

SUPREME COURT OF GEORGIA

Henderson v. State

811 S.E.2d 388 (Ga. 2018) · Decided March 5, 2018

SUMMARY

The Georgia Supreme Court held that it had jurisdiction over Henderson's appeal because it arose from a murder case in which a sentence of death could have been imposed. The Court overruled precedent treating similar post-conviction transcript requests as separate civil mandamus actions. It dismissed the appeal because a post-conviction motion for a free trial transcript, filed after the opportunity for direct appeal had ended, was not legally cognizable.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Boggs, Justice
JURISDICTION	Georgia
DECIDED	March 5, 2018
DISPOSITION	dismissed
PROCEDURAL POSTURE	Henderson appealed pro se from the Rockdale County Superior Court's denial of his objection to the denial of his motion for disclosure of grand-jury testimony and evidence. The Georgia Court of Appeals transferred the appeal to the Supreme Court of Georgia.
STANDARD OF REVIEW	Subject-matter jurisdiction was addressed de novo. The legal cognizability of the requested post-conviction remedy was also determined as a matter of law.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Sylvester Henderson v. State

TOPICS

- appellate jurisdiction
- appellate procedure
- post-conviction relief
- criminal procedure
- remedies

PRACTICE AREAS

- appellate jurisdiction
- criminal procedure
- post-conviction relief
- mandamus
- constitutional law

QUESTIONS PRESENTED

1. Whether the Supreme Court of Georgia had appellate subject-matter jurisdiction over an appeal from post-trial motions filed in a murder case after the effective date of OCGA § 15-3-3.1.
2. Whether Henderson's motion seeking a transcript or records at public expense after the expiration of the time for a direct appeal presented a legally cognizable remedy.
3. Whether Henderson was entitled to invoke the Supreme Court's original mandamus jurisdiction through his pro se pleading.

HOLDINGS

1. The Supreme Court of Georgia had subject-matter jurisdiction because the appeal arose from a case in which a sentence of death could have been imposed, within the meaning of Ga. Const. Art. VI, Sec. VI, Par. III (8).
2. A post-trial motion seeking a record or transcript filed under the original criminal docket number in a murder case is not a separate civil action in the nature of mandamus under *Coles v. State*.
3. After the opportunity for a direct appeal has expired, a motion for a transcript at public expense filed in a criminal case is not a legally cognizable remedy absent a showing of necessity or justification; Henderson's motion was properly treated as a nullity and the appeal was dismissed.
4. Henderson did not properly invoke the Supreme Court's original mandamus jurisdiction and the case did not present the type of extremely rare circumstance warranting its exercise.

KEY QUOTATIONS

"We conclude that we have subject matter jurisdiction because this appeal falls within Ga. Const. Art. VI, Sec. VI, Par. III (8) as a case "in which a sentence of death was imposed or could be imposed," rather than a separate civil "petition in the nature of mandamus" as posited in Coles v. State, 223 Ga. App. 491, 491 (1), 477 S.E.2d 897 (1996)." (811 S.E.2d at 390)

"Because the law does not recognize a motion for a transcript at public expense filed in a criminal case after the opportunity for a direct appeal has ended, the trial court should have dismissed Henderson's motion as a nullity, and he has nothing cognizable to appeal." (811 S.E.2d at 392)

FACTUAL BACKGROUND

Henderson pleaded guilty to felony murder in the Superior Court of Rockdale County and was sentenced to life imprisonment. He did not pursue a timely direct appeal, and his later motion for an out-of-time appeal was denied and affirmed. He then filed, under the original murder-case docket number, motions seeking disclosure of grand-jury testimony and evidence and related post-conviction records.

PROCEDURAL HISTORY

Henderson pleaded guilty to felony murder in 2011 and received a life sentence. After the time for a direct appeal expired, his motion for an out-of-time appeal was denied, and the Supreme Court of Georgia affirmed that denial in *Henderson v. State*, 300 Ga. 526, 796 S.E.2d 681 (2017). Henderson subsequently filed motions

seeking grand-jury materials and related relief under the original criminal docket number. The trial court denied the motions, and the present appeal was transferred from the Court of Appeals to the Supreme Court of Georgia, which retained jurisdiction but dismissed the appeal because the requested remedy was not legally cognizable.

DISPOSITION

dismissed

CASES CITED

- Coles v. State, 223 Ga. App. 491, 491-492, 477 S.E.2d 897 (1996)
- Henderson v. State, 300 Ga. 526, 796 S.E.2d 681 (2017)
- Ga. Assn. of Professional Process Servers v. Jackson, 302 Ga. 309, 310 n. 1, 806 S.E.2d 550 (2017)
- McCoy v. Bovee, 300 Ga. 759, 759 n. 1, 796 S.E.2d 679 (2017)
- Neal v. State, 290 Ga. 563, 567, 722 S.E.2d 765 (2012)
- In re Brinson, 299 Ga. 859, 791 S.E.2d 804 (2016)
- In re Paul, 270 Ga. 680, 513 S.E.2d 219 (1999)
- Turner v. State, 280 Ga. 174, 626 S.E.2d 86 (2006)
- Wright v. State, 277 Ga. 810, 811 n.2, 596 S.E.2d 587 (2004)
- Smith v. State, 289 Ga. 839, 716 S.E.2d 143 (2011)
- Mitchell v. State, 280 Ga. 802, 802 (1), 633 S.E.2d 539 (2006)
- McDowell v. Balkcom, 246 Ga. 611, 272 S.E.2d 280 (1980)
- Harper v. State, 286 Ga. 216, 218 (1), 686 S.E.2d 786 (2009)
- Graham v. Cavender, 252 Ga. 123, 124, 311 S.E.2d 832 (1984)
- Nelson v. State, Case Nos. S16C1296, S17O0203 (Ga. Sept. 6, 2016)