

SUPREME COURT OF GEORGIA

Marlow v. State, 288 Ga. 769

707 S.E.2d 95 (2011) · No. S11A0228 · Decided March 7, 2011

SUMMARY

The Supreme Court of Georgia affirmed Shannon Alan Marlow’s convictions for malice murder, felony murder, aggravated assault, and theft by receiving stolen property. The court held that the search warrant for the victim’s home was supported by probable cause because police reasonably inferred that keys to a stolen vehicle parked at the home were inside, and additional circumstances connected Marlow and the residence to the suspected evidence.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Melton, Justice; All other Justices
JURISDICTION	Georgia
DECIDED	March 7, 2011
DOCKET	S11A0228
DISPOSITION	affirmed
PROCEDURAL POSTURE	Following a jury trial and convictions for malice murder, felony murder, aggravated assault, and theft by receiving stolen property, Marlow appealed the denial of his motion to suppress evidence obtained pursuant to a search warrant.
STANDARD OF REVIEW	Substantial deference is given to a magistrate's determination that probable cause supports a search warrant; the reviewing court asks whether the affidavit and presented evidence provided a substantial basis for concluding that a search would uncover evidence of wrongdoing.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia.
PARTIES	Shannon Alan Marlow v. The State

TOPICS

- search and seizure
- probable cause
- warrant requirement
- suppression of evidence
- criminal procedure

PRACTICE AREAS

criminal procedure

search and seizure

evidence

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Marlow's convictions.
2. Whether the search warrant for Rabold's home was supported by probable cause and whether the trial court erred by denying Marlow's motion to suppress evidence obtained after execution of the warrant.

HOLDINGS

1. The evidence was sufficient for the jury to find Marlow guilty beyond a reasonable doubt of the offenses for which he was convicted.
2. The search warrant for Rabold's home was supported by probable cause because the circumstances provided a substantial basis for concluding that the stolen vehicle's keys would be found inside the residence.

KEY QUOTATIONS

"These facts alone provided the magistrate with "a substantial basis for . . . concluding that a search would uncover evidence of wrongdoing." (707 S.E.2d at 97)

FACTUAL BACKGROUND

Police went to Patricia Rabold's home after receiving an anonymous tip that Marlow, who had outstanding arrest warrants, was there. Officers observed a person retreat from an upstairs window, saw a suspicious vehicle in the driveway, and learned that the locked vehicle had been stolen and its alarm was activated. Based on the reasonable inference that the keys had been taken inside the home, a magistrate issued a warrant to search for the keys and arrest Marlow; officers then discovered Rabold's body and later found Marlow hiding in the attic.

PROCEDURAL HISTORY

Marlow was indicted on May 14, 2008, tried before a jury, and found guilty on June 18, 2009. He received a life sentence for murder and a consecutive ten-year sentence for theft by receiving stolen property; the aggravated-assault count was merged into felony murder, and the felony-murder count was vacated by operation of law. The trial court denied his amended motion for new trial, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Williams v. State, 251 Ga. 749, 795, 312 S.E.2d 40 (1983)
- Murphy v. State, 238 Ga. 725, 727-728, 234 S.E.2d 911 (1977)

- McClain v. State, 267 Ga. 378, 388-389(11), 477 S.E.2d 814 (1996)
- Illinois v. Gates, 462 U.S. 213, 236(III), 103 S. Ct. 2317, 76 L. Ed. 2d 527 (1983)
- Malcolm v. State, 263 Ga. 369(4), 434 S.E.2d 479 (1993)

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