

SUPREME COURT OF GEORGIA

Smith v. The State

S25A1055 · No. S25A1055 · Decided January 5, 2026

SUMMARY

The Supreme Court of Georgia affirmed Travis Smith’s convictions for malice murder and related offenses arising from the shooting death of Cortez Dowell. The court rejected claims concerning hearsay, Confrontation Clause violations, mistrial motions, ineffective assistance of counsel, jury instructions, and cumulative error.

CASE DETAILS

COURT	Supreme Court of Georgia
JURISDICTION	Supreme Court of Georgia
DECIDED	January 5, 2026
DOCKET	S25A1055
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from conviction and sentence for malice murder and other crimes; denial of motion for new trial
STANDARD OF REVIEW	abuse of discretion (for evidentiary rulings and mistrial motions); plain error (for unobjected-to evidentiary rulings); mixed question of law and fact (for ineffective assistance claims)
PRECEDENTIAL VALUE	binding
PARTIES	Travis Smith v. The State

TOPICS

- criminal procedure
- evidence
- ineffective assistance
- hearsay

PRACTICE AREAS

- criminal law
- criminal procedure
- constitutional law
- appellate practice

QUESTIONS PRESENTED

1. Whether the trial court erred by admitting testimony and evidence on hearsay and Confrontation Clause grounds

2. Whether the trial court erred by denying motions for mistrial based on witness intimidation testimony and detective's comment about defendant invoking right to remain silent
3. Whether trial counsel rendered ineffective assistance by failing to object to State's closing argument regarding future dangerousness and golden rule violation
4. Whether trial counsel rendered ineffective assistance by failing to object to jury instructions on witness intelligence and prior consistent statements
5. Whether cumulative effect of counsel's assumed deficiencies warranted a new trial

HOLDINGS

1. In-court identification testimony based on a witness's own observations is not hearsay, and cross-examination at trial satisfies the Confrontation Clause.
2. Testimony about the fact that a witness sent a photograph, without testimony about the substance of any statement, is not a 'statement' or 'assertion' subject to the Confrontation Clause.
3. The Confrontation Clause applies only to testimonial statements, not to inanimate objects like photographs.
4. The trial court did not abuse its discretion in denying a mistrial where it sustained objections, struck testimony, and gave curative instructions regarding improper witness intimidation testimony.
5. Failure to make a meritless objection is not constitutionally deficient performance under the Sixth Amendment.
6. Inclusion of witness intelligence as a factor in the credibility jury instruction is not reversible error.
7. Giving the pattern instruction on prior consistent statements is not reversible error where overall instructions would not mislead an average jury.
8. Cumulative prejudice from assumed deficiencies in counsel's performance regarding jury instructions was insufficient to warrant a new trial.

KEY QUOTATIONS

"We have a man, Travis Smith, who just shot someone for no reason, in front of 15 to 30 people, in that room. Would you be afraid of him? He didn't care who saw, because he was expecting exactly what happened. He was expecting that no one would come in here and say what he did, because he's bad enough, because they're afraid of him. But ain't nobody afraid of Travis. The State of Georgia is not afraid of Travis. That's exactly why he did it, because he was expecting everybody to be quiet. He was expecting it to go away." (page 17)

"You must determine the credibility or believability of the witnesses. It is for you to determine which witness or witnesses you believe or do not believe, if there are some whom you do not believe. In deciding credibility, you may consider all of the facts and circumstances of the case, including the manner in which the witnesses testify, their intelligence, their interest or lack of interest in the case, their means and opportunity for knowing the facts about which they testify, the nature of the facts about which they testify, [and] the probability or improbability of their testimony and of the other occurrences about which they testify." (page 20)

“Should you find that any witness has made a statement prior to this case that is consistent with that witness'[s] testimony from the witness stand, and such prior consistent statement is material to the case and to the witness'[s] testimony, then you are authorized to consider the other statement as substantive evidence.”
(page 21)

FACTUAL BACKGROUND

On July 27, 2014, Travis Smith and Cortez Dowell were playing dice at a gathering when an argument and physical fight broke out. Multiple witnesses saw Smith with a gun and heard gunshots. Dowell died from gunshot wounds to his abdomen. Witnesses testified that Smith made a statement indicating he shot Dowell because Dowell 'tried' him.

PROCEDURAL HISTORY

A jury found Travis Smith guilty of malice murder, felony murder, aggravated assault, and firearms offenses. The trial court sentenced him to life without parole plus consecutive sentences. After denial of his motion for new trial, Smith appealed to the Supreme Court of Georgia.

DISPOSITION

affirmed

CASES CITED

- Depriest v. State, 319 Ga. 874 (2024)
- Adams v. State, 306 Ga. 1 (2019)
- Pittman v. State, 318 Ga. 819 (2024)
- Dees v. State, 322 Ga. 498 (2025)
- Gates v. State, 298 Ga. 324 (2016)
- Davenport v. State, 309 Ga. 385 (2020)
- Burney v. State, 309 Ga. 273 (2020)
- State v. Gilmore, 312 Ga. 289 (2021)
- State v. Orr, 305 Ga. 729 (2019)
- Walker v. State, 308 Ga. 749 (2020)
- United States v. Farrad, 895 F.3d 859 (6th Cir. 2018)
- Williams v. State, 316 Ga. 304 (2023)
- Roberson v. State, 300 Ga. 632 (2017)
- Parker v. State, 309 Ga. 736 (2020)
- Hartsfield v. State, 294 Ga. 883 (2014)
- Jackson v. State, 292 Ga. 685 (2013)
- Perkins v. State, 313 Ga. 885 (2022)
- Lee v. State, 317 Ga. 880 (2023)

- Coley v. State, 305 Ga. 658, Coley v. State, 305 Ga. 658 (2019)
- Burrell v. State, 301 Ga. 21 (2017)
- Smith v. State, 315 Ga. 357 (2022)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Williams v. State, 316 Ga. 304 (2023)
- Neuman v. State, 311 Ga. 83 (2021)
- Mohamed v. State, 307 Ga. 89 (2019)
- King v. State, 316 Ga. 611 (2023)
- Fulton v. State, 278 Ga. 58 (2004)
- Willis v. State, 304 Ga. 686 (2018)
- Arrington v. State, 286 Ga. 335 (2009)
- Jackson v. State, 318 Ga. 393 (2024)
- Stephens v. State, 289 Ga. 758 (2011)
- Williamson v. State, 305 Ga. 889 (2019)
- Schofield v. Holsey, 281 Ga. 809 (2007)
- Waters v. State, 317 Ga. 822 (2023)
- Lee v. State, 318 Ga. 412 (2024)