



Supreme Court of Georgia

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CASES DUE FOR ORAL ARGUMENT

Summaries of Facts and Issues

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Tuesday, April 21, 2015

10:00 A.M. Session

THE STATE V. SPRINGER (S14G1539)

The State is appealing a Georgia Court of Appeals decision that granted a new trial to a man convicted in **Carroll County** of involuntary manslaughter and aggravated assault for his role in killing a bystander during a shootout.

FACTS: According to the evidence at trial, in the early morning hours of Aug. 2, 2002, a fight broke out in the parking lot of the Krystal restaurant in Carrollton, GA. It was unknown who started it, but it was apparently between a group from Atlanta and a group from Carrollton. During the melee, Travis Barber arrived, climbed on a car, started waving a gun, then began shooting. There was also evidence presented that Roderick Lanier Springer was in the crowd and shooting a gun. When police arrived, they found a chaotic scene, and eventually found a man lying between two cars. The victim, Latorrious Mitchell, was an innocent bystander who had been shot in the back and killed.

Springer and Barber were both indicted for felony murder, aggravated assault, and possession of a firearm during the commission of a felony. In the indictment, the murder count alleged that while committing aggravated assault, Springer and Barber caused Mitchell's death "by engaging in an exchange of gunfire with each other which resulted in Latorrious Mitchell being shot and killed...." The indictment alleged they committed aggravated assault "with a

handgun, a deadly weapon, by engaging in an exchange of gunfire with each other which resulted in Latorrious Mitchell being shot....”

At trial, Springer’s attorney requested that the judge instruct the jury they could consider whether Springer was guilty of involuntary manslaughter, based on reckless conduct, as a “lesser-included offense,” or a less serious charge, than the related offense of murder. The trial judge instructed the jury about what the law said regarding felony murder with aggravated assault as the underlying felony, and he instructed the jury about the lesser offense of involuntary manslaughter through the commission of reckless conduct. The judge also instructed jurors about the law on aggravated assault, stating that an “assault is attempt to commit a violent injury to [another person] or an act which places another person in reasonable apprehension of immediately receiving a violent injury.”

After deliberating, the jury found Springer guilty of involuntary manslaughter through reckless conduct. He was also convicted of aggravated assault, and possession of a firearm during the commission of a felony. He was sentenced to 25 years in prison. On appeal, however, the Georgia Court of Appeals reversed the judgment, finding the involuntary manslaughter and aggravated assault verdicts were “mutually exclusive” because they contradicted each other. The Court of Appeals cited the state Supreme Court’s 2003 decision in *Jackson v. State* in ruling that “a guilty verdict for involuntary manslaughter based on reckless conduct required a finding that the defendant acted with criminal negligence, that is without any intention to do so,” while the aggravated assault verdict required a finding of criminal intent. The State now appeals to the Georgia Supreme Court. Meanwhile, Springer was released on parole in 2012.

ARGUMENTS: The District Attorney, representing the State, argues that the state Supreme Court “should overrule *Jackson v. State* and its progeny and find that multiple guilty verdicts for the same conduct based on [different states of mind] are not mutually exclusive. Thus, such verdicts should not be summarily reversed.” In this case, the “jury returned a cogent verdict based upon the evidence and the law,” concluding that Springer was not guilty of murder, but rather was guilty of the lesser offense of involuntary manslaughter for “conduct that constituted a gross deviation from the standard of care a reasonable person would have exercised.” The jury also found him guilty of aggravated assault. State law allows a defendant to be convicted of “a crime included in a crime charged in the indictment” when “(1) It is established by proof of a less culpable mental state than is required to establish the commission of the crime charged” or “(2) a lesser kind of culpability suffices to establish its commission,” the State argues. “Both involuntary manslaughter and reckless conduct are lesser-included offenses of felony murder. Acts deemed to be negligent or unintentional simply involve a *less* culpable mental state than acts deemed to require specific intent.” It is “illogical” to claim that a conviction on the less culpable mental state and a conviction on the greater offense are “mutually exclusive.” As the dissent in the *Jackson* decision stated: “An included offense cannot be repugnant to the very crime in which it is included.” Other courts around the country “have also rejected the premise that differing mental states are mutually exclusive,” the State contends, recognizing that “multiple guilty verdicts for the same conduct that are based on varying levels of mens rea are not mutually exclusive.” (“Mens rea” is a Latin term meaning the state of mind a defendant had when committing a crime.) Therefore “the verdict on one count on involuntary manslaughter-reckless conduct does not logically exclude a finding of guilt on aggravated assault,” the State argues. The Court of Appeals also erred because “appellate courts are not

authorized to deconstruct the jury's verdict in order to conclude that there was a 'reasonable probability' that the jury 'could have' concluded that the defendant acted with both criminal intent and criminal negligence," as the Court of Appeals did in this case. "In Georgia, there is no legal basis for a standard of review of the evidence that allows an appellate court to impeach the jury's verdict and determine whether there is a reasonable probability that a mutually exclusive verdict *might* exist," the State argues. "Therefore the convictions in the present case should stand."

Springer's attorney argues the high court should "preserve *Jackson's* sound understanding of mutually exclusive verdicts and the procedures to address them." For one thing, Springer, who was acquitted of murder, is on a different footing than the defendant in *Jackson*. Springer "was convicted only of involuntary manslaughter predicated upon causing a death in the course of an exchange of gunfire that the jury determined to be reckless conduct," the attorney argues. "This verdict was logically incompatible with the jury's determination...that the very same 'exchange of gunfire' amounted to aggravated assault against the same victim..." If the Supreme Court overrules *Jackson*, upon which Springer has based his arguments on appeal, "there are important ramifications that he should have a chance to raise and address." Springer's attorney concedes that the *Jackson* decision's judgment line is "overbroad," and a finding of negligence "may not always be mutually exclusive with that of intent, but that does not mean that it is never so (or that it is not so here)." "Where the verdicts reflect contradictory determinations of what should be the same mental state, the concern is whether the jury acted rationally or misapplied its instructions." The problem with the *Jackson* decision, Springer's attorney argues, is that "it lacks the procedures to avoid, address, and resolve the problem it identified."

Attorneys for Appellant (State): Peter Skandalakis, District Attorney, Anne Allen, Asst. D.A.
Attorney for Appellee (Springer): Maryellen Simmons

HAYES V. THE STATE (S15A0764)

In this **DeKalb County** case, a repeat offender is appealing his murder conviction and life-without-parole prison sentence he received for the murder of a parolee who worked at Waffle House.

FACTS: The morning of Jan. 22, 2012, a man who lived on Lake Michele in Stone Mountain was in his backyard talking with a friend when they saw across the lake a blue Chevrolet Impala drive up to the edge and park. Someone dressed in dark pants, a tan jacket and a sailor's cap got out of the car and walked around it. After the men heard gunshots, they saw through binoculars the person standing outside the car and looking down. Then the car drove away. Later that day, another man went to Lake Michele to go fishing. When he got halfway down the gravel road leading to the lake, he saw a body in the road and called 911. Police later identified the victim as Joshua Grier, who worked the night shift at a Waffle House in College Park and drove a blue Impala. Grier's shift normally ended at 7:00 a.m., but co-workers noticed that the morning of Jan. 22, he lingered around after his shift ended. One co-worker later said Grier appeared nervous, and he hugged his co-workers before leaving, which was unusual. Grier, who was on parole, was wearing a Global Position System (GPS) monitor on his left ankle. According to prosecutors, that morning Samuel Johnson Hayes was waiting for Grier to get off work as he sat across the street from the Waffle House in a white Toyota 4-Runner. With Hayes

was his friend, Jahan Mims. While they waited, Hayes called and texted Grier about 20 times but Grier did not respond. Eventually Grier called Hayes back and made arrangements to meet him at Greenbriar Mall. When Grier arrived, Hayes got out of the 4-Runner and climbed into the backseat of Grier's Impala. Hayes told Mims to drive the 4-Runner toward Wesley Chapel Road, and he would follow with Grier. Mims veered off Redan Road onto Redan Circle near a local park and waited. According to prosecutors, Hayes then directed Grier down Selene Drive and onto a gravel access road to Lake Michele. Grier parked the car, the two men got out, and Hayes fired four .32 caliber rounds into Grier's head and neck, killing him. Hayes turned three of Grier's pants pockets inside out before spotting two men across the lake who appeared to be watching him. He abruptly ended his search of Grier's clothing, got into the Impala and left. He reunited with Mims at the park on Redan Circle. Mims later testified that when he asked Hayes where Grier was, Hayes said that Grier owed him some money and he had to "break him off."

While Hayes drove the 4-Runner, Mims drove the Impala back to the trailer where they were staying in Stockbridge. Three days after the murder, Henry County police found a burned car, which they were able to trace to Grier's father. Grier's cell phone records, his GPS coordinates from the ankle monitor, and video obtained from store surveillance cameras along the route of the GPS "pings" – showing both cars along the route Grier followed the day he was killed – helped lead investigators to Hayes and Mims. In May 2013, a DeKalb County jury convicted Hayes of murder, armed robbery and other crimes. He was sentenced as a recidivist to life without parole. Hayes now appeals to the state Supreme Court.

ARGUMENTS: Hayes' attorney argues that his attorney for his trial was ineffective, and Hayes received "ineffective assistance of counsel" in violation of his Constitutional rights. The trial attorney committed four unprofessional errors which damaged Hayes' defense. Specifically, the trial attorney failed to object to: the judge's instruction to jurors prior to their deliberations that they could consider whether Hayes was guilty of conspiracy; the admission of evidence of GPS and cell phone records which matched Grier's movements to Hayes' movements the hours before Grier's death; and the admission of evidence that was obtained from an invalid search warrant and served to bolster other evidence at trial. "Defense counsel should have objected to the jury charge on conspiracy because it is contrary to Georgia law to give a jury charge on conspiracy when not only was the defendant not indicted for conspiracy but also:" no one but Hayes was indicted or arrested for the murder, the State did not allege that anyone else was present during the crime, and his attorney did not request the jury charge on conspiracy. Defense counsel also "should have objected to the admission into evidence of the GPS time-location records because the records are hearsay business records, not public records, and require authentication by a custodian or other qualified witness prior to their admission in evidence...." Likewise, Grier's cell phone records were never authenticated as the law requires, yet the attorney failed to object to their admission into evidence. Finally, the trial attorney failed to file a motion to suppress evidence found at Hayes' home in Stockbridge, including the Toyota 4-Runner seen in the videos. That evidence was found with a search warrant that was invalid because the person listed on the warrant as the detective requesting the warrant was different than the detective who provided sworn probable cause to support the issuance of the warrant. Had the trial attorney not made these errors, there was a "reasonable probability" that there would have been a different outcome to Hayes' trial, his attorney argues. "Without the circumstantial CPS and cell phone evidence the State's case is in tatters," the attorney argues in

briefs. “The State is left with Mims’ testimony – the testimony of a prison inmate who places Hayes and Grier together the morning of Grier’s death. But even Mims does not purport to know what happened to Grier.” A second witness who testified was a petty criminal who also offered only circumstantial evidence.

The State, represented by the District Attorney and Attorney General, argue that “Hayes’ claims are without merit.” At trial, the State requested that the jury be instructed on the charge of conspiracy, and there “was no objection to this charge during the charge conference,” the State argues. “Decisions on ‘whether to object to a particular jury charge are generally matters of trial strategy and provide no grounds for reversal unless they are so patently unreasonable that no competent attorney would have chosen that tactic.” Here, Hayes has failed to meet his burden to show that the trial attorney’s failure to object to the charge was that “patently unreasonable,” the State argues. Furthermore, the “rule” Hayes’ attorney cites that conspiracy can only be charged if certain factors are present, including that two or more persons must be indicted and arrested for the crime, “is made up,” the State contends. “It is not a matter of Georgia law; it is simply an extrapolation from fact.” A specialized parole officer with first-hand knowledge of the process by which GPS tracking data is received, stored and accessed was a “qualified witness,” as the trial court found, and Georgia statute “permits authentication of such data compilation by a custodian of records ‘or other qualified witness,’” the State argues. Similarly, no error was shown in the admission of the cell phone records. And Hayes failed to establish any error with the search warrant. His attorney did not submit either the affidavit or the search warrant into evidence, and therefore there is nothing before the Supreme Court to support his claims of a deficiency in these documents. Furthermore, “he provides no explanation as to how such a scenario presents a legal error.” “For all of the above reasons, Hayes has not demonstrated clear error in the trial court’s conclusion that he received effective assistance of trial counsel,” the State concludes. “No basis for reversal has been shown.”

Attorney for Appellant (Hayes): Ivars Lacis

Attorneys for Appellee (State): Robert James, District Attorney, Lenora Grant, Dep. Chief Asst. D.A., Samuel Olens, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Matthew Crowder, Asst. A.G.

WARREN V THE STATE (S15A0795)

Attorneys for a man deemed mentally incompetent to stand trial are appealing a **Cobb County** court order that would force him to take anti-psychotic medication to restore his competency. In this high-profile case, the State is seeking the death penalty against Jesse James Warren for the 2010 shooting rampage at the Penske Trucking Company that left four dead.

FACTS: In October 2013, after the fourth person died, Warren was indicted with four counts of malice murder and four counts of felony murder, along with other charges. According to State prosecutors, on Jan. 12, 2010, Warren, armed and dressed in camouflage clothing, went to the Penske truck rental facility in Kennesaw and opened fire, shooting five men, four of whom were employees. A fifth was a customer who happened to be there at the time. Three died within a couple of days of the shooting. Warren, then 60, had previously worked at the facility before being fired in 2008. He was originally indicted for three counts of murder, but a second indictment was handed down after the fourth man later died. In 2010, the State filed notice it would seek the death penalty.

Warren's attorneys filed a Notice of Intent of Defense to Raise Issues of Insanity, Mental Illness or Mental Retardation. He also filed a Special Plea of Mental Incompetency to Stand Trial. Following a hearing, the trial court ordered he be evaluated by doctors from the Department of Behavioral Health & Developmental Disabilities. Following an examination by Dr. Brian Schief and Dr. Don Hughey, who diagnosed him with "Delusional Disorder, Mixed Type," and in May 2013, the trial court found Warren incompetent to stand trial. The judge ordered he be committed to the Department of Behavioral Health for further evaluation. In September 2013, Drs. Schief and Hughey notified the court that Warren remained incompetent and requested he be compelled to take antipsychotic medications in an attempt to restore his competency to stand trial. Among his delusions, following his arrest, he told police he had been awarded \$500 million for his work in the Navy on a broadband communication project and that it had been stolen. He also believed he was the Son of God, had been given his name by the Masons, and members of his church were "out to get him." The State filed a Motion to Compel Involuntary Antipsychotic Medication, his attorneys opposed the motion, and following a hearing in June 2014, the judge granted the State's motion to force the medication. In this pre-trial appeal, Warren's attorneys now appeal to the Georgia Supreme Court.

ARGUMENTS: Warren's attorneys argue the trial court erred in ordering that he be forcibly medicated because such an order goes against the advice of his treating physician at the hospital where he is being kept, and this case does not meet the four-pronged test set out in the U.S. Supreme Court's 2003 ruling in *Sell v. United States*. That decision lays out four requirements that must be met to force the administration of antipsychotic drugs solely for the purpose of restoring defendants to competency: A court must find that an important governmental interest is at stake; that the administration of the drugs is "substantially likely to render the defendant competent to stand trial" and "substantially unlikely to have side effects" that will interfere with his ability to assist his lawyer in conducting his defense; that involuntary medication is necessary because other less intrusive treatments are unlikely to achieve the same results; and that the medication is medically appropriate. In this case, the evidence shows that Warren was compliant with his medication regimen at Central State Hospital on all but one occasion, and that the decision to discontinue administration of antipsychotic drugs was made by his treating physician, Dr. Francis Kane, based on Warren's age and medical history, as well as the ineffectiveness of antipsychotic medications to treat Warren's particular psychological condition, and the observed side effects after a few weeks of his taking the drugs. Even the State doctors, Schief and Hughey, acknowledged that Warren is at greater risk of side effects due to his history of diabetes and heart attack, his age, and the significant side effects he suffered from taking Haldol and Geodon. "In essence, *Sell* addresses forcing non-compliant pre-trial detainees to take medications, not forcing doctors to abandon their own sound medical judgment, based on second guessing by other doctors," the attorneys argue in briefs. "Thus a *Sell* action is inappropriate without some indication that the patient is non-compliant with his medication to the point that it impedes the doctor's ability to treat him." Second, the prosecution cannot meet its heavy burden under *Sell* unless the state's doctors present a specific treatment plan of what drugs and dosages they're recommending, which they have failed to do. Warren's right to due process demands that the State "propose a specific treatment plan in advance, to allow him a fair opportunity to rebut the State doctors with his own evidence of the dangers and ineffectiveness of the treatment plan." "The trial court's finding that the *Sell* criteria was met is clearly erroneous

in this case, given the lack of proof of non-compliance, the failure to put forth a specific treatment plan, and the failure to address the medical complications likely to impact this defendant,” Warren’s attorneys contend. “Because of the above failures by the state, the trial court’s order should be reversed.”

Representing the State, the District Attorney contends “the trial court correctly granted the State’s motion to forcibly medicate Warren.” The trial court properly ordered involuntary medication “because the evidence in Warren’s case satisfies each of *Sell*’s requirements,” the State’s attorneys argue in briefs. Bringing a defendant who has been charged with a serious crime to trial certainly meets the first prerequisite that an important government interest must be at stake. And contrary to arguments by Warren’s attorneys, the evidence at Warren’s hearing demonstrates that forced medication “offers a substantial probability of enabling Warren to assist his attorney with his defense.” Involuntary medication is necessary because alternative and less intrusive measures including therapy and other treatment “have failed to restore Warren to competency.” “Despite these efforts, Warren’s delusional beliefs have remained as intact as when treatment first began,” the State argues. Finally the administration of antipsychotic drugs is medically appropriate. “While there is some risk that medication will make Warren’s diabetic condition worse, this risk is not substantial,” the attorneys argue. “The evidence supports the trial court’s order on every requirement that must be met as a prerequisite to involuntary medication for the purpose of achieving competence to stand trial.”

Attorneys for Appellant (Warren): Gerald Word, Michael Ivan, Jimmy Berry, Teri Thompson
Attorneys for Appellee (State): D. Victor Reynolds, District Attorney, Jesse Evans, Dep. Chief Asst. D.A., Donald Geary, Chief Asst. D.A., John Edwards, Asst. D.A.