



Supreme Court of Georgia
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SUMMARIES OF OPINIONS

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LEBIS V. THE STATE (S17A0948)

The Supreme Court of Georgia has reversed the felony murder conviction of **Lisa Ann Lebis** for her role in the death of a **Clayton County** police officer who was killed during a shootout with her husband.

In today's opinion, the high court has upheld a number of convictions against Lebis for possession of weapons and misdemeanor obstruction of a police officer, but it has not upheld her conviction for murder for which she was sentenced to life in prison with no chance of parole.

"Because the evidence was insufficient to support the charge of felony murder as set forth in the indictment, Lebis's conviction for this crime must be reversed," **Justice Britt Grant** writes for a unanimous court.

According to the facts of the case, Lisa Ann and Tremaine Lebis first met in 2000 when Tremaine was serving a 20-year prison sentence for aggravated assault after shooting a man in Gwinnett County. They lived together for three years, then married in June 2012. Both were convicted felons. Lisa had three prior felony convictions, including a 2004 conviction for aggravated assault in Fulton County. Tremaine also had a criminal history, and after getting out of prison for his 1992 aggravated assault, he went back to prison for firearms possession and was again released in May 2012. By December 2012, there was yet another warrant for his arrest.

On Dec. 17, 2012, Lisa and Tremaine, who had been staying at a Motel 6 in Stockbridge, were evicted for late payment of the room. The room was registered not under either of their names, but rather under the name of Lisa's son. Upon learning they were being evicted, Lisa, who was visibly intoxicated or high on drugs, confronted the front desk clerk, yelling and cursing and resulting in the clerk's calling 911 for police assistance. When the clerk's supervisor

went to the room to make sure the couple had left, she saw Tremaine for the first time and found the room in an upheaval with a terrible odor from the couple's three dogs. There were dog feces and dog food on the floor, two dresser drawers had been broken, and the box spring was damaged. The supervisor asked where Lisa was, and Tremaine responded she had gone to get money to pay for the room. The supervisor replied she would not accept the payment and they would have to leave. She also informed him police were on their way.

Clayton County Police Officers Sean Callahan and Waymondo Brown responded to the call, arriving separately at the motel. From speaking to staff, the officers thought they might have criminal-damage-to-property charges against the people staying in room 226. Callahan, 25, was new to the police force and had only been an officer three-to-four months, according to briefs filed in the case. As they headed to room 226, they saw Tremaine and Lisa taking items from the room and stacking them outside. Officer Brown asked Tremaine what was going on, and Tremaine said there had been a misunderstanding between the motel staff and Lisa. After going to the room and finding evidence of damage, Officer Brown approached Tremaine, noticing he had a pocket knife. He did not notice that Tremaine was wearing a fanny pack. As he tried to handcuff Tremaine, Lisa started yelling loudly and Tremaine escaped, running to the back of the Motel 6. The officers pursued with Callahan running ahead of Brown. As they rounded the corner, Brown saw Tremaine's hands reach to his fanny pack before Tremaine shot at them, hitting Callahan in the shoulder and neck. Brown returned fire, hitting Tremaine who fell to the ground. Brown located Callahan, who had fallen over a retaining wall, called for backup and began administering emergency medical help. When Callahan's lips started turning blue, Brown began CPR. According to prosecutors, Callahan was still breathing. Suddenly Lisa appeared out of nowhere "going bonkers," Brown later testified. She was cursing at him and flailing about, and he could not see if she had a weapon. He then pointed his gun at her with one hand while trying to maintain pressure on Callahan's gunshot wound with the other and yelled at her to show him her hands, which initially she did not do. When she finally stood up and he could see she was unarmed, he resumed CPR, later testifying he'd lost about 50 seconds while responding to the belligerent and uncooperative Lisa. When other officers arrived, Lisa, who had to be restrained, was arrested. Callahan was transported to Grady hospital where he underwent surgery but died 14 hours later. Tremaine, meanwhile, died at the scene.

In May 2013, a Clayton County grand jury indicted Lisa Ann Lebis for being party to the crime of felony murder based upon the underlying felony of possession of a firearm by a convicted felon. She was also indicted for a number of other crimes, including obstruction of a law enforcement officer and possession of a firearm by a convicted felon. The State filed notice it intended to seek an enhanced punishment for a repeat offender due to her felony crime record. Following a 2014 trial, Lebis was convicted of all charges except disorderly conduct and felony theft by receiving stolen property. She was sentenced to life without parole plus 35 years in prison. Lebis appealed to the Georgia Supreme Court.

In today's opinion, "we affirm in part and reverse in part – affirming Lebis's convictions of two of the misdemeanor obstruction counts and all of the counts regarding possession of firearms and dangerous weapons; but reversing her conviction of felony murder and of the other two misdemeanor obstructions."

In the tiny room where the couple had stayed for eight days, investigators found a number of guns and ammunition with some wrapped in clothing and others in plain view. Additional

weaponry included harpoon-like rocket motors with attached razor tips, a homemade silencer, a razor blade, two knives, a laser scope, and a homemade bandolier for shotgun shells.

The jury heard evidence that the couple hid out in the motel room to evade the husband's arrest. "The evidence introduced at trial plainly supports the inference that Lebis and her husband Tremaine were prepared to resist arrest with firearms and other dangerous weapons in the event that they were detected at the motel," the opinion says.

Significant evidence "connects Lebis to the weapons in the motel room," the opinion says. "The State was not required to show that Lebis solely or actually possessed the weapons at any point. Nor was it required to offer direct evidence that she possessed them. Instead, the State had to put forward enough evidence so that a properly-instructed jury could reasonably conclude that Lebis at least jointly and constructively possessed the weapons in her motel room. The State did just that."

"Accordingly, we find that there was sufficient evidence to support the jury's verdict on the constructive possession charges in this case, and we affirm her convictions of these crimes."

A more difficult question concerns whether the evidence supported her felony murder conviction, the opinion says. The State charged in the indictment that Lebis, as a party to the crime, caused the death of Officer Callahan "while" she "did jointly possess a Glock .357 handgun" with her husband when he shot Callahan. "In keeping with the indictment, the felony murder count against Lebis requires proof that she jointly possessed the murder weapon at the time of the murder. The State did not prove what it charged," the opinion says. "'[A]t [the] given time' that Tremaine shot Officer Callahan, the evidence shows that Tremaine, not Lebis, had actual and sole possession of the .357 caliber Glock that he pulled from the fanny pack he wore. Tremaine had left the motel room, and there is no evidence that Lebis had the intention or ability to exercise control over the weapon at that point."

Finally, of the four misdemeanor counts of obstructing a police officer for which Lebis was found guilty, the high court has upheld two of them, but has reversed the two alleging she obstructed Officers Brown and Callahan in their attempt to arrest Tremaine. Regarding these two, "we agree that the evidence was insufficient to support those convictions," the high court finds.

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