

SUPREME COURT OF GEORGIA

State v. Harris

292 Ga. 92 (2012) · Decided November 19, 2012

SUMMARY

The Georgia Supreme Court reviewed the first grant of a new trial to Xavier Harris, who had been convicted of felony murder and related offenses arising from the shooting death of Ron Strozier and an alleged conspiracy targeting an individual known as “D-Bone.” Applying the deferential standard under OCGA § 5-5-50, the court held that the successor trial judge did not abuse his discretion in finding that the verdicts were against the weight of the evidence and granting a new trial. The judgment was affirmed.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hines, Justice
JURISDICTION	Georgia
DECIDED	November 19, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed the superior court's grant of Harris's motion for a new trial following his convictions for felony murder and related crimes.
STANDARD OF REVIEW	When a trial court grants a first new trial on the general grounds in a criminal case, the appellate court may reverse only upon a showing that the trial court abused its discretion and that the law and facts require the verdict notwithstanding the trial judge's judgment. A successor judge's discretion is narrower than that of the judge who presided over the trial, but appellate review remains for abuse of discretion.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Georgia.
PARTIES	State of Georgia v. Xavier Harris

TOPICS

- criminal procedure
- appellate procedure
- standard of review
- post-conviction relief

PRACTICE AREAS

Criminal procedure

Appellate procedure

Criminal appeals

QUESTIONS PRESENTED

1. Whether the superior court abused its discretion by granting Harris a first new trial on the general grounds under OCGA § 5-5-50.
2. Whether the successor judge's narrower discretion, because that judge had not presided over the original trial, required reversal of the new-trial order.

HOLDINGS

1. The superior court did not abuse its discretion in granting Harris a first new trial on the general grounds; the appellate court therefore affirmed the order.
2. Although a successor judge's discretion to grant a new trial is narrower than that of the judge who presided over the trial, the successor judge's order must still be reversed only upon a showing of abuse of discretion, which was not shown here.

KEY QUOTATIONS

“The first grant of a new trial shall not be disturbed by an appellate court unless the appellant shows that the judge abused his discretion in granting it and that the law and facts require the verdict notwithstanding the judgment of the presiding judge.” (292 Ga. 94)

“Generally in this situation, the trial court is given a significant amount of deference to exercise its sound discretion because it was an observer of what transpired at trial; indeed, the trial judge is sometimes spoken of as the “thirteenth juror.”” (292 Ga. 94)

FACTUAL BACKGROUND

Harris was charged with participating in a conspiracy involving a confrontation with an individual known as D-Bone and the fatal shooting of Ron Strozier on August 1, 2005. The State alleged that Harris accompanied four codefendants to a wooded area to confront D-Bone and that the group intended to shoot Strozier and D-Bone and damage D-Bone's truck. Harris was convicted of felony murder and related offenses, but a successor judge later found that Harris was a peripheral figure who had been caught up in a neighborhood feud and granted a new trial on the general grounds.

PROCEDURAL HISTORY

Harris was tried with four codefendants and convicted of felony murder and several conspiracy, manslaughter, reckless-conduct, and firearm-related offenses. After the trial judge retired, a successor judge considered Harris's motion to vacate the convictions and for a new trial and granted a new trial on the general grounds under OCGA § 5-5-50. The State appealed, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- O'Neal v. State, 285 Ga. 361, 362-363 (677 SE2d 90) (2009)
- Head v. CSX Transp., Inc., 271 Ga. 670, 672 (2), (3) (524 SE2d 215) (1999)

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