

SUPREME COURT OF GEORGIA

Caldwell v. State

S22A0229 (Ga. May 3, 2022) · No. S22A0229 · Decided May 3, 2022

SUMMARY

The Supreme Court of Georgia reversed Willie Caldwell’s felony-murder convictions arising from the shooting death of Ricardo McPherson. The court held that the evidence could support a finding that the key witness was not an accomplice, but that the prosecutor’s improper closing argument concerning the witness’s non-indictment required a curative instruction. Because the State failed to show the error was harmless, the convictions were reversed.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	McMillian, Justice; All Justices
JURISDICTION	Georgia
DECIDED	May 3, 2022
DOCKET	S22A0229
DISPOSITION	reversed
PROCEDURAL POSTURE	Caldwell appealed his convictions for felony murder and aggravated assault after the trial court denied his amended motion for new trial.
STANDARD OF REVIEW	The sufficiency of the evidence under Georgia's accomplice-corroboration statute was reviewed in the light most favorable to the verdict. The harmlessness of the nonconstitutional error under OCGA § 17-8-75 was reviewed de novo, with the State required to show that it was highly probable that the error did not contribute to the verdict.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Willie Caldwell v. The State

TOPICS

- criminal procedure
- evidence
- prosecutorial misconduct
- appellate procedure
- harmless error

PRACTICE AREAS

- Georgia criminal law
- criminal procedure
- criminal evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient under OCGA § 24-14-8 where the State's principal witness may have been an accomplice and her testimony was not corroborated.
2. Whether the trial court erred under OCGA § 17-8-75 by refusing to give a curative instruction after the District Attorney argued matters outside the evidence concerning his authority to decide whom to indict and his determination that Williams was not an accomplice.
3. Whether the failure to give a curative instruction was harmless.

HOLDINGS

1. When the evidence permits the jury to find that a witness was not an accomplice, and the jury was properly instructed on accomplice status and corroboration, the witness's testimony may be sufficient to support a conviction without corroborating evidence, even when the general verdict does not reveal whether the jury found that the witness was an accomplice.
2. The trial court erred under OCGA § 17-8-75 by refusing to give a curative instruction after the District Attorney made prejudicial closing arguments concerning matters not in evidence, including his authority and asserted determination that Williams was not an accomplice.
3. The failure to give the requested curative instruction was harmful nonconstitutional error requiring reversal.

KEY QUOTATIONS

“Although Georgia law requires independent corroboration of an accomplice’s testimony to secure a conviction, federal law does not require such corroboration” (8)

“The District Attorney referred to a number of matters not in evidence concerning his role and authority in choosing whom to indict” (17)

“The only way for the jury to properly find Caldwell guilty, given the lack of corroborating evidence, was to find that Williams was not an accomplice” (21)

“Under these circumstances, we must conclude that the error in this case was harmful.” (22)

FACTUAL BACKGROUND

Ricardo McPherson was shot and killed in his Dougherty County apartment. Shyquandria Williams testified that she accompanied Caldwell and others to McPherson's apartment to obtain marijuana, knocked on the door at Caldwell's direction, and heard a gunshot after Caldwell entered or approached the apartment. Williams had previously lied repeatedly to police, had been subject to a murder warrant, and received immunity in exchange for her trial testimony; there was no physical or other independent evidence linking Caldwell to the crime.

PROCEDURAL HISTORY

A Dougherty County grand jury indicted Caldwell for felony murder and two counts of aggravated assault arising from the shooting death of Ricardo McPherson. Following a joint jury trial, Caldwell was convicted on

all counts and sentenced to life imprisonment for felony murder, with the remaining counts merged for sentencing. The trial court denied his amended motion for new trial, and Caldwell appealed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The convictions are reversed. No further specific remand instruction is stated.

CASES CITED

- State v. Grier, 309 Ga. 452, 456 (2) (847 SE2d 313) (2020)
- Llewellyn v. Stynchcombe, 609 F2d 194, 196 (5th Cir. 1980)
- Jackson v. Virginia, 443 U.S. 307, 319 (III) (B) (99 SCt 2781, 61 LE2d 560) (1979)
- Doyle v. State, 307 Ga. 609, 612 (2) (a) (837 SE2d 833) (2020)
- Hargrove v. State, 125 Ga. 270, 274 (54 SE 164) (1906)
- Roberts v. State, 55 Ga. 220, 222 (1875)
- Sosebee v. State, 156 Ga. App. 325, 326 (274 SE2d 717) (1980)
- Handsford v. State, 147 Ga. App. 665, 665 (1) (249 SE2d 768) (1978)
- Montanez v. State, 311 Ga. 843, 848-49 (1) (b) (860 SE2d 551) (2021)
- Milton v. State, 248 Ga. 192, 198 (2) (282 SE2d 90) (1981)
- White v. State, 305 Ga. 111, 122 n.10 (3) (823 SE2d 794) (2019)
- Johnson v. State, 288 Ga. 803, 806 (3) (708 SE2d 331) (2011)
- Almand v. State, 149 Ga. 182, 183 (b) (99 SE 795) (1919)
- Christian v. State, 277 Ga. 775, 776 (1) (596 SE2d 6) (2004)
- O'Neal v. State, 288 Ga. 219, 221 (1) (702 SE2d 288) (2010)
- Conner v. State, 251 Ga. 113, 123 (6) (303 SE2d 266) (1983)
- High v. State, 247 Ga. 289, 292 (7) (276 SE2d 5) (1981)
- Wilson v. Zant, 249 Ga. 373 (290 SE2d 442) (1982)
- Stephens v. State, 307 Ga. 731, 734 n.4 (1) (a) (838 SE2d 275) (2020)
- Arrington v. State, 286 Ga. 335, 345-46 (16) (a) (687 SE2d 438) (2009)
- Bozzie v. State, 302 Ga. 704, 708 (2) (a) (808 SE2d 671) (2017)
- Saxton v. State, 313 Ga. 48, 51 (2) (b) (867 SE2d 130) (2021)
- Harper v. State, 298 Ga. 158, 160 (780 SE2d 308) (2015)
- Jones v. State, 292 Ga. 656, 661-62 (2) (740 SE2d 590) (2013)
- Castell v. State, 250 Ga. 776, 792 (301 SE2d 234) (1983)
- Wilkins v. State, 308 Ga. 131, 139 (839 SE2d 525) (2020)
- Wetzel v. State, 298 Ga. 20, 36 n.17 (779 SE2d 263) (2015)

- Southeastern Pain Specialists, P.C. v. Brown, 303 Ga. 265, 273 (811 SE2d 360) (2018)
- Ga. Power Co. v. Busbin, 242 Ga. 612, 616-17 (250 SE2d 442) (1978)
- Southern R. Co. v. Hardin, 107 Ga. 379, 383 (33 SE 436) (1899)
- Godwin v. Godwin, 265 Ga. 891, 892 (463 SE2d 685) (1995)
- Williams v. Harvey, 311 Ga. 439, 451 (1) (b) (858 SE2d 479) (2021)
- Rogers v. State, 282 Ga. 659, 661 (2) (b) (653 SE2d 31) (2007)
- State v. Lane, 308 Ga. 10, 23 (838 SE2d 808) (2020)

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