

SUPREME COURT OF GEORGIA

Tolbert v. State, 282 Ga. 254

647 S.E.2d 555 (2007) · No. S07A0520 · Decided June 29, 2007

SUMMARY

The Supreme Court of Georgia affirmed John C. Tolbert’s convictions and life-without-parole sentences for the malice murders of his estranged wife and Anthony Walters. The court held that the evidence was sufficient, that any challenge to the admission of life-insurance evidence was waived, and that Tolbert failed to establish ineffective assistance of counsel.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hines, Justice; All other Justices
JURISDICTION	Georgia
DECIDED	June 29, 2007
DOCKET	S07A0520
DISPOSITION	affirmed
PROCEDURAL POSTURE	Tolbert appealed his convictions for two counts of malice murder and the resulting life-without-parole sentences, challenging the sufficiency of the evidence, admission of life-insurance evidence, and effectiveness of trial counsel.
STANDARD OF REVIEW	The evidence is viewed in the light most favorable to the verdict, and the jury resolves conflicts in the evidence and determines witness credibility; the convictions are sustained if a rational trier of fact could find guilt beyond a reasonable doubt. Ineffective-assistance claims require acceptance of the trial court’s factual findings and credibility determinations unless clearly erroneous, while legal principles are independently applied.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion; precedential
PARTIES	John C. Tolbert v. State of Georgia

TOPICS

- ineffective assistance
- evidence
- preservation of error
- appellate procedure
- criminal procedure

PRACTICE AREAS

Criminal law

Criminal procedure

Evidence

Appellate practice

Ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Tolbert's convictions for the malice murders.
2. Whether the trial court erred by admitting evidence concerning life-insurance policies naming Tolbert as a beneficiary without an independent nexus between the policies and the murders.
3. Whether Tolbert received ineffective assistance of trial counsel based on counsel's handling of voir dire, expert witnesses, alibi-witness impeachment, alleged jewelry evidence, and the military-discharge status of a State witness.

HOLDINGS

1. The evidence was sufficient to authorize the jury to find Tolbert guilty beyond a reasonable doubt of both malice murders.
2. Any claim that the State failed to establish the required nexus between the life-insurance policies and the murders was waived because Tolbert did not make that specific objection in the trial court.
3. Tolbert failed to establish ineffective assistance of trial counsel because he did not show deficient performance or a reasonable probability that the alleged errors affected the trial's result.

KEY QUOTATIONS

"The evidence authorized the jury to find Tolbert guilty beyond a reasonable doubt of the malice murders of which he was convicted." (at 558)

"Accordingly, appellate review of any error on that ground arising from the admission of this evidence was waived." (at 559)

"In order to prevail on this claim, Tolbert must show both that counsel's performance was deficient, and that the deficient performance was prejudicial to his defense." (at 559)

FACTUAL BACKGROUND

Candice Tolbert and Anthony Walters were fatally shot through a mobile-home window in Hinesville, Georgia, on March 31, 2002. Evidence showed that Tolbert had threatened and abused Candice, confronted Walters, owned a nine-millimeter pistol, and later told a fellow inmate that he had shot the victims after catching his wife cheating. Tolbert asserted an alibi placing him in Jacksonville, but the State introduced evidence impeaching his alibi witnesses and the jury rejected the defense.

PROCEDURAL HISTORY

A Liberty County grand jury indicted Tolbert for two counts of malice murder and two counts of felony murder. Following a jury trial held October 4-15, 2004, Tolbert was convicted of all charges and, by agreement, received two life-without-parole sentences for malice murder; the felony-murder convictions were vacated by operation

of law. The trial court denied Tolbert's amended motion for new trial on November 13, 2006. The Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Watkins v. State, 273 Ga. 307, 309(1), 540 S.E.2d 199 (2001)
- Ely v. State, 272 Ga. 418, 420(4), 529 S.E.2d 886 (2000)
- Hall v. Hall, 261 Ga. 188, 402 S.E.2d 726 (1991)
- Sims v. State, 278 Ga. 587, 589(1), 604 S.E.2d 799 (2004)
- Daniels v. State, 281 Ga. 226, 228(4), 637 S.E.2d 403 (2006)
- Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- Stoudemire v. State, 261 Ga. 49, 50(3), 401 S.E.2d 482 (1991)
- Martin v. State, 281 Ga. 778, 779-780(2), 642 S.E.2d 837 (2007)
- Smith v. Francis, 253 Ga. 782, 783-784(1), 325 S.E.2d 362 (1985)
- Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)
- Robinson v. State, 277 Ga. 75, 76, 586 S.E.2d 313 (2003)
- Corza v. State, 273 Ga. 164, 169(4)(b), 539 S.E.2d 149 (2000)
- Head v. Carr, 273 Ga. 613, 622(4)(c)(2), 544 S.E.2d 409 (2001)
- Cormier v. State, 277 Ga. 607, 609(2)(a), 592 S.E.2d 841 (2004)
- Murrell v. Ricks, 280 Ga. 427, 627 S.E.2d 546 (2006)
- Bales v. State, 277 Ga. 713, 715(2), 594 S.E.2d 644 (2004)
- Malcolm v. State, 263 Ga. 369, 372-374(4, 5), 434 S.E.2d 479 (1993)