

SUPREME COURT OF GEORGIA

Owens v. State

811 S.E.2d 420 (Ga. 2018) · Decided March 5, 2018

SUMMARY

The Georgia Supreme Court held that the appellant’s convictions for voluntary manslaughter and felony murder based on the same underlying aggravated assault violated the modified merger rule from *Edge v. State*. The court vacated the felony-murder conviction and sentence, directed resentencing for voluntary manslaughter, affirmed the firearm conviction, and rejected the ineffective-assistance claim. The court also directed Georgia judicial and legal organizations to develop a uniform rule addressing unjustified post-trial and pre-appeal delays.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Nahmias, Justice
JURISDICTION	Georgia
DECIDED	March 5, 2018
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from the denial of a motion for new trial following convictions for voluntary manslaughter as a lesser offense of malice murder, felony murder based on aggravated assault, and possession of a firearm during the commission of a crime.
STANDARD OF REVIEW	Ineffective-assistance claims are evaluated under <i>Strickland v. Washington</i> , requiring proof of deficient performance and resulting prejudice. Counsel's decisions regarding witnesses and other evidence are matters of trial strategy and are ineffective only when unreasonable decisions that no competent attorney would make. The merger-rule issue was resolved as a question of law based on the jury's verdicts.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Georgia; binding Georgia precedent.
PARTIES	Margie Owens v. State

TOPICS

criminal procedure

ineffective assistance

post-conviction relief

sentencing

appellate procedure

PRACTICE AREAS

criminal law

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post-conviction and appellate practice

QUESTIONS PRESENTED

1. Whether the trial court violated Georgia's modified merger rule by entering and sentencing Owens for felony murder based on aggravated assault after the jury also found her guilty of voluntary manslaughter.
2. Whether trial counsel provided ineffective assistance by failing to call four additional witnesses and introduce photographs documenting Randall's prior abuse of Owens.
3. Whether the 19-year post-trial, pre-appeal delay required reversal or otherwise affected the outcome of the appeal.

HOLDINGS

1. When the jury finds a defendant guilty of voluntary manslaughter, the defendant cannot also be convicted and sentenced for felony murder based on the same underlying aggravated assault when that felony is directed against the homicide victim and is an integral part of the killing. Owens's felony-murder conviction and sentence therefore had to be vacated, and she had to be resentenced for voluntary manslaughter.
2. Owens failed to establish ineffective assistance of counsel because counsel's decision not to present additional witnesses and photographs was a reasonable trial-strategy decision, and Owens failed to show a reasonable probability that the omitted cumulative evidence would have produced a more favorable result.
3. The extraordinary delay did not affect the outcome of this appeal because Owens identified no appellate error arising from the delay.

KEY QUOTATIONS

"where the jury renders a verdict for voluntary manslaughter, it cannot also find felony murder based on the same underlying aggravated assault." (811 S.E.2d at 422)

"These delays put at risk the rights of defendants and crime victims and the validity of convictions obtained after a full trial." (811 S.E.2d at 424)

"So this Court now moves from request to direction." (811 S.E.2d at 425)

FACTUAL BACKGROUND

Owens shot and killed her husband, Randall Owens, in their home after drinking heavily and arguing with him. Witnesses described Owens as threatening to kill Randall before the shooting, while Owens testified that Randall had subjected her to longstanding domestic violence and had attacked her immediately before the gun fired. The defense presented testimony about the abuse and expert testimony concerning battered person syndrome, and the jury convicted Owens of voluntary manslaughter, felony murder, and the firearm offense.

PROCEDURAL HISTORY

A Walker County grand jury indicted Owens for malice murder, felony murder, and possession of a firearm during the commission of a crime. After a June 1998 trial, the jury found her guilty of voluntary manslaughter as a lesser offense of malice murder, felony murder, and the firearm charge; the trial court merged the voluntary-manslaughter verdict into felony murder and imposed life imprisonment plus a consecutive five-year firearm sentence. Owens filed a motion for new trial on June 24, 1998, amended it in 2006, and the trial court denied it. She filed a timely notice of appeal, but the record was not transmitted to the Supreme Court of Georgia until 2017 after extensive unexplained delays.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must promptly vacate the felony-murder conviction and sentence and enter a conviction and sentence for voluntary manslaughter instead. The firearm conviction and consecutive five-year sentence are affirmed. The Council of Superior Court Judges of Georgia was directed to submit by September 17, 2018, a proposed Uniform Rule of Superior Court addressing unjustified post-conviction, pre-appeal delays.

CASES CITED

- Edge v. State, 261 Ga. 865, 414 S.E.2d 463 (1992)
- Sanders v. State, 281 Ga. 36, 37, 635 S.E.2d 772 (2006)
- Sinkfield v. State, 262 Ga. 555, 556, 422 S.E.2d 851 (1992)
- Strickland v. Washington, 466 U.S. 668, 687-690, 694, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)
- Walker v. State, 301 Ga. 482, 491, 801 S.E.2d 804 (2017)
- Wells v. State, 295 Ga. 161, 164, 758 S.E.2d 598 (2014)
- Howard v. State, 298 Ga. 396, 782 S.E.2d 255 (2016)
- Trauth v. State, 295 Ga. 874, 875-876, 763 S.E.2d 854 (2014)
- Morgan v. State, 290 Ga. 788, 789 n.2, 725 S.E.2d 255 (2012)
- Shank v. State, 290 Ga. 844, 849, 725 S.E.2d 246 (2012)
- State v. Springer, 297 Ga. 376, 774 S.E.2d 106 (2015)
- Veal v. State, 298 Ga. 691, 784 S.E.2d 403 (2016)
- Calloway v. State, Case No. S17A2019, 810 S.E.2d 105, 2018 WL 699285 (Ga. Feb. 5, 2018)
- Veal v. State, 301 Ga. 161, 161 n.1, 800 S.E.2d 325 (2017)
- Surry v. State, 340 Ga. App. 8, 9 n.2, 795 S.E.2d 336 (2016)