

SUPREME COURT OF GEORGIA

Heard v. State

296 Ga. 681 (2015) · No. S14A1925 · Decided March 2, 2015

SUMMARY

The Supreme Court of Georgia affirmed Eric Tramaine Heard’s convictions and the denial of his amended motion for a new trial arising from a fatal burglary and attempted robbery. The court rejected challenges concerning sufficiency of the evidence, eyewitness identification, ineffective assistance of counsel, authentication and use of a videotaped statement, and jury instructions.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hunstein, Justice
JURISDICTION	Georgia
DECIDED	March 2, 2015
DOCKET	S14A1925
DISPOSITION	affirmed
PROCEDURAL POSTURE	Heard appealed the denial of his amended motion for new trial following jury convictions for felony murder and related offenses.
STANDARD OF REVIEW	The sufficiency of the evidence was reviewed under whether a rational trier of fact could find guilt beyond a reasonable doubt, viewing the evidence in the light most favorable to the verdict. Unpreserved errors were reviewed for waiver or plain error as applicable. Ineffective-assistance claims were reviewed under the deficient-performance and prejudice requirements of Strickland v. Washington.
PRECEDENTIAL VALUE	Published opinion; binding Georgia Supreme Court precedent.
PARTIES	Eric Tramaine Heard v. The State

TOPICS

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

PRACTICE AREAS

- Criminal law
- Criminal procedure
- Appellate practice

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Heard's convictions.
2. Whether the photographic lineup was impermissibly suggestive and created a substantial likelihood of irreparable misidentification.
3. Whether trial counsel rendered ineffective assistance by failing to file a suppression motion, impeach witnesses, investigate evidence, call a rebuttal witness, or present cell-phone evidence.
4. Whether the trial court erred in admitting or permitting testimony concerning a witness's statements and in admitting the videotaped statement without adequate authentication.
5. Whether the trial court erred by failing to give a limiting instruction concerning the videotaped statement.
6. Whether the trial court erred by failing to give a jury instruction on simple assault as it related to aggravated assault.

HOLDINGS

1. The evidence was sufficient for a rational trier of fact to find Heard guilty beyond a reasonable doubt of the offenses for which he was convicted.
2. The photographic lineup was not unduly suggestive, and the court therefore did not need to consider whether there was a substantial likelihood of irreparable misidentification.
3. Heard failed to establish ineffective assistance of counsel because he did not show deficient performance and resulting prejudice on the asserted grounds.
4. Heard waived his challenge to the witness's testimony about a discussion with Heard because trial counsel did not make a timely and specific objection to that testimony.
5. The videotaped statement was sufficiently authenticated because the witness identified himself in it, recognized the interview, and confirmed that the date was consistent with the interview date.
6. The failure to give a limiting instruction concerning the videotaped statement was not error because Heard did not request the instruction.
7. The trial court did not err by failing to give a separate jury charge on simple assault because the aggravated-assault instructions included the statutory definition of simple assault.

KEY QUOTATIONS

“The evidence as described above was sufficient to enable a rational trier of fact to conclude beyond a reasonable doubt that Appellant was guilty of the crimes of which he was convicted.” (at 4)

“The fact that a post-arrest photograph of Appellant was used in the lineup does not render it impermissibly suggestive.” (at 5)

“To establish ineffective assistance of counsel, a defendant must show that his trial counsel’s performance was professionally deficient and that but for such deficient performance there is a reasonable probability that the result of his trial would have been different.” (at 6)

“A “videotape is authenticated by showing it is a fair representation of the object, scene, or person depicted,” and any witness familiar with the subject depicted can authenticate a videotape.” (at 10)

“Limiting instructions must be requested in order for the failure to instruct to be erroneous.” (at 11)

FACTUAL BACKGROUND

Heard and another armed man entered Shereecka Pitts's home during an attempted robbery. In the presence of Pitts's two daughters and her sister, Lachauda Pitts, Heard shot Shereecka Pitts in the abdomen and leg, threatened Lachauda and the children, and fled. Pitts died from her gunshot wounds. Lachauda identified Heard in a photographic lineup and at trial, and a witness's videotaped statement also implicated Heard.

PROCEDURAL HISTORY

A Clayton County grand jury indicted Heard on murder, aggravated assault, attempted armed robbery, kidnapping, battery, false imprisonment, firearm, and related charges. Following a jury trial from February 27 through March 1, 2012, he was convicted of two counts of felony murder and numerous related offenses and was sentenced to life imprisonment plus consecutive terms. The trial court denied his amended motion for new trial on January 7, 2014, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307 (1979)
- Williams v. State, 290 Ga. 533, 535-536 (2)(a), 722 S.E.2d 847 (2012)
- Sharp v. State, 286 Ga. 799 (4), 692 S.E.2d 325 (2010)
- Strickland v. Washington, 466 U.S. 668, 695 (1984)
- Wesley v. State, 286 Ga. 355 (3), 689 S.E.2d 280 (2010)
- Romer v. State, 293 Ga. 339, 344 (3), 745 S.E.2d 637 (2013)
- Green v. State, 291 Ga. 579 (2), 731 S.E.2d 359 (2012)
- Durden v. State, 293 Ga. 89, 97 (6)(a), 744 S.E.2d 9 (2013)
- Fuller v. State, 278 Ga. 812 (2)(d), 607 S.E.2d 581 (2005)
- Bright v. State, 292 Ga. 273 (2)(a), 736 S.E.2d 380 (2013)
- Goodwin v. Cruz-Padillo, 265 Ga. 614, 615, 458 S.E.2d 623 (1995)
- White v. State, 293 Ga. 825 (2)(c), 750 S.E.2d 165 (2013)
- Jones v. State, 294 Ga. 501 (2), 755 S.E.2d 131 (2014)
- Seabrooks v. State, 251 Ga. 564, 567 (1), 308 S.E.2d 160 (1983)
- Walthall v. State, 281 Ga. App. 434, 441 (2)(b), 636 S.E.2d 126 (2006)
- Herring v. State, 277 Ga. 317, 319 (3), 588 S.E.2d 711 (2003)

- Scott v. State, 290 Ga. 883 (4), 725 S.E.2d 305 (2012)
- Johnson v. State, 289 Ga. 650 (5), 715 S.E.2d 99 (2011)

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