

# SUPREME COURT OF FLORIDA

## Tillman v. State

522 So. 2d 14 (Fla. 1988) · No. No. 68506 · Decided March 10, 1988

### SUMMARY

The Supreme Court of Florida affirmed Gary Tillman's first-degree murder conviction but vacated his death sentence and remanded for a new sentencing proceeding. The court held that the State breached the plea agreement by presenting aggravating evidence beyond the agreed terms, requiring resentencing before a new judge and jury. It also held that the trial court failed to properly evaluate Tillman's objection that the State used peremptory challenges based on race.

### CASE DETAILS

|                       |                                                                                                                                                                                                     |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Florida                                                                                                                                                                            |
| WRITING FOR THE COURT | Per Curiam; Overton; Ehrlich; Shaw; Barkett; Grimes; Kogan; McDonald                                                                                                                                |
| JURISDICTION          | Florida                                                                                                                                                                                             |
| DECIDED               | March 10, 1988                                                                                                                                                                                      |
| DOCKET                | No. 68506                                                                                                                                                                                           |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Direct appeal from a judgment convicting Tillman of first-degree murder and imposing a sentence of death.                                                                                           |
| STANDARD OF REVIEW    | De novo review of the legal consequences of a breach of a plea agreement and the adequacy of the trial court's procedure for evaluating an objection to racially discriminatory peremptory strikes. |
| PRECEDENTIAL VALUE    | Published Florida Supreme Court opinion; precedential.                                                                                                                                              |
| PARTIES               | Gary L. Tillman v. State of Florida                                                                                                                                                                 |

### TOPICS

- plea bargaining
- jury selection
- sentencing
- equal protection
- criminal procedure

### PRACTICE AREAS

- criminal law
- criminal procedure
- capital sentencing
- constitutional law

## QUESTIONS PRESENTED

1. Whether the State's introduction of aggravating evidence beyond the scope of the plea agreement required relief despite the trial judge's statement that the evidence did not influence the sentence.
2. Whether the trial court followed the required procedure for evaluating Tillman's objection that the State exercised peremptory strikes against prospective jurors because of race.
3. Whether Tillman could withdraw his guilty plea for the breach of the plea agreement when he had objected to the evidence at trial but had not moved to withdraw the plea before appeal.

## HOLDINGS

1. A breach of a plea agreement by the State, however slight and regardless of whether the sentencing judge was influenced by the breach or whether the breach was intentional, requires reversal of the affected sentencing proceeding.
2. Because Tillman did not move to withdraw his guilty plea before appeal, the court would not permit withdrawal of the plea; the proper remedy was a new sentencing proceeding conducted according to the plea agreement.
3. When a timely objection establishes that peremptory strikes were used against members of a distinct racial group and there is a strong likelihood that the strikes were based solely on race, the burden shifts to the striking party to provide race-neutral reasons; the trial judge must evaluate the credibility of the proffered reasons and determine whether they are supported by the record.
4. The State's acceptance of one Black juror does not defeat a claim that another juror was improperly excluded because of race.

## KEY QUOTATIONS

*“when a plea rests to any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled.”* (522 So. 2d at 15)

*“This mere breach, no matter how slight, or whether the judge was influenced by it, is grounds for reversal.”* (522 So. 2d at 16)

*“If one juror has been improperly excused because of race, it does not matter that one juror was not so excluded.”* (522 So. 2d at 17)

## FACTUAL BACKGROUND

Tillman pleaded guilty to first-degree murder in exchange for the State's agreement to limit aggravating evidence at sentencing to evidence that the murder was especially heinous, atrocious, or cruel and that the capital felony was committed while Tillman was under a sentence of imprisonment. The prosecution nevertheless introduced evidence beyond the agreement's scope. During jury selection, the State used peremptory challenges against four Black prospective jurors, and the trial court supplied its own reasons for some strikes without requiring or properly evaluating the prosecutor's race-neutral explanations.

## PROCEDURAL HISTORY

Tillman pleaded guilty to first-degree murder pursuant to a plea agreement limiting the State's aggravating evidence. At sentencing, the prosecution introduced evidence beyond the scope of the agreement, and the trial court conducted an allegedly inadequate inquiry into race-based peremptory strikes. The Supreme Court of Florida affirmed the conviction, vacated the death sentence, and remanded for a new sentencing proceeding before a new judge and jury.

#### DISPOSITION

reversed\_and\_remanded

#### REMAND INSTRUCTIONS

Affirm the first-degree murder conviction but vacate the death sentence and conduct a new sentencing proceeding before a new judge and jury. The proceeding must comply with the plea agreement and the opinion's requirements governing evaluation of race-based objections to peremptory strikes.

#### CASES CITED

- Santobello v. New York, 404 U.S. 257 (1971)
- State v. Neil, 457 So. 2d 481 (Fla. 1984)
- State v. Slappy, 522 So. 2d 18 (Fla. 1988)
- Blackshear v. State, 521 So. 2d 1083 (Fla. 1988)