



Supreme Court of Georgia

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CASES DUE FOR ORAL ARGUMENT Summaries of Facts and Issues

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Monday, April 20, 2020

10:00 A.M. Session

CAMPBELL-WILLIAMS V. THE STATE (S20A0642)

A woman is appealing her murder conviction and life prison sentence for the stabbing death of her long-time boyfriend.

FACTS: **Tiquonda R. Campbell-Williams** and **Tyress Malcome** had a 10-year, tumultuous relationship characterized by verbal and physical abuse on both sides, according to witnesses. The couple had two children and lived together with them in **Gwinnett County**, along with Campbell-Williams's third child from a previous relationship. State prosecutors presented evidence at trial that about a week before Malcome's death, Campbell-Williams tried to stab Malcome with a knife and threatened to cut off his penis for failing to get her a gift for Mother's Day. Malcome subsequently left and stayed with his mother for four days before returning home. The afternoon of May 22, 2011, Malcome left to attend a funeral and then hang out with some friends, including Lorenzo Sinclair. Campbell-Williams was angry, and according to later

testimony from Malcome's mother, who was at the couple's home at the time, said, "your son is going to make me hurt him one day." When Malcome and Sinclair returned at about 2:00 a.m. the next morning, Campbell-Williams was angry and she and Malcome began arguing, according to Sinclair's statement to police, which was later played to the jury. Sinclair told officers that he got between the couple to try to calm them down. According to Sinclair, Malcome never touched Campbell-Williams. Sinclair said he then saw Campbell-Williams grab something, which turned out to be a knife, and strike Malcome in the arm. Bleeding profusely, Malcome wrapped a blanket around his arm and told Sinclair, "let's go." The two left the apartment and Malcome asked Sinclair to take him to the hospital. After putting Malcome in the car, Sinclair instead drove him to the home of another friend, DeShawn Harvey. Harvey later testified that he found Malcome in the passenger seat with a blanket around his arm and a significant amount of blood in the car. By then, Malcome was still breathing but unconscious. Harvey called 9-1-1, but Malcome was later pronounced dead at the hospital. According to Gwinnett's Chief Medical Examiner, who conducted the autopsy, Malcome bled to death from a stab wound to his left forearm that completely severed his brachial artery. The medical examiner testified that without medical intervention, such a wound could prove fatal within 15-to-20 minutes. At the crime scene, Campbell-Williams told one of the responding officers that she and Malcome had gotten into an argument when he came home drunk and that he struck her on the right side of the head. She said she had grabbed a knife and stabbed him in the arm in self-defense. She told the lead detective the same thing, although he later testified that he did not observe any injuries to her.

Following a 2014 trial, the jury found Campbell-Williams guilty of felony murder and aggravated assault, and she was sentenced to life in prison. She now appeals to the Georgia Supreme Court.

ARGUMENTS: Campbell-Williams's attorney argues that her trial attorney provided constitutionally ineffective assistance of counsel by failing to request a separate jury instruction on "proximate cause/unforeseen intervening cause of death" related to the felony murder charge. Evidence was introduced at trial that Malcome's death was caused by an "unforeseen, independent intervening cause." In homicide cases, "the criminally accused's unlawful conduct that created the injury to the victim is the proximate cause of the reasonably foreseeable result of this criminal act so long as there is no independent and unforeseen intervening cause," the attorney argues in briefs. "Generally, the independent and unforeseen intervening cause of death must occur after the criminally accused's unlawful act has concluded." Here, evidence was presented at trial that Malcome's friend, Sinclair, refused to drive Malcome to the hospital for medical intervention, which could have saved his life. "This independent, unforeseen act of Mr. Sinclair severed Appellant's (i.e. Campbell-Williams's) criminal responsibility for the death of the deceased as Appellant was no longer the proximate cause of death because the deceased may have survived if Mr. Sinclair would have driven the deceased to the hospital for medical care...." There was strong evidence in this case for a jury "to determine that Mr. Sinclair's failure to seek medical care for his best friend who was stabbed with a knife and ignoring the deceased's immediate cry for medical intervention, was an independent and unforeseen intervening cause of death and hence, prejudiced the outcome of the case concerning the felony murder count," the attorney argues. The trial attorney's failure to instruct the jury on this critical principle of law likely affected the outcome of the proceedings. Also, the trial court erred in admitting Sinclair's pre-trial statements as evidence, the attorney argues. Sinclair died before the trial in an unrelated

car crash, and the court allowed in as evidence his recorded statements to police. Malcome's mother also was permitted to testify what Sinclair had told her about Malcome's death. Specifically, she said Sinclair had told her that as he and Malcome arrived at his home, Campbell-Williams, who was infuriated with Malcome, pushed him, grabbed a knife, and angrily came at him. Malcome's mother said Sinclair then heard Malcome exclaim, "she done stabbed me." "The introduction of evidence of Mr. Sinclair's rendition of the stabbing was devastating to Appellant's liberty as Mr. Sinclair asserted that the deceased was peaceful and not aggressive," the attorney argues. "Hence, Appellant's convictions and sentences must be reversed."

The State, represented by the District Attorney's and Attorney General's offices argues that neither of Campbell-Williams's enumerations of error has merit. "As to her claims of error regarding jury instructions, the facts presented at Appellant's trial did not support a separate charge on proximate cause, and the court's jury charges as a whole adequately addressed the issue. As a result, she can demonstrate neither plain error nor ineffective assistance of counsel," the State argues in briefs. "With regard to the trial court's evidentiary ruling, which deemed certain statements admissible under Georgia's 'residual hearsay exception,' Appellant cannot show that the trial court abused its broad discretion." Therefore, the State urges the Supreme Court to "UPHOLD the trial court's decisions and AFFIRM Appellant's convictions and life sentence."

Attorney for Appellant (Campbell-Williams): Brian Steel

Attorneys for Appellee (State): Daniel Porter, District Attorney, Samuel d'Entremont, Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Michael Oldham, Asst. A.G.

PRIESTER V. THE STATE (S20A0444) and THE STATE V. PRIESTER (S20X0445)

A man is appealing his murder conviction for the shooting death of an alleged marijuana dealer in **Chatham County**.

FACTS: On March 15, 2016, **Vernon Toman Priester** went to visit Akhil Heyward, who lived with his mother, Traci Taylor, and father, Louis Heyward. Early the next morning, Priester sat on the couch with Akhil and his girlfriend and asked Akhil, who was known to deal marijuana, how much marijuana he had. The girlfriend later said the question struck her as the type one would ask if he were thinking of robbing someone. As Priester and Akhil were talking, suddenly Priester jumped up, pulled out a gun, and ordered Akhil and his girlfriend to lie down on the ground. Instead, they both ran, with Akhil headed toward the front door and his girlfriend headed to the back room where Akhil's father, Louis Heyward, was sleeping. As she ran, she heard shots being fired; Priester was shooting Akhil as he fled. Akhil was hit five times in his back, leg, and the back of his head. He died at the scene. After hearing the shots, Akhil's mother, father, and girlfriend ran into the living room to restrain Priester. During the struggle, Priester fired multiple rounds, hitting both Akhil's mother and father and injuring them.

In May 2016, a Chatham County grand jury returned a 20-count indictment, charging Priester with malice murder (Akhil), two counts of criminal attempt to commit felony murder (Akhil's mother and father), attempted robbery, three counts of aggravated battery (Akhil and his mother and father), and other crimes.

Prior to trial, Priester filed a motion seeking to prevent two of the State's witnesses, Christopher Cason and Tyrone Gadson, from testifying. The judge denied the motion. At trial,

the State presented evidence that both Priester and Akhil were drug dealers, and the motive for the killing was robbery. Cason testified that he had known Priester for nearly a year because he had bought drugs from Priester, including marijuana and heroin. He had noticed, however, that Priester's drug business had been suffering lately. The day of the and murder, Priester texted Cason and asked if he knew anyone that he could "pull a lick off on." "Lick" is street slang for robbery. Gadson, who testified that he too purchased drugs from Priester, had also noticed that Priester's business had recently slacked off because the quality and quantity of Priester's drugs were declining. Gadson testified that he knew Priester owned a 9-milimeter pistol similar to the one used during the crimes. Following a September 2017 trial, Priester was found guilty on all counts and he was sentenced to life plus 85 years in prison. Priester now appeals to the state Supreme Court, and the State appeals in a cross-appeal.

ARGUMENTS: Priester's attorney argues that the trial court erred in admitting testimony from Cason and Gadson regarding by Priester's drug dealings. This "bad character" evidence did not meet admissibility exceptions under Georgia Code § 24-4-404 (b), which states: "Evidence of other crimes, wrongs, or acts shall not be admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, including, but not limited to, proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Cason's and Gadson's testimony did not constitute "intrinsic evidence connected with the charged crimes," the attorney argues in briefs. "The questioned evidence consisted of speculation by two different witnesses that Appellant [i.e. Priester] had a deteriorating drug business, based on observations of less traffic." In this case, "the evidence of bad character is, in effect, substituted for the issue of motive, to give the jury a reason for the shootings – Appellant was a drug dealer; hence, a bad, violent man," the attorney argues. "However, the State does not connect the character evidence to the shooting in a manner to demonstrate motive, apart from speculation and innuendo. The bad character evidence was neither relevant nor material." This error was not harmless "as the evidence is unclear about how the homicide occurred and why it occurred."

The State, represented by the District Attorney's and Attorney General's offices argues that evidence of Priester's failing drug dealing business was properly admitted as intrinsic evidence to the charged offenses. Cason testified that Priester's drug business was failing and he was looking to "pull a lick off on someone." "This evidence was intrinsic to the attempted armed robbery and murder of Akhil," the State argues in briefs. "Further evidence presented at trial that robbery was the motive behind the killing of Akhil was the testimony of [Akhil's girlfriend] stating: 1) that the type of questions Defendant was asking Akhil just before he opened fire were ones that one would ask if they were interested in robbing someone; and 2) just before Defendant started shooting, he pulled a gun and told everyone to get on the ground." Furthermore, the "evidence was relevant to an issue other than defendant's character," the State argues. "The evidence that Defendant's business was failing and that he was looking for someone to rob is relevant to show his motive and intent, both proper purposes under § 24-4-404 (b), the State contends. Even if the evidence was erroneously admitted, the error was harmless and does not require reversal of the judgment, the State contends.

ARGUMENTS (S20X0445): In this cross-appeal, the State argues the trial court erred in merging Priester's attempted murder counts into the aggravated battery counts for the purpose of sentencing. "Attempted murder should not merge into attempted battery as a matter of law," the

State argues. As a result of this error, Priester was subject to a less serious prison term. Under Georgia law, aggravated battery is subject to a punishment of up to 20 years in prison while attempted murder is up to 30 years. “Based on the punishment alone, the legislature evidenced its belief that an attempt to murder someone is a more serious societal harm than is aggravated battery,” the State argues. “Defendant intended to and took steps to inflict the greatest harm on two people by intending to kill them and by taking a substantial step in doing so by shooting them.” While the deaths of Akhil’s father and mother were avoided, “Defendant’s greater culpability was in trying to kill them. The intended injury of death, the risk to the victims of death, and the public interest in deterring attempted murder all dictate that the aggravated battery count should merge into the attempted murder count,” the State argues.

Priester’s attorney argues that the trial court imposed the correct sentence by merging the counts alleging attempted murder into related aggravated battery counts. The trial court properly followed binding precedent of the Georgia Court of Appeals. Here, the actual injury and the risk of injury was less for attempted murder than for aggravated battery, the attorney argues. An attempted murder simply requires that someone take a “substantial step” toward the commission of that crime, whereas an aggravated battery requires that the defendant actually inflict bodily harm on another. Also, the variation in punishment is irrelevant here, as “the punishment aspect of an offense is irrelevant in the determination of whether that offense is included in another,” Priester’s attorney argues, citing the Court of Appeals’ 1982 decision in *Davis v. State*.

Attorney for Appellant (Priester): David Lock

Attorneys for Appellee (State): Meg Heap, District Attorney, Noah Abrams, Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Alex Bernick, Asst. A.G.