

**SUPREME COURT OF GEORGIA
STATE OF GEORGIA**

SEQUOYAH HOWARD
Appellant

V.

CASE NO. **S26A**1087

STATE OF GEORGIA,
Appellee

BRIEF OF APPELLANT SEQUOYAH HOWARD

S/J.M. RAFFAUF

J.M. Raffauf

Bar # 591762

280 South Atlanta St.

Suite 310

Roswell GA 30075

404-452-6390

Raffaufmike@gmail.com

Sequoyah Howard

GDC ID# 1000480313

Pulaski State Prison

373 Upper4 River road

Hawkinsville GA 31036

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BRIEF OF SEQUOYAH HOWARD

Sequoyah Howard was convicted of malice murder for which she received life with parole and possession of a firearm for which she received 5 years to server suspended. (R49; T1296,97).

The defense was self defense. But the Defense was prohibited from presenting their evidence of self defense. The Victim was a convicted felon who was precluded by law from carrying a weapon. (MNT Hearing 2/09/2026) And the Defense was precluded from telling the jury that the Victim was the neighborhood drug dealer. (Id.). And the Defense was preclude from telling the jury that had six other felony convictions including armed robbery. (Id.)

At the time of this incident Sequoyah Howard was 34 years old and had two sons, 14 and 11. (T1060). She had been living in her apartment in Atlanta for 5 years. (T1061) She did not know the Victim personally but knew of him. (T1063) She said she was “afraid” of th4e Victim (T1064). She had several interactions the Victim that made her uncomfortable, especially when he was around her children outside. (T1067) She even went to the Courthouse with her uncle to get a TO on him, but the courthouse was closed. (T1067) She even presented the TO form. (T1069 Defense Ex 1) The TO was based on her neighbor’s statement that the Victim was “banging on my door threatening to shoot up my house with my children inside. That’s scary.” (T1070). Another time, the Victim was walking outside her door waving a gun. (T1071) The Victim said: “Bitch, I’ll kill you and your kids. Bring your fat bass outside.” (T1071) The policed were called. (T1071) Another time the Victim chased him up the stairs and she called the police. (T1074). “I called the police three times, I want to say within an hour, and they never showed.” (T1075) Then she took out a criminal trespass warrant against him. (T1082).

After that he was not supposed to be near here apartment. (T1082). Then, one day, actually

the day of this incident, he walked up to her while she was sitting outside her apartment. T1083. She told the Vic trim: “Don’t walk up on me.” (T1083). She then pulled a gun from her bag on him. (T10-84) The Victim responded: “I don’t give a fuck about any of that.” (T1084). When she tried to put out her arm to block him from approaching her, he pushed her. (T1085). She then saw the Victim’s gun and she fired her gun at him. (T1086). “I was scared when I saw his gun and I didn’t know what he was going to do to me., and I wasn’t going to give him the opportunity to find out.” (T1089).

I. ENUMERATION OF ERRORS .

1. The evidence was insufficient to enable the trier of fact to find proof of guilt beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 318, 99 S.Ct. 2781 (1979). The evidence was not sufficient “to exclude every other reasonable hypothesis save that of guilt.” Accord Neely v. State, 302 Ga. 121 (2017).

2. The trial Court erred in precluding the Defense from presenting evidence that would have supported the defense of self defense. (T391, 394, 396)

A. Evidence that the Victim was a convicted felon and therefore precluded from carrying a weapon. (T394-396) See Morris v. State, 303 Ga. 321, II (2018, noting the Victim’s’s certified weapon’s conviction admitted over state’s objection.

B. That the Victim was the neighborhood drug dealer. T394-396) “Evidence of a victim’s violent character and general reputation for violence may be admitted upon ‘a prima facie showing that the victim was the Aggressor.’” Smith v. State, 267 GA. 372, (1996).

C. That the victim had a conviction of armed robbery and six other felonies.(T394, 396)

Jones v. State, 311 Ga. 455, 463 (2021). For evidence of other crimes to be admissible for “other purposes” there must be a showing that 1) the evidence is relevant to the case other than the character; 2) the probative value is not outweighed by its undue prejudice; 3) there is sufficient proof to find by a preponderance of the evidence that the act was committed..

D. The Defendant had a prior interaction with the drug dealer and told him to stop dealer drugs around her house. (T391)

3. The trial court committed plain error in failing to charge the jury on the lesser included of voluntary manslaughter in accordance with Edge v. State, 261 Ga. 865 (1992) and Pattern Charge No. 2.10.40.

4. The Defendant was denied effective assistance of counsel when trial counsel failed to request Pattern Charge # 2.10.40 and failed to object to the trial court’s failure to give that charge. (T1269) Edge v. State, 261 Ga. 865 (1992)

5. The trial court erred when it gave a general and vague rather than a specific corrective instruction to the jury when defense counsel misstated the evidence that the Victim was a convicted felon. (T 1217 “[During the defense’s closing argument, an argument has been made that is not based on any evidence presented in this case. The argument, that portion of it was inappropriate and inadmissible. It is not for your consideration. You, the jury should disregard it.”)

STATEMENT OF JURISDICTION

This is an appeal from a murder conviction resulting in life with parole. (T1296,7; R 49) 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

The Defense in this murder case was self defense. But the Defense was prohibited from presenting the evidence of self defense. The Victim was a convicted felon who was precluded by law from carrying a weapon. (MNT Hearing 2/09/2026) And the Defense was precluded from telling the jury that the Victim was the neighborhood drug dealer. (Id.). And the Defense was precluded from telling the jury that the Victim had six other felony convictions including armed robbery. (Id.)

“You’re not going to be able to do those three things.” (T391)

That he’s a known drug dealer, that he’s selling drugs, that he selling drugs, that they had a prior interaction where she said you really need to stop selling drugs around my house, selling drugs, being a drug dealer, these are excluded.

Further facts will be set developed herein.

III. ARGUMENT

1. The evidence was insufficient to enable the trier of fact to find proof of guilt beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 318, 99 S.Ct. 2781 (1979). The evidence was not sufficient “to exclude every other reasonable hypothesis save that of guilt.” Accord Neely v. State, 302 Ga. 121 (2017).

2. The trial Court erred in precluding the Defense from presenting evidence that would have supported the defense of self defense. (T391, 394, 396)

A. Evidence that the Victim was a convicted felon and therefore precluded from carrying a weapon. (T394-396) See Morris v. State, 303 Ga. 321, II (2018, noting the Victim’s’s certified weapon’s conviction admitted over state’s objection.

B. That the Victim was the neighborhood drug dealer. “Evidence of a victim’s violent character and general reputation for violence may be admitted upon ‘a prima facie showing that the victim was the Aggressor.’” Smith v. State, 267 Ga. 372, (1996).

C. That the victim and a conviction of armed robbery and six other felonies.(T394, 396) Jones v. State, 311 Ga. 455, 463 (2021). For evidence of other crimes to be admissible for “other purposes” there must be a showing that 1) the evidence is relevant to the case other than the character; 2) the probative value is not outweighed by its undue prejudice; 3) there is sufficient proof to find by a preponderance of the evidence that the act was committed.

D. The Defendant had a prior interaction with the drug dealer and told him to stop dealer drugs around her house. (T391)

But the trial court granted the State’s Motion to exclude all four avenues of evidence: “You’re not going to be able to those tyhrere things.” (T391 (Court’s ruling))

See also Morris v. State, 303 Ga. 192 (2018) that mentions that Defense was able to put intro evidence the Victim’s certified weapons conviction in a self defense case. And in Smith v. State, 270 Ga. 240 (1998) the Court reversed where the trial court precluded similar acts of the Victim in a self defense case. Accord Chandler v. State, 261` Ga. 402, 405 (1991).

3. The trial court committed plain error in failing to charge the jury on the lesser included of voluntary manslaughter in accordance with Edge v. State, 261 Ga. 865 (1992) and Pattern Charge No. 2.10.40.

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No. 2.10.40: After consideration of all the evidence, before your would be authorized to return a verdict of guilty of (malice murder) (felony murder), you must first determine whether mitigating circumstances, if any, would cause the offense to be reduced to voluntary manslaughter.”) This error was compounded by the jury verdict form ® ____); which is contrary to Edge v. State, 261 Ga. 865 (1992). See also Morris v. State, 303 Ga. 321C (2018).

The jury verdict form actually said: “You may chose only ONE of the following THREE Options.” (R51). Those three choices were in order: Option 1: Murder; Option 2: Voluntary Manslaughter; Option 3: Not Guilty. (R51) Self defense was not even mentioned ion the Verdict Form. (R51).

4. The Defendant was denied effective assistance of counsel when trial counsel failed to request Pattern Charge # 2.10.40 and failed t object to the trial court’s failure to give that charge. (T1269; R 41,49) Edge v. State, 261 Ga. 865 (1992)

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." Cronic, 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 Cronic 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. Cronic, 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.

Trial Counsel failed to put forth an effective defense."[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.

The entirety of the representation must be considered. "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. The trial court erred when it gave a general and vague rather than a specific corrective instruction to the jury when defense counsel misstated the evidence that the Victim was a convicted felon. (T 1217 "[During the defense's closing argument, an argument has been made that is not based on any evidence presented in this case. The argument, that portion of it was inappropriate and inadmissible. It is not for your consideration. You, the jury should disregard it.") A specific and explanatory instruction is often more effective than a general, conclusory one. The "Court has consistently stressed the importance of . . . specificity when trial judges provide curative instructions to alleviate potential prejudice to a defendant from inadmissible evidence that has seeped into a trial." Vallejo, 198 N.J. at 135. "[B]ecause 'the inherently prejudicial nature of [404(b)] evidence casts doubt on a jury's ability to follow even the most precise limiting instruction,' the court's instruction 'should be formulated carefully to explain precisely the permitted and prohibited purposes of the evidence . . .'" State v. Fortin, 162 N.J. 517, 534 (2000) (quoting State v. Stevens, 115 N.J.

289, 309, 304 (1989)). See also State v. Cofield, 127 N.J. 328, 341 (1992)

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IV. CONCLUSION

Sequoyah Howard deserves a fair trial where she can present the jury with all the facts supporting her self defense.

/S/ J.M. RAFFAUF

J.M. Raffauf

Bar # 591762

280 South Atlanta St.

Suite 310

Roswell GA 30075

404-452-639

Raffaufmike@gmail.com

CERTIFICATE OF COUNSEL

I certify that the Appellant, SEQUOYAH Howard, 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 02/06/2023.

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 10 pages and 2,979 words per Word Perfect 2025.

S/J. M. RAFFAUF

J.M. Raffauf

Bar # 591762

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2026 have served, by prior agreement, a copy this Brief of Appellant by email, upon:

Charles Jones, Jr., ADA
ruth.pawlak@fultoncountyga.gov
Fulton County District Attorney
136bPryor St.
Atlanta GA 30303

Mathew Plott, AAG
Office of the Georgia Attorney General
40 Capitol Square
Atlanta GA 30334
404-369-0299
mplott@law.ga.gov

Sequoyah Howard
Pulaski State Prison
GDC ID# 1000480313
373 Upper River Road
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S/J. M. RAFFAUF
J.M. Raffauf
Bar # 591762
280 South Atlanta St/
Suite 310
Roswell GA 30075
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