enforcing the rule of sequestration and was not required to enforce it before the presentation of evidence began.
10. The trial court did not err by declining to appoint an additional attorney solely to assist Blankenship in responding to the Unified Appeal Procedure inquiry concerning satisfaction with trial counsel.
11. The evidence supported the jury's findings under OCGA § 17-10-30(b)(2) and (b)(7), and the incomplete wording of the verdict concerning the first component of the (b)(7) aggravator did not require reversal where Blankenship failed to object to the verdict form.
12. The death sentence was not excessive or disproportionate, and it was not imposed as the result of passion, prejudice, or another arbitrary factor.

KEY QUOTATIONS

"This is the third appearance of this death penalty case." (258 Ga. at 43)

"Failure to object to the court's ruling on whether or not a juror is qualified shall be a waiver of any such objection." (258 Ga. at 44)

"A defendant has the right to a voir dire examination that is "broad enough to allow the parties to ascertain the fairness and impartiality of the prospective jurors."" (258 Ga. at 45)

"The Unified Appeal Procedure affords a death-penalty defendant "numerous opportunities to raise questions or objections concerning his counsel's assistance. . . ." (258 Ga. at 46)

"The evidence must be sufficient to satisfy the first major component of the statutory aggravating circumstance and at least one sub-part of the second component. . . ." (258 Ga. at 46)

FACTUAL BACKGROUND

Blankenship was convicted of felony murder and rape arising from the killing of a victim in her apartment. The case had previously resulted in two death sentences that were vacated on appeal, and Blankenship received a third death sentence at the resentencing proceeding under review. The jury found that the murder involved the contemporaneous commission of rape and was horrible and inhuman because it involved aggravated battery and depravity of mind. Blankenship's statement admitted rape while denying sodomy, and the State introduced crime-scene and victim photographs and other evidence at resentencing.

PROCEDURAL HISTORY

In the first appeal, the Supreme Court of Georgia affirmed Blankenship's convictions but vacated the death sentence and remanded for resentencing. In the second appeal, the court vacated the death sentence imposed at the resentencing trial. After a third death sentence was imposed, Blankenship challenged juror excusals, grand-jury procedures, Brady disclosure, voir dire, evidentiary rulings, counsel-related proceedings, aggravating circumstances, and proportionality. The court found no reversible error and affirmed.

DISPOSITION

affirmed

CASES CITED

- Blankenship v. State, 247 Ga. 590, 277 S.E.2d 505 (1981)
- Blankenship v. State, 251 Ga. 621, 308 S.E.2d 369 (1983)
- Lockhart v. McCree, 476 U.S. 162 (1986)
- Jefferson v. State, 256 Ga. 821, 353 S.E.2d 468 (1987)
- Hicks v. State, 256 Ga. 715, 352 S.E.2d 762 (1987)
- Alderman v. State, 254 Ga. 206, 327 S.E.2d 168 (1985)
- Ingram v. State, 253 Ga. 622, 323 S.E.2d 801 (1984)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Nelson v. State, 247 Ga. 172, 274 S.E.2d 317 (1981)
- Castell v. State, 250 Ga. 776, 782, 301 S.E.2d 234 (1983)
- Parks v. State, 254 Ga. 403, 407-408, 330 S.E.2d 686 (1985)
- Vasquez v. Hillery, 474 U.S. 254 (1986)
- Curry v. State, 255 Ga. 215, 218, 336 S.E.2d 762 (1985)
- Skipper v. State, 257 Ga. 802, 806, 364 S.E.2d 835 (1988)
- Spivey v. State, 253 Ga. 187, 193, 319 S.E.2d 420 (1984)
- Conklin v. State, 254 Ga. 558, 331 S.E.2d 532 (1985)
- Fugitt v. State, 256 Ga. 292, 348 S.E.2d 451 (1986)
- Hughes v. State, 128 Ga. 19, 57 S.E. 236 (1907)
- Sliger v. State, 248 Ga. 316, 319, 282 S.E.2d 291 (1981)
- Hance v. State, 245 Ga. 856, 860-861, 268 S.E.2d 339 (1980)
- Romine v. State, 251 Ga. 208, 305 S.E.2d 93 (1983)
- Allen v. State, 253 Ga. 390, 321 S.E.2d 710 (1984)
- Patrick v. State, 247 Ga. 168, 170, 274 S.E.2d 570 (1981)
- Enmund v. Florida, 458 U.S. 782 (1982)