

SUPREME COURT OF GEORGIA

Moulder v. The State

S23A0508 · No. S23A0508 · Decided August 21, 2023

SUMMARY

The Supreme Court of Georgia affirmed Joshua Moulder's convictions for malice murder, armed robbery, possession of a firearm during the commission of a felony, and influencing a witness. The court held that the evidence was sufficient under Jackson v. Virginia and Georgia's circumstantial-evidence statute. It also rejected Moulder's claims of ineffective assistance of counsel concerning statutes of limitation, hearsay and Confrontation Clause objections, impeachment advice, closing argument, and a jury instruction.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Warren, Justice
JURISDICTION	Georgia
DECIDED	August 21, 2023
DOCKET	S23A0508
DISPOSITION	affirmed
PROCEDURAL POSTURE	Moulder appealed his convictions and the denial of his amended motion for a new trial, challenging the sufficiency of the evidence supporting his 2006 convictions and alleging ineffective assistance of trial counsel.
STANDARD OF REVIEW	The court reviewed the sufficiency of the evidence under Jackson v. Virginia by viewing the evidence in the light most favorable to the verdict and asking whether any rational juror could have found the defendant guilty beyond a reasonable doubt. Circumstantial-evidence sufficiency under OCGA § 24-14-6 was reviewed under the rule that the proved facts must exclude every other reasonable hypothesis except the defendant's guilt, with reasonableness determined by the jury. Ineffective-assistance claims were reviewed under Strickland v. Washington's deficiency-and-prejudice test.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Joshua Moulder v. The State

TOPICS

criminal procedure

evidence

ineffective assistance

fourteenth amendment

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the evidence was constitutionally sufficient under *Jackson v. Virginia* to support Moulder's convictions arising from Rudolph's 2006 killing.
2. Whether the circumstantial evidence excluded every other reasonable hypothesis under OCGA § 24-14-6.
3. Whether trial counsel was ineffective for failing to challenge the State's proof of statutory tolling under OCGA § 17-3-2 (1).
4. Whether trial counsel was ineffective for failing to object on hearsay and Confrontation Clause grounds to the lead detective's testimony about the investigation into Youngster.
5. Whether trial counsel was ineffective in advising Moulder about impeachment with prior convictions.
6. Whether trial counsel was ineffective for referring to the reasonable-doubt standard in terms of a juror's gut or heart of hearts.
7. Whether trial counsel was ineffective for failing to object to the jury instruction concerning statements of fact made during formal court proceedings.
8. Whether the alleged deficiencies cumulatively prejudiced Moulder's trial.

HOLDINGS

1. The evidence was sufficient as a matter of federal due process to support Moulder's convictions arising from Rudolph's 2006 killing.
2. The evidence was sufficient under Georgia statutory law to permit the jury to reject Moulder's hypothesis that he was not Youngster and that Youngster, rather than Moulder, killed Rudolph.
3. Moulder failed to establish ineffective assistance arising from counsel's failure to argue that the State did not prove tolling under OCGA § 17-3-2 (1). Even assuming deficient performance, he failed to show a reasonable probability of a different result.
4. Moulder failed to prove ineffective assistance based on counsel's failure to make hearsay and Confrontation Clause objections to the lead detective's testimony about the search for Youngster.
5. Counsel did not perform deficiently by advising Moulder that the State could attempt to impeach him with prior convictions if he testified.
6. Moulder failed to show deficient performance based on counsel's use of 'gut' and 'heart of hearts' language in closing argument.

7. Moulder failed to show ineffective assistance from counsel's failure to object to the modified instruction that statements of fact made during formal court proceedings are binding and conclusive against the party who made them.
8. The court declined to find cumulative prejudice because it assumed deficiency for only one claim and rejected the remaining ineffective-assistance claims.

KEY QUOTATIONS

“The evidence discussed above was sufficient to support Moulder’s convictions as a matter of federal due process under Jackson.” (10)

“The evidence was also sufficient as a matter of Georgia statutory law under OCGA § 24-14-6 to support the jury’s rejection of Moulder’s hypothesis that he was not “Youngster” and that Youngster (not Moulder) killed Rudolph.” (10)

“To prevail on a claim of ineffective assistance of counsel, a defendant generally must show that counsel’s performance was deficient and that the deficient performance resulted in prejudice to the defendant.” (11)

FACTUAL BACKGROUND

Rudolph, who had previously served prison time with Moulder, traveled from Ohio to Georgia in July 2006 for a purported drug deal involving a person known as Youngster and was found shot in a Cobb County hotel room. Evidence connected Moulder to Rudolph through their prior relationship, phone calls to Moulder's sister, Moulder's presence near family residences in Georgia, his rapid return to Ohio, possession of more than \$800 when arrested, and statements to investigators about the trip and Youngster. Moulder's former girlfriend testified that he urgently summoned her to Georgia immediately after the killing and returned with her to Ohio, while the defense emphasized the lack of forensic evidence and argued that Moulder was not Youngster.

PROCEDURAL HISTORY

A Cobb County grand jury indicted Moulder in March 2015 for murder, robbery, firearm, aggravated-assault, and witness-influencing offenses. After a June 2018 jury trial, he was convicted on all counts; the trial court imposed two life sentences, a consecutive five-year sentence, and a concurrent ten-year sentence, with remaining counts merged or vacated by operation of law. The trial court denied Moulder's twice-amended motion for a new trial after an evidentiary hearing in October 2022, and Moulder timely appealed to the Supreme Court of Georgia.

DISPOSITION

affirmed

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 319 (1979)
- Clark v. State, 315 Ga. 423, 427 (883 SE2d 317) (2023)
- Davenport v. State, 309 Ga. 385, 388-389 (846 SE2d 83) (2020)

- Winston v. State, 303 Ga. 604, 607 (814 SE2d 408) (2017)
- Strickland v. Washington, 466 U.S. 668, 687-688, 694 (1984)
- Bates v. State, 313 Ga. 57, 62-63, 67 (867 SE2d 140) (2022)
- Taylor v. State, 306 Ga. 277, 286 (830 SE2d 90) (2019)
- Danuel v. State, 262 Ga. 349, 352 (418 SE2d 45) (1992)
- Vasquez v. State, 306 Ga. 216, 218-219, 224 (830 SE2d 143) (2019)
- Mathews v. State, 314 Ga. 360, 369 (877 SE2d 188) (2022)
- Gaston v. State, 307 Ga. 634, 638 (837 SE2d 808) (2020)
- Smith v. State, 298 Ga. 406, 415 (782 SE2d 269) (2016)
- Davis v. State, 306 Ga. 140, 149 (829 SE2d 321) (2019)
- Fuller v. State, 316 Ga. 127, 131 (886 SE2d 798) (2023)
- Marshall v. State, 299 Ga. 825, 827 (792 SE2d 350) (2016)
- Hurt v. State, 298 Ga. 51, 57 (779 SE2d 313) (2015)
- Sims v. State, 312 Ga. 322, 330 (862 SE2d 534) (2021)
- Anthony v. State, Anthony v. State, 311 Ga. 293, 298 (857 SE2d 682) (2021)
- Warren v. State, 314 Ga. 598, 604 (878 SE2d 438) (2022)
- Smith v. State, 306 Ga. 556, 558 (832 SE2d 379) (2019)
- Daughtie v. State, 297 Ga. 261, 266 (773 SE2d 263) (2015)
- Nundra v. State, Nundra v. State, 316 Ga. 1, 16 (885 SE2d 790) (2023)
- Lewis v. State, 312 Ga. 537, 547 (863 SE2d 65) (2021)
- Wynn v. State, 313 Ga. 827, 840-841 (874 SE2d 42) (2022)