



Supreme Court of Georgia

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SUMMARIES OF OPINIONS

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WHITE V. THE STATE (S19A1004)

The Supreme Court of Georgia has upheld the life-without-parole prison sentence given to a young man who was 17 years old when he and another young man murdered a friend to “see how it feels to kill someone.”

In appealing his convictions and prison sentence to the state’s highest court, attorneys for **Dakota Lamar White** argued that the trial court erred in allowing in as evidence his confession to law enforcement officials and in sentencing him to life without parole. His attorneys argued that the State should have had to prove “beyond a reasonable doubt” that the juvenile offender was “irreparably corrupt” and therefore eligible for the extreme sentence. Instead, the trial court found the youth was “irreparably corrupt” based upon a “preponderance of the evidence,” which is a lighter standard of proof.

In today’s unanimous opinion, written by **Justice Nels S.D. Peterson**, the high court has rejected all of White’s arguments. White “has shown no error in the trial court’s denial of his motion to suppress his statements,” the opinion says. White also “has not shown that existing precedent offers any basis to vacate his sentence for murder, and we decline to extend that precedent today.”

According to the evidence at trial, on Sunday, Oct. 16, 2016, the Perry Police Department in **Houston County** received a missing person’s report from the father of 18-year-old Samuel Poss, saying he could not find his son. The last person known to have had contact with Poss was White, who was 17 at the time. After finding a message on his son’s computer from White, asking Poss to come to his house to help him with his computer, the father had driven to White’s

home and asked if White knew where his son was. White told him he had seen Poss Friday night but that Poss had left his house around midnight to walk home.

On Oct. 19, White's family, including his aunt and grandparents, contacted police and told them that White had confided in his mother that he and his friend, 18-year-old Brandon Warren, had killed Poss in White's car. Perry police went that night to White's home and arrested him without a warrant. In an interview that night and in another interview the following morning, White gave detailed accounts of how he and Warren had murdered Poss. White said that a month earlier, he and Warren had entered into a suicide pact. They agreed that they "might as well see how it feels to kill someone before we kill ourselves; we didn't see no reason not to." They decided to kill Poss because he would be an "easy" victim. White sent an online message to Poss asking if he would come to White's house to help him with his computer. After Poss agreed, White and Warren picked Poss up in front of his house, then drove back to White's home. Before Poss could get out of the car in White's driveway, White said he wrapped two computer cords around Poss's neck to strangle him while Warren stabbed Poss in the chest and stomach. White then wrapped his arm around Poss's neck and choked him until Poss stopped breathing. White and Warren eventually drove to a wooded trail near White's home and put the body into a creek bed and covered it with dirt and mud. They threw the knives used to kill Poss over a bridge. White told police he spent 10 hours cleaning Poss's blood from his car. Following the confession, White led detectives to Poss's body and the knives.

In August 2017, a Houston County grand jury indicted White and Warren with malice murder, felony murder, concealing a death, and other crimes for the murder of Sam Poss.

Prior to White's trial, the U.S. Supreme Court ruled in 2012 in *Miller v. Alabama* that the Eighth Amendment's prohibition of cruel and unusual punishment "forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders." The high court ruled in *Miller* that a trial court must have the discretion to consider "youth and its attendant characteristics, along with the nature of his crime" when considering whether to impose a less harsh sentence such as life with the possibility of parole. Four years after *Miller*, the U.S. Supreme Court ruled in *Montgomery v. Louisiana* that *Miller* applies retroactively. In 2016, the Georgia Supreme Court ruled in *Veal v. State* that *Miller* meant that life-without-parole sentences for juveniles will be "exceptionally rare, and that determining whether a juvenile falls into that exclusive realm turns not on the sentencing court's consideration of his age and the qualities that accompany youth along with all of the other circumstances of the given case, but rather on a specific determination that he is *irreparably corrupt*."

In May 2018, White was tried before a jury and found guilty on all counts, and the State sought a sentence of life in prison with no chance of parole. In a detailed order, the trial court sentenced to White to life without parole, finding that he "falls within that narrow class of juvenile murderers for whom the most severe sentence is proportional under the Eighth Amendment," and he is "in fact irreparably corrupt. He exhibits an irretrievable depravity which forecloses any reasonable prospects for rehabilitation. Sadly, he is permanently incorrigible."

The trial court ordered that the burden of proof was on the State but that the standard of proof required was a "preponderance of the evidence" as opposed to the stricter standard of "beyond a reasonable doubt." The trial court found that "the State has met its burden."

In his appeal to the state Supreme Court, White argued that due process requires the State to prove permanent incorrigibility beyond a reasonable doubt before the trial court may sentence

him to life without parole. But the U.S. Supreme Court has held that applying the preponderance standard in criminal cases “generally satisfies due process,” the opinion says. White also argued on appeal that the *Veal* decision required the trial court to find beyond a reasonable doubt that White was irreparably corrupt.

“But nothing in *Veal* says that, and nothing in *Miller* or *Montgomery* says that either,” today’s opinion says. “We see no reason to go further today than the Supreme Court has already gone, and nothing in its Eighth Amendment case law demands a deviation from the ordinary rule that proof by a preponderance of the evidence is sufficient. And it is undisputed that the General Assembly has not established any special standard of proof for finding a juvenile offender eligible for the sentence of life without parole.”

White argued that even if the State had to prove his permanent incorrigibility by only a preponderance of the evidence, the State failed to do so. “We disagree,” the opinion says. “Proof by a preponderance simply requires that the evidence show that something is more likely true than not. The record evidence that the trial court laid out in detail supports the trial court’s determination that White is irreparably corrupt.”

Attorneys for Appellant (White): David Daniell, Jocelyn Daniell

Attorneys for Appellee (State): George Hartwig, III, District Attorney, Daniel Bibler, Asst. D.A., Christopher Carr, Attorney General, Beth Burton Dep. A.G., Paula Smith, Sr. Asst. A.G., Elizabeth Brock, Asst. A.G.

DOYLE V. THE STATE (S19A1005)

The Supreme Court of Georgia has reversed the convictions and life-without-parole prison sentence given to a man for his role in the shooting death of an unarmed security guard in **Fulton County**.

In today’s unanimous opinion, written by **Chief Justice Harold D. Melton**, the high court finds that the evidence against **Matthew Doyle** was sufficient to find him guilty beyond a reasonable doubt of the crimes for which he was convicted. But it finds the trial court erred by failing to instruct the jury about the corroboration the law requires in felony cases where the only witness testifying against a defendant is an accomplice.

“Because we conclude that the trial court plainly erred, we reverse,” the opinion says.

According to the facts at trial, in December 2010, Lyndon “Pookie” Tucker was working nights as a security guard for Midtown Towing, located on Ridge Avenue in Atlanta. At about 8:00 p.m. the night of Dec. 17, Tucker’s girlfriend dropped him off at work where he checked cars in and out of the tow yard from a small guard shack. Later that night, his girlfriend went to a party at a nearby former auto shop that had been converted into a makeshift nightclub called “The Yard.” During the party, a fight broke out between two groups of young men – one led by a young man nicknamed “Poochie,” who was the girlfriend’s cousin.

In December 2010, Keith Richardson was addicted to crack cocaine. He got his drugs from Lewis Parks, by giving Parks rides whenever he needed them in exchange for cash or drugs. Late the night of Dec. 17, 2010, Richardson received a call from Parks who said he needed a ride to The Yard to pick up his son. When Richardson arrived at Parks’s home, Parks, Doyle, and a third man got into Richardson’s blue Ford Explorer. After they arrived at the club where the fighting had occurred, the four sat outside for about 20 minutes and discussed “hurting somebody” and “getting payback.” Parks then directed Richardson to drive them to Midtown

Towing as the men apparently believed that “Pookie” Tucker, the security guard there, was somehow related to “Poochie, one of the men involved in the fight at The Yard. When they arrived at Midtown Towing at about 4:00 a.m., Doyle jumped out and ran behind the car. Although Richardson later testified that he saw no weapons the night of the shooting, the lead detective in the case testified that Richardson told him he had seen Parks “rack” his gun while in the car and had seen Doyle holding a gun when he got out of the car. Richardson then heard gunshots and testified he tried to drive away, but Parks told him to slow down so Doyle could get back in the car. Eventually, Richardson took the three men back to Parks’s home.

Meanwhile, after hearing the gunshots, Tucker’s co-worker stepped outside the building near Tucker’s guard shack and found him lying on the ground, saying he’d been shot. She called 911, but Tucker later died from eight gunshot wounds. According to a firearms expert, he had been shot by a high-velocity AK-47 type of rifle.

In July 2011, a Fulton County grand jury indicted Doyle and Parks on charges of malice murder, felony murder, aggravated assault, and weapons charges for their roles in Tucker’s death. They were jointly tried in June 2013 and both were found guilty on all charges. The Georgia Supreme Court upheld Parks’s convictions in 2017. Doyle, who was sentenced to life without parole plus 10 years for the weapons charges, then appealed to the state Supreme Court, arguing that the evidence was insufficient to support his conviction and that the trial court erred by failing to charge the jury on the requirement for corroboration of accomplice testimony.

In today’s opinion, the high court finds that the evidence “was sufficient as a matter of constitutional due process to enable the jury to find beyond a reasonable doubt that Doyle was guilty of the crimes for which he was convicted.”

During Doyle’s trial, Kerry Henderson admitted that she had contacted the lead detective in the case about the shooting, but she claimed she could not recall the details of a conversation she had had with the detective the day after the shooting. The detective testified, however, that Henderson had contacted him and told him that Parks, whom she knew as “Fat Lewis,” and a man named “Matthew” or “Matt” had told her they had shot “Pookie” as some form of retribution related to the fight at The Yard.

In his appeal, Doyle, arguing that Richardson was an accomplice, claimed there was insufficient corroboration of Richardson’s testimony.

“Even if we assume without deciding that Richardson was an accomplice, we disagree,” today’s opinion says. Under Georgia Code § 24-14-8, “The testimony of a single witness is generally sufficient to establish a fact. However, in certain cases, including...felony cases where the only witness is an accomplice, the testimony of a single witness shall not be sufficient. Nevertheless, corroborating circumstances may dispense with the necessity for the testimony of a second witness....” Under the Georgia Supreme Court’s 2017 decision in *Lewis v. State*, the high court found that under the statute, the necessary “corroborating evidence may be circumstantial and slight, and need not be sufficient in and of itself to warrant a conviction, so long as it is independent of the accomplice’s testimony and directly connects the defendant to the crime or leads to the inference of guilt.”

From the detective’s testimony regarding Henderson’s report of the confession by “Fat Lewis” and “Matthew” or “Matt,” “the jury could infer that “Matthew” or “Matt” was Matthew Doyle, thereby satisfying the statutory requirement for corroborating evidence,” the opinion says.

However, in response to Doyle’s argument that the trial court committed plain error by failing to instruct the jury on the law regarding the corroboration requirement for accomplice testimony, “we agree,” today’s opinion says.

“The trial court did not instruct the jury to determine if Richardson was an accomplice, nor did it include the accomplice-corroboration charge in its instruction to the jury,” the opinion says. “Rather the trial court gave the jury the following charge: ‘The testimony of a single witness, if believed, is sufficient to establish a fact. Generally, there is no legal requirement of corroboration of a witness – provided you find the evidence to be sufficient.’”

Although the State argued that Richardson was not an accomplice and therefore the trial court did not err by failing to give the accomplice-corroboration charge, the determination of whether Richardson was an accomplice was up to the jury to decide, today’s opinion says. And the evidence at Doyle’s trial could have supported that he was an accomplice by intentionally aiding in the commission of a crime.

“On multiple previous occasions, we have held that giving the single-witness instruction, while failing to give the accomplice-corroboration instruction, in a case where the defendant was directly linked to the crime through the testimony of an accomplice, deviates from the plain language of § 24-14-8,” the opinion says. “Such is the case here.”

“Under the circumstances of this case, there is a strong likelihood that the trial court’s error affected the outcome of Doyle’s trial,” the opinion says. “Richardson’s testimony was the bedrock on which Doyle’s convictions rest. He was the only eyewitness to affirmatively identify Doyle as a participant in the shooting.”

“While Henderson’s and the detective’s testimony may serve as legally sufficient corroboration of Richardson’s testimony, the jury was never instructed how to properly evaluate this evidence, and it is likely that the jury convicted Doyle on Richardson’s testimony alone, which the jury was affirmatively told that it could do,” the opinion says. “Because the jury did not receive proper instructions on how to evaluate the evidence, we conclude that the outcome of the proceedings was likely affected by the trial court’s failure to give the accomplice-corroboration charge.”

In a footnote, the Supreme Court notes that because it concluded the evidence at trial was sufficient to support Doyle’s convictions, “the State may choose to re-try Doyle.”

Attorney for Appellant (Doyle): Jacob Rhein

Attorneys for Appellee (State): Paul Howard, Jr., District Attorney, Lyndsey Rudder, Dep. D.A., Marc Mallon, Sr. Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Matthew Youn, Asst. A.G.

IN OTHER CASES, the Supreme Court of Georgia has upheld **murder** convictions and life prison sentences for:

* Juan Rabadan Chavez (Fulton Co.)

CHAVEZ V. THE STATE (S19A1573)

(The Supreme Court has upheld Chavez’s murder conviction for his role in the gang-related killing of

Ricardo Hernandez Ovalle, but it has reversed his conviction for possession of a firearm by a first-offender probationer based on insufficiency of the evidence.)

- * Carlton Davis (Liberty Co.) **DAVIS V. THE STATE (S19A1187)**
- * Frederick Duane Driver (Floyd Co.) **DRIVER V. THE STATE (S19A1298)**
- * Louis Floyd, Jr. (Dougherty Co.) * **FLOYD V. THE STATE (S19A1493)**
- * Jasento Lachon Flowers, Sr. (Bibb Co.) **FLOWERS V. THE STATE (S19A1151)**
- * Lerenzo Gaston (Fulton Co.) **GASTON V. THE STATE (S19A1284)**
- * Tara Lee Harrell (Dougherty Co.) * **HARRELL V. THE STATE (S19A1494)**
- * Ricardo Laron Harris (Cobb Co.) **HARRIS V. THE STATE (S19A1572)**
- * Hamlet Perdomo (Richmond Co.) **PERDOMO V. THE STATE (S19A1641)**
- * Jesse Lee Swims (Walker Co.) **SWIMS V. THE STATE (S19A1427)**

IN LAWYER DISCIPLINARY MATTERS, the Georgia Supreme Court has accepted a petition for **voluntary surrender of license** – tantamount to disbarment – from attorney:

- * Richard M. Colbert **IN THE MATTER OF: RICHARD M. COLBERT (S19Y1650)**

The Court has **rejected a petition for voluntary discipline** from the following attorney, stating the record “lacks a sufficient factual basis to support the requested discipline:”

- * David Godley Rigdon **IN THE MATTER OF: DAVID GODLEY RIGDON (S20Y0434)**