

SUPREME COURT OF GEORGIA

Canada v. State, 275 Ga. 131

562 S.E.2d 508 (2002) · No. No. S02A0446 · Decided April 15, 2002

SUMMARY

The Supreme Court of Georgia affirmed Joe E. Canada's convictions for malice murder and possession of a knife during the commission of a crime. The court rejected his claims of insufficient evidence, ineffective assistance of counsel, and improper denial of funds for expert testing of knives.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                            |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Georgia                                                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | Carley, Justice; All Justices                                                                                                                                                                                                                                                                                              |
| JURISDICTION          | Georgia                                                                                                                                                                                                                                                                                                                    |
| DECIDED               | April 15, 2002                                                                                                                                                                                                                                                                                                             |
| DOCKET                | No. S02A0446                                                                                                                                                                                                                                                                                                               |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Canada appealed his convictions and sentences after the trial court denied his motion for new trial.                                                                                                                                                                                                                       |
| STANDARD OF REVIEW    | The sufficiency of the evidence was reviewed under whether a rational trier of fact could find guilt beyond a reasonable doubt. The ineffective-assistance ruling was reviewed for clear error as to the trial court's factual determination. The denial of funds for expert testing was reviewed for abuse of discretion. |
| PRECEDENTIAL VALUE    | Published precedential opinion of the Supreme Court of Georgia                                                                                                                                                                                                                                                             |
| PARTIES               | Joe E. Canada v. The State                                                                                                                                                                                                                                                                                                 |

TOPICS

- ineffective assistance
- self defense
- evidence
- expert testimony
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate practice
- ineffective assistance of counsel
- evidence

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support the convictions for malice murder and possession of a knife during the commission of a crime, including rejection of Canada's self-defense claim.
2. Whether trial counsel provided ineffective assistance by declining to introduce evidence of the victim's prior acts of violence, by not calling a defense medical expert, and by withdrawing requests for charges on voluntary manslaughter and mutual combat.
3. Whether the trial court abused its discretion by denying Canada's request for public funds for independent expert testing of the steak knife and the victim's pocketknife.

## HOLDINGS

1. The evidence was sufficient for a rational trier of fact to find that Canada did not act in self-defense and was guilty beyond a reasonable doubt of malice murder and possession of a knife during the commission of a crime.
2. Canada failed to establish ineffective assistance of counsel because the challenged decisions were reasonable strategic choices supported by legitimate evidentiary or trial-strategy concerns, and the alleged errors did not establish a reasonable likelihood of a different verdict.
3. The trial court did not abuse its discretion by denying funds for independent expert testing of the knives because Canada failed to show that the testing was critical to his defense and did not identify the requested scientific testing or anticipated costs.

## KEY QUOTATIONS

*"Witness credibility is to be determined by the jury, OCGA § 24-9-80, as is the question of self-defense when there is conflicting evidence on the issue. (Cits.)"* (at 510)

*"Thus, counsel made a tactical decision to present a consistent complete defense to ... criminal liability, rather than to acknowledge the possibility of guilt of a lesser offense than that charged."* (at 510)

## FACTUAL BACKGROUND

After Canada inappropriately touched the victim's girlfriend, an argument occurred in and around her mobile home. Canada ran at the victim with a steak knife, pushed him into a back bedroom, and stabbed him several times; the victim died two and one-half weeks later from complications of the wounds. Canada claimed that the victim had a knife and was the aggressor, but eyewitness testimony contradicted his account. The defense also sought to introduce evidence of the victim's prior violence, present medical evidence concerning alternative causes of death, obtain instructions on voluntary manslaughter and mutual combat, and secure funds for testing knives for Canada's blood.

## PROCEDURAL HISTORY

Canada was convicted of malice murder, felony murder, aggravated assault, and possession of a knife during the commission of a crime. The trial court treated the felony murder count as surplusage, merged the aggravated assault count into the malice murder count, and sentenced him to life imprisonment for malice murder and a consecutive five-year term for possession of a knife. After the trial court denied his motion for new trial, Canada appealed to the Supreme Court of Georgia.

## DISPOSITION

affirmed

## CASES CITED

- *Malcolm v. State*, 263 Ga. 369, 372-374(4), (5), 434 S.E.2d 479 (1993)
- *Holmes v. State*, 273 Ga. 644, 645(1), 543 S.E.2d 688 (2001)
- *Jackson v. Virginia*, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)
- *Coleman v. State*, 264 Ga. 253, 254(1), 443 S.E.2d 626 (1994)
- *Cammon v. State*, 269 Ga. 470, 472(4), 500 S.E.2d 329 (1998)
- *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)
- *Dewberry v. State*, 271 Ga. 624, 625(2), 523 S.E.2d 26 (1999)
- *Potter v. State*, 273 Ga. 325, 326, 540 S.E.2d 184 (2001)
- *Thompkins v. State*, 272 Ga. 835, 836(2)(a), 536 S.E.2d 747 (2000)
- *Hill v. State*, 272 Ga. 805, 806-807(2), 537 S.E.2d 75 (2000)
- *Roberts v. State*, 229 Ga.App. 783, 787(3), 494 S.E.2d 689 (1997)
- *Luallen v. State*, 266 Ga. 174, 177(3)(b), 465 S.E.2d 672 (1996)
- *Lowe v. State*, 264 Ga. 757, 759(3), 452 S.E.2d 90 (1994)
- *Kendrix v. State*, 206 Ga.App. 627, 628(2), 426 S.E.2d 251 (1992)
- *Morrow v. State*, 272 Ga. 691, 696(2), 532 S.E.2d 78 (2000)
- *Crawford v. State*, 267 Ga. 881, 883(2), 485 S.E.2d 461 (1997)