

SUPREME COURT OF GEORGIA

Barnes v. State, 305 Ga. 18

Barnes v. State, 305 Ga. 18, 823 S.E.2d 302 (2019) · Decided January 22, 2019

SUMMARY

Barnes v. State, 305 Ga. 18 (2019), affirmed a murder conviction, holding that trial counsel was not ineffective for: (1) using the phrase "beating a dead horse" during cross-examination, as it was a common expression and not deficient performance; (2) failing to request a mutual combat jury instruction, because the evidence supported only self-defense, not mutual combat; and (3) striking a juror who called the defendant "a puncher" rather than moving to dismiss the panel or seeking a curative instruction, as that strategic decision was not patently unreasonable and no prejudice was shown. The trial court also did not abuse its discretion by recharging the jury solely on malice murder in response to the jury's specific question, without giving the full charge or engaging in a question-and-answer session.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Bethel
JURISDICTION	Georgia
DECIDED	January 22, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from denial of motion for new trial after conviction for murder.
STANDARD OF REVIEW	For ineffective assistance claims, the Strickland standard applies. For trial court's decision to recharge, abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Desmond Barnes v. State

TOPICS

- criminal procedure
- ineffective assistance
- standard of review
- jury selection
- self defense

PRACTICE AREAS

- Criminal Law

QUESTIONS PRESENTED

1. Whether trial counsel rendered ineffective assistance by (a) making an inflammatory statement during cross-examination, (b) failing to request a jury charge on mutual combat, and (c) failing to move to dismiss the jury panel after a prejudicial juror statement.
2. Whether the trial court erred in not granting Barnes's objection to the court's recharge on malice murder.

HOLDINGS

1. The single use of this phrase did not constitute deficient performance because it was a common expression indicating repetition, not an inflammatory statement.
2. Trial counsel's failure to request a mutual combat instruction was not deficient because the evidence did not support such an instruction; the defense theory was self-defense.
3. Trial counsel's strategic decision to simply strike the juror was not deficient, and even if it were, Barnes failed to show prejudice.
4. The trial court did not abuse its discretion in limiting the recharge to the point requested by the jury.

KEY QUOTATIONS

“Trial tactics and strategy ... are almost never adequate grounds for finding trial counsel ineffective unless they are so patently unreasonable that no competent attorney would have chosen them.” (20)

“Evidence of an ordinary scuffle or fight typically does not warrant a charge on mutual combat. This Court has also held that when the defendant asserts he acted in self-defense during a fight and had no intent to kill, then an instruction on mutual combat is not warranted.” (21)

“A trial court has a duty to recharge the jury on issues for which the jury requests a recharge. As a general matter, however, where no such request has been made, the need, breadth, and formation of additional jury instructions are left to the sound discretion of the trial court.” (23)

FACTUAL BACKGROUND

On March 9, 2011, Barnes argued with his girlfriend, struck her, and stormed out. He was later seen in a grocery store with blood on his hand, stating that he had 'knocked out' Beasley. Beasley was found severely beaten and died the next day. Barnes gave inconsistent accounts to police and his girlfriend about the incident, claiming self-defense but lacking corroborating injuries.

PROCEDURAL HISTORY

Barnes was indicted on June 5, 2012, for malice murder, felony murder, and aggravated assault. After a trial in August 2012, a jury found him guilty on all counts. He was sentenced to life imprisonment. He filed a motion for new trial on October 15, 2012, amended on June 15, 2017. The trial court denied the motion on August 14, 2017. Barnes appealed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307 (1979)
- Vega v. State, 285 Ga. 32, 673 S.E.2d 223 (2009)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Fuller v. State, 277 Ga. 505, 591 S.E.2d 782 (2004)
- Robinson v. State, 277 Ga. 75, 586 S.E.2d 313 (2003)
- Wright v. State, 291 Ga. 869, 734 S.E.2d 876 (2012)
- McNair v. State, 296 Ga. 181, 766 S.E.2d 45 (2014)
- Johnson v. State, 300 Ga. 665, 797 S.E.2d 903 (2017)
- Mathis v. State, 196 Ga. 288, 26 S.E.2d 606 (1943)
- Russell v. State, Russell v. State, 303 Ga. 478, 813 S.E.2d 380 (2018)
- Pulley v. State, 291 Ga. 330, 729 S.E.2d 338 (2012)
- Pearson v. State, 278 Ga. 490, 604 S.E.2d 180 (2004)
- Jones v. State, 287 Ga. 770, 700 S.E.2d 350 (2010)
- Moore v. State, 156 Ga. App. 92, 274 S.E.2d 107 (1980)
- Lingerfelt v. State, 147 Ga. App. 371, 249 S.E.2d 100 (1978)
- Lockhart v. State, 298 Ga. 384, 782 S.E.2d 245 (2016)
- Sharpe v. State, 288 Ga. 565, 707 S.E.2d 338 (2011)
- Leeks v. State, 296 Ga. 515, 769 S.E.2d 296 (2015)
- Taylor v. State, 174 Ga. App. 900, 331 S.E.2d 920 (1985)
- Kimmel v. State, 261 Ga. 332, 404 S.E.2d 436 (1991)

CITED IN

- Barnes v. State, 305 Ga. 18, Barnes v. State, 305 Ga. 18 (2019)