

SUPREME COURT OF GEORGIA

Sosniak v. State

292 Ga. 35 (Ga. 2012) · Decided November 19, 2012

SUMMARY

The Supreme Court of Georgia dismissed Sosniak’s direct appeal from the denial of his pretrial motion alleging a constitutional speedy-trial violation. The court overruled *Callaway v. State* and *Boseman v. State*, holding that such denials are not directly appealable and must instead be pursued through the interlocutory appeal procedures of OCGA § 5-6-34(b). The court additionally concluded that, under the prior precedent, the speedy-trial claim was properly denied under the *Barker v. Wingo* balancing test.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Melton, Justice; Nahmias, Justice
JURISDICTION	Georgia
DECIDED	November 19, 2012
DISPOSITION	dismissed
PROCEDURAL POSTURE	Sosniak directly appealed the trial court's denial of his pretrial motion to dismiss the indictment for an alleged constitutional speedy-trial violation.
STANDARD OF REVIEW	A trial court's ruling on a motion to dismiss on speedy-trial grounds is reviewed for abuse of discretion, and the trial court's factual findings and weighing of disputed facts receive deference on appeal.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Georgia; expressly overrules <i>Callaway v. State</i> and <i>Boseman v. State</i> on direct appealability of pretrial constitutional speedy-trial denials.
PARTIES	Marcin Waldemar Sosniak v. State

TOPICS

[speedy trial](#)[appellate jurisdiction](#)[interlocutory appeal](#)[criminal procedure](#)[sixth amendment](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a defendant may directly appeal an order denying a pretrial motion to dismiss an indictment for violation of the constitutional right to a speedy trial.
2. Whether, under the *Barker v. Wingo* factors, Sosniak's alleged delay established a constitutional speedy-trial violation.

HOLDINGS

1. An order denying a pretrial motion to dismiss an indictment for violation of the constitutional right to a speedy trial is not a final judgment or an independently directly appealable interlocutory order. Appellate review must be sought through the interlocutory-appeal procedures of OCGA § 5-6-34 (b).
2. Assuming the issue were properly before the court under the former precedent, the trial court did not abuse its discretion in denying Sosniak's speedy-trial motion because the delay was substantially attributable to the defense, his assertion of the right was untimely, and his claimed prejudice was speculative.

KEY QUOTATIONS

“Defendants must follow the interlocutory appeal procedures of OCGA § 5-6-34 (b) when pursuing appellate review in these cases.” (at 40)

“The denial of a pretrial motion to dismiss an indictment on speedy trial grounds does not indicate that a like motion made after trial — when prejudice can be better gauged — would also be denied.” (at 37-38)

FACTUAL BACKGROUND

Sosniak was arrested for murder on March 20, 2006, and indicted with two codefendants on September 10, 2007. The State filed notice of its intent to seek the death penalty, and the case underwent extensive pretrial proceedings, including an interim appeal. Sosniak requested multiple continuances, including continuances based on alleged inadequate funding for mitigation preparation, and filed a motion to dismiss for violation of his constitutional right to a speedy trial shortly before the scheduled trial date. The trial court denied the motion, finding that the delay, the timing of Sosniak's assertion, and the speculative nature of the claimed prejudice did not establish a violation.

PROCEDURAL HISTORY

Sosniak was arrested in 2006 and indicted in 2007. After pretrial proceedings and an interim appeal, the trial court denied his October 2011 motion to dismiss for a constitutional speedy-trial violation. The Supreme Court of Georgia dismissed the direct appeal because the denial was interlocutory and had to be pursued through the interlocutory-appeal procedures of OCGA § 5-6-34 (b).

DISPOSITION

dismissed

CASES CITED

- Callaway v. State, 275 Ga. 332 (567 S.E.2d 13) (2002)
- Boseman v. State, 263 Ga. 730, n. 1 (438 S.E.2d 626) (1994)
- Sosniak v. State, 287 Ga. 279 (695 S.E.2d 604) (2010)
- Strunk v. United States, 412 U.S. 434 (1973)
- Barker v. Wingo, 407 U.S. 514 (1972)
- Abney v. United States, 431 U.S. 651 (1977)
- United States v. MacDonald, 435 U.S. 850 (1978)
- Hubbard v. State, 254 Ga. 694 (333 S.E.2d 827) (1985)
- Callaway v. State, 251 Ga. App. 11 (553 S.E.2d 314) (2001)
- Callaway v. State, 258 Ga. App. 118, 121 (572 S.E.2d 751) (2002)
- Smith v. State, 260 Ga. App. 403 (579 S.E.2d 829) (2003)
- Lamar v. State, 262 Ga. App. 735 (586 S.E.2d 416) (2003)
- Ruffin v. State, 284 Ga. 52 (663 S.E.2d 189) (2008)
- State v. Porter, 288 Ga. 524 (705 S.E.2d 636) (2011)
- Williams v. State, 277 Ga. 598 (592 S.E.2d 848) (2004)
- Vermont v. Brillon, 556 U.S. 81 (2009)
- Marshall v. State, 286 Ga. 446 (689 S.E.2d 283) (2010)
- Weis v. State, 287 Ga. 46 (694 S.E.2d 350) (2010)
- Higgenbottom v. State, 290 Ga. 198 (719 S.E.2d 482) (2011)

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