

SUPREME COURT OF GEORGIA

Spiller v. State, 282 Ga. 351

647 S.E.2d 64 (2007) · No. S07A1035 · Decided June 25, 2007

SUMMARY

The Supreme Court of Georgia affirmed Marvin Spiller's convictions for felony murder, aggravated assault, and possession of a firearm during the commission of a felony. The court held that his ineffective-assistance claim was barred by a prior habeas corpus determination, and it rejected his challenges to the prosecutor's closing argument, the jury instructions, and the denial of his motion for a directed verdict of acquittal.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Chief Justice Sears; Sears, Chief Justice; All Justices
JURISDICTION	Georgia
DECIDED	June 25, 2007
DOCKET	S07A1035
DISPOSITION	affirmed
PROCEDURAL POSTURE	Spiller appealed from the denial of his out-of-time motion for new trial following his convictions for felony murder, aggravated assault, and possession of a firearm during the commission of a felony.
STANDARD OF REVIEW	The court reviewed the denial of the motion to limit closing argument for abuse of discretion; jury instructions as a whole for reversible error; and denial of a directed verdict under the same standard applicable to a challenge to the sufficiency of the evidence, viewing the evidence in the light most favorable to the verdict.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Georgia; binding Georgia precedent.
PARTIES	Marvin Spiller v. The State

TOPICS

- ineffective assistance
- state post-conviction relief
- appellate procedure
- criminal procedure
- jury instructions

PRACTICE AREAS

Criminal law

Criminal procedure

Post-conviction relief

Appellate procedure

Evidence

QUESTIONS PRESENTED

1. Whether Spiller was entitled to relitigate his ineffective-assistance-of-trial-counsel claim in an out-of-time motion for new trial after having litigated and lost the same claim in a habeas proceeding.
2. Whether the trial court abused its discretion by overruling Spiller's objection to the prosecutor's closing-argument inference that the size of the victim's entry wound showed that the fatal bullet came from Spiller's rifle.
3. Whether the jury instructions, considered as a whole, improperly permitted conviction merely because Spiller fired in the victim's direction.
4. Whether the trial court erred in denying Spiller's motion for a directed verdict of acquittal.

HOLDINGS

1. A defendant who elects to litigate an ineffective-assistance claim to a final determination in a habeas proceeding is procedurally barred from relitigating the same claim in a later out-of-time motion for new trial.
2. The prosecutor's argument that the size of the entry wound permitted an inference that the fatal bullet came from Spiller's rifle was permissible because it was derived from evidence properly before the jury.
3. The jury instructions did not constitute reversible error because, read as a whole, they required the jury to acquit if it had a reasonable doubt that Spiller caused the victim's death in the manner alleged.
4. The trial court did not err in denying Spiller's motion for a directed verdict because he moved only on the malice-murder charge, of which he was acquitted; in any event, the evidence was constitutionally sufficient to support the convictions on the remaining charges.

KEY QUOTATIONS

"Under OCGA § 9-12-40, "[i]ssues previously decided by a court of competent jurisdiction are conclusive and constitute a procedural bar to relitigation." (at 66-67)

"Both the prosecution and the defense are permitted wide latitude in their closing arguments in a criminal trial." (at 67)

FACTUAL BACKGROUND

On June 2, 1995, Spiller drove his car through a group of young men playing basketball, then retrieved a .22-caliber rifle and returned to the area. He hid in bushes and fired into the crowd, killing Courtney Price. Another individual, Stephen Hill, fired a 9mm handgun into the air after hearing gunshots, but police traced those shots separately.

PROCEDURAL HISTORY

A Fulton County jury convicted Spiller in 1996, but those convictions were set aside when the trial court granted a new trial. A second jury convicted him in 2001 of felony murder, aggravated assault, and possession of a firearm during the commission of a felony; the aggravated-assault conviction was merged into the felony-murder conviction, and he received a life sentence plus a concurrent five-year sentence. After obtaining permission to file an out-of-time motion for new trial, Spiller filed a pro se habeas petition in Richmond County, litigated and lost his ineffective-assistance claim there, and did not appeal. The Fulton County Superior Court then denied his out-of-time new-trial motion on procedural-bar and waiver grounds. An out-of-time appeal was subsequently granted, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)
- Jones v. State, 279 Ga. 854, 855, 622 S.E.2d 1 (2005)
- Walker v. Penn, 271 Ga. 609, 610, 523 S.E.2d 325 (1999)
- Mitchem v. Balkcom, 219 Ga. 47, 47, 131 S.E.2d 562 (1963)
- Perry v. McLendon, 62 Ga. 598, 603-05 (1879)
- Martin v. State, 228 Ga. App. 548, 550, 492 S.E.2d 307 (1997)
- Cooper v. State, 281 Ga. 760, 763(4c), 642 S.E.2d 817 (2007)
- Banks v. State, 281 Ga. 678, 682(4), 642 S.E.2d 679 (2007)
- Williams v. State, 279 Ga. 600, 602(2), 619 S.E.2d 649 (2005)
- Morgan v. State, 267 Ga. 203, 206(3), 476 S.E.2d 747 (1996)
- Terrell v. State, 271 Ga. 783, 787(5), 523 S.E.2d 294 (1999)
- White v. State, 281 Ga. 276, 280(4), 637 S.E.2d 645 (2006)
- King v. Brown, 280 Ga. 747, 749(2d), 632 S.E.2d 638 (2006)
- Smith v. State, 280 Ga. 490, 492(1), 629 S.E.2d 816 (2006)
- Shelton v. State, 279 Ga. 161, 162(3), 611 S.E.2d 11 (2005)