

**SUPREME COURT OF GEORGIA  
STATE OF GEORGIA**

**TLANI KAI ROBINSON**  
Appellant

V.

CASE NO. **S26A**1080

STATE OF GEORGIA,  
Appellee

**BRIEF OF APPELLANT TLANI KAI ROBINSON**

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### **BRIEF OF TLANI KAI ROBINSON**

In a twelve county indictment, Tlani Kai Robinson was found guilty by a jury of only count 4 felony murder: as to attempted purchase of marijuana.”; And count 10: attempted purchase of marijuana. ( R 49,50), Verdict Form, (T1403,1404; S23). She was found not guilty of count 7 armed robbery and count 12 (possession of a weapon by a first offender probationer),. ( R 49, 50; T 1403,4). There was a hung jury on count 1 (malice murder); count 2 felony murder (armed robbery); count 3 felony murder (aggravated assault); count 6 (armed robbery) hung jury; count 8 (aggravated assault); count 9 (aggravated assault); count 11 (possession of a firearm during). Tlani Robinson was sentenced to life in prison with parole); the conviction for attempted purchase merging. ( R 50: Sentencing Tr. 22 ) The State announced that it would not prosecute the remaining counts. (Sentencing Tr. P. 2)

### **I. ENUMERATION OF ERRORS .**

1. The evidence is insufficient to enable a rational trier of fact to find proof of guilt of felony murder beyond a reasonable doubt; The attempted purchase of marijuana did not “cause the death” of the Victim. OCGA 16-5-1 ©

2. The offense of attempted purchase of marijuana cannot support a conviction for felony murder as “nondangerous felonies...[cannot support felony murder] unless attendant circumstances create a foreseeable risk of death.” The attempted purchase of marijuana did not “cause the death” of the Victim. See OCGA 16-5-1 c.

3. The verdict of guilty to felony murder (attempted purchase of marijuana) is

not consistent with the other verdicts of this jury, in fact the verdicts are repugnant and mutually exclusive.

4. The lead detective was allowed to give improper opinion and conclusion testimony as to identity based on a courtroom viewing of a video, over objection. (T776-779); an objection and continuing objection were both made (T776-779)

. 5. The Defendant was denied his Sixth Amendment right to effective assistance of trial as follows:

A. The Defendant did not have sufficient time to prepare for trial as trial counsel was appointed only 2 weeks before trial and meet with Defendant no more than two times in preparation for trial. (Defendant's testimony at 11/20/2025 Amended Motion For New Trial Hearing, pp. 4-6);

B. Trial counsel failed to file a bifurcation of the prior conviction for possession of a dangerous weapon;

C. Trial counsel failed to move, in writing or orally, for a motion for severance from the codefendant.

#### STATEMENT OF JURISDICTION

This is an appeal from a murder conviction resulting in life without parole. (T599-601; Rpp.246-248) The Supreme Court of Georgia has jurisdiction. Article VI, Section VI, Paragraph III of the Georgia Constitution; OCGA 15-3-3.1 (2017).

## **II. STATEMENT OF FACTS**

This was allegedly an attempted marijuana sale transaction gone bad.

In a twelve county indictment, Tlani Kai Robinson was found guilty of only count 4 felony murder: as to attempted purchase of marijuana.”; And count 10: attempted purchase of marijuana. R 49,50, Verdict Form R 49). She was found not guilty of count 7 armed robbery and count 12 (possession of a weapon by a first offender probationer),. ( R 49, 50; T 1403,4). There was a hung jury on count 1 (malice murder); count 2 felony murder (armed robbery); count 3 felony murder (aggravated assault); count 6 (armed robbery) hung jury; count 8 (aggravated assault); count 9 (aggravated assault); count 11 (possession of a firearm during). Tlani Robinson was sentenced to life in prison. ( R 50: Sentencing Tr. P. 22).

Further facts will be set forth herein.

## **III. ARGUMENT**

1. The evidence is insufficient to enable a rational trier of fact to find proof of guilt pf felony murder beyond a reasonable doubt.

The evidence was insufficient. Jackson v. Virginia, 443 U.S. 307 (1979); Taylor v. State, 303 Ga. 624 (2018). See also; Pattern Charge 2.10.30; Ford v. State, 262 Ga. 602 (1992): The felony murder rule is not applicable to “nondangerous felonies...unless attendant circumstances create a foreseeable risk of death.” See also Hulme v. State, 273 Ga. 676 (2001); Mosely v. State, 272 Ga. 881 (2000); Davis v. State, 290 Ga. 757 (2012); Wilson v. State, 315 Ga. 728 (2023). The attempted purchase of marijuana did not “cause the death” of the Victim. OCGA 16-5-1 c.

The underlying felony was an attempted marijuana transaction, not the sale of dangerous drugs. Nor in this case was the death a foreseeable consequence of the attempted purchase.

2. The offense of attempted purchase of marijuana cannot support a conviction for felony murder: “nondangerous felonies... [cannot support felony murder] unless attendant circumstances create a foreseeable risk of death.”

The offense of attempted purchase of marijuana cannot support a conviction for felony murder: “nondangerous felonies...unless attendant circumstances create a foreseeable risk of death.” Ford v. State, 262 Ga. 602 (1992) See also Hulme v. State, 273 Ga. 676 (2001); Mosely v. State, 272 Ga. 881 (2000); Davis v. State, 290 Ga. 757 (2012); Wilson v. State, 315 Ga. 728 (2023). The attempted purchase of marijuana did not “cause the death” of the Victim. OCGA 16-5-1 c.

3. The verdict of guilty to felony murder (attempted purchase of marijuana) is not consistent with the other verdicts of this jury, in fact the verdicts are repugnant and mutually exclusive.

The jury actually acquitted the Defendant of armed robbery and felony murder by possession of a firearm by a first offender probationer. The jury did not reach a verdict on seven other counts.

The mutually exclusive rule is set forth in Thomas v. State, 190 Ga. App. 586, 587 (1991) and Strong v. State, 223 Ga. App. 434, 435 (1996). The mutually exclusive rule is predicated on the US Supreme Court case of United States v. Powell, 469 U.S. 60, 69 (1984): “Nothing in this opinion is intended to decide the proper resolution of a situation where a defendant is convicted of two

crimes, where a guilty verdict on one count logically excludes a finding of guilt on the other.” The Georgia Supreme Court some verdicts that require contradictory findings of the same mental state are legally repugnant and must be vacated. McElrath v. Georgia, 144v S.Ct. 651 (2023) and McElrath v. State, 308 Ga. 104 (2020). The ultimate question here is that there was no verdict of malice murder nor conviction for a violent or dangerous felony.

4. The lead detective was allowed to give improper opinion and conclusion testimony as to identity based on a courtroom viewing of a video, over objection. (T776-779).

The lead detective was allowed to give improper opinion and conclusion testimony as to identity based on a courtroom viewing of a video, over objection. (T776-779). Carter v. State, 326 Ga. App. 144 (2014); Dickey v. State, 313 Ga.593 (2022); Grimes v. State, 291 Ga. App. 58 (2008). A objection and continuing objection were both made (T776-779)

5. The Defendant was denied effective assistance of trial counsel:

A. The Defendant did not have sufficient time to prepare for trial as trial counsel was appointed only 2 weeks before trial and meet with Defendant no more than two times in preparation for trial. (Defendant’s testimony at 11/20/2025 Amended Motion For New Trial Hearing pp. 4-6);

B. Trial counsel failed to file a bifurcation of the prior conviction for possession of a dangerous weapon;

C . Trial counsel failed to move, in writing or orally, for a motion for severance from the codefendant.

The representation here was so deficient that prejudice is presumed. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039 (1984). "(C)ounsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." *Id.* Accord Carter v. State, 176 Ga. App. 632,633 (1985). "(C)ounsel failed to function in any meaningful sense as the government's adversary." Cronin, *supra*. Accord Cook v. State, 255 Ga. 565 (1986). "In certain Sixth Amendment contexts, prejudice is presumed. Actual or constructive denial of the assistance of counsel altogether is legally presumed to result in prejudice." Strickland, *supra*, 104 S. Ct. 2067. The Supreme Court of Georgia has also held that in certain cases there is a presumption of prejudice. Cochran v. State, 262 Ga. 106 (1992); Ross v. Kemp, 260 Ga. 312 (1990). Accord Richardson v. State 189 Ga. App. 113 (1992). While the burden is on the Defendant to demonstrate a constitutional violation: "There are, however, circumstances that are so likely to prejudice the accused that the cost of litigating their effect in a particular case is unjustified." Cronin, *supra*, 104 S.Ct. 2046.

"We hold that the proper approach instead is to consider collectively the prejudicial effect, if any, of trial court errors, along with the prejudice caused by deficient performance of counsel." State v. Lane, 838 SE2d 808, 519A1424 (2/10/2020) p. 20.

The Cronin presumption of prejudice arises in this case for three reasons. First, because the trial counsel failed to present an effective defense with no opening statement and failed to present the affirmative defenses of mutual combat and justification.

Second, prejudice is presumed because trial counsel failed to function in any meaningful sense as the government's adversary. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039 (1984).

"In determining whether the defendant has established that counsel's performance was constitutionally deficient, the court should keep in mind that 'counsel's function ... is to make the adversarial testing process work in the particular case.'" Strickland v. Washington, 466 U.S. 668, 691, 104 S.Ct. 2052 (1984). " Thus, the adversarial process protected by the Sixth Amendment requires that the accused have 'counsel acting in the role of an advocate.'" Cronic, supra, 104 S.Ct. at 2045, quoting Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967). "(I)f the process loses its character as a confrontation between adversaries, the constitutional guarantee is violated." *Id.* A criminal trial should not be "a sacrifice of unarmed prisoners to gladiators." Cronic, supra, 104 S.Ct. at 2046, quoting United States ex rel. Williams v. Twomey, 510 F.2d 634,640 (7th Cir. 1975). The representation here was so bad as to offend the old standard set out in Beavers v. State, 132 Ga. App. 94 (1974) where "the trial was a farce, or a mockery of justice, or was shocking to the conscience of the reviewing court, or the purported representation was only perfunctory, in bad faith, a sham, a pretense, or without an adequate opportunity for a conference and preparation." Here as in Wilcoxon v. Aldredge, 192 Ga. 634 (1941), the Defendant was "virtually unrepresented." "Circumstances of (this) magnitude" demand "that a presumption of prejudice is appropriate without inquiry into the actual conduct of the trial." Cronic, supra, 104 S.Ct. at 2047.

Third, "ineffectiveness is 'so pervasive here that a particularized inquiry into prejudice would be 'unguided speculation.'" Cochran v. State, 262 Ga. 106, 107 (1992), quoting House v. Balkcom, 725 F.2d 608, 620 (1984), quoting Cronic, supra. Here as in Cochran, supra, there was a total failure of trial presentation.

"We hold that the proper approach instead is to consider collectively the prejudicial effect, if any, of trial court errors, along with the prejudice caused by deficient

performance of counsel." State v. Lane, 838 SE2d 808, 519A1424 (2/10/2020) p. 20. As argued herein, the representation here was so deficient that prejudice is presumed. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039 (1984). "(C)ounsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Id. Accord Carter v. State, 176 Ga. App. 632,633 (1985). "(C)ounsel failed to function in any meaningful sense as the government's adversary." Cronin, *supra*. Accord Cook v. State, 255 Ga. 565 (1986).

5. B & C Counsel failed to put forth an effective defense.

In failing to move for bifurcation of the charges and failure to file a motion to severance trial counsel was ineffective "[T]he cornerstones of effective assistance of counsel [are the] informed evolution of potential defenses to criminal charges and meaningful discussion with one's clients of the realities of his case." Gaines v. Hopper, 575 F.2d 147, 1149 (th Cir. 1978), "The decision to forego a line of defense, without substantial investigation, must be reasonable under the circumstances." Turpin v. Christensen, 269 Ga. 226, 228 (1998), citing Jefferson v. Zant, 263 Ga. 316, 319 (1993). Failure to put up the substantial defenses supported by the evidence, here, "was not reasonable under the circumstances." Jefferson v. Zant, 269 Ga. at 328.

#### **IV. CONCLUSION**

This Defendant deserves a new trial.

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**CERTIFICATE OF COUNSEL**

I certify that the Appellant, Tlani Kai Robinson, is indigent, having been represented throughout the proceedings below by a public defender and on appeal by a contract attorney for the GIDC. The Defendant has remained incarcerated since on or about 7/7/2025.

**RULE 20 PAGE/WORD LIMIT**

This submission does not exceed the word or page limits of Rule 20, Rules of the Supreme Court of Georgia and contains 9 pages and 2,282 words per Word Perfect 2025..

**S/J. M. RAFFAUF**

J.M. Raffauf

Bar # 591762

**CERTIFICATE OF SERVICE**

I hereby certify that on April 13, 2026 have served, by prior agreement, a copy this Brief of Appellant by email, upon:

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