

Docket No. S26A1087

In the Supreme Court of Georgia

SEQUOYAH HOWARD

Appellant

v.

THE STATE

Appellee

**BRIEF OF APPELLEE BY THE
DISTRICT ATTORNEY**

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SUMMARY OF THE ARGUMENT

Sequoyah Howard admits to shooting and killing Mario Peterson but claims that she did so in self-defense. The jury rejected that argument, relying on testimony of many repeated instances of Howard saying she wanted to shoot and kill Peterson.

On appeal, Howard argues that the trial court should have permitted evidence of Peterson's prior convictions, to show that he should not have been in possession of a gun, and that he was the neighborhood drug dealer. But the trial court properly excluded this proposed evidence. First, violent character could be shown only by reputation evidence, not by specific bad acts; Second, drug dealing is not a crime of violence and does not establish violent character. Finally, Howard was not aware of Peterson's specific criminal history, so it was irrelevant to her state of mind at the time of the shooting.

Among other miscellaneous claims, Howard also argues that, when her trial counsel made an improper remark during closing argument to matters not in evidence, the trial court was legally required to repeat that remark to the jurors, thus emphasizing it, in giving a specific instruction to disregard it. On the contrary, the trial court's general instruction that an improper argument was made and that jurors should disregard it was well within the court's discretion to craft a curative instruction that did not re-emphasize the offending argument.

STATEMENT OF THE CASE

A Fulton County jury convicted Sequoyah Howard of murder, felony murder, aggravated assault with a deadly weapon, and possession of a firearm during the commission of a felony, in the shooting death of Mario Peterson.¹ The trial court sentenced her to life with the possibility of parole on the murder charge, plus 5 consecutive years (suspended) on the firearm charge.² Howard timely moved for a new trial,³ which the trial court denied⁴ after a hearing.⁵ This appeal timely followed.⁶

STATEMENT OF THE FACTS

All parties in this case agree that Sequoyah Howard shot and killed Mario Peterson.⁷ Howard claims she did so in self-defense, but the evidence tells a different story.

Howard and Peterson had many difficulties with each other prior to the shooting. During that time, Howard made repeated references to wanting to shoot and/or kill Peterson. These remarks were heard by Corri Page,⁸ Laronda

¹ V1, pp. 166-171.

² Id. at pp. 162-163. The remaining charges were merged or vacated by operation of law.

³ Id. at pp. 172-173.

⁴ Id. at pp. 195-201.

⁵ V14.

⁶ V1, pp. 3-4.

⁷ V11, pp. 30-33, 36.

⁸ V8, p. 228 (“She kept saying she was going to shoot him if he came over. If she caught him out there messing with her again or whatever, she was going to shoot... if she shot him, she would be – she would get away with it.”).

Anthony,⁹ Charica Bailey,¹⁰ Shirley Ndeti,¹¹ and apartment manager Danielle Calhoun.¹² She talked about this in the neighborhood and even at her job.¹³ She even asked a police officer, who had been dispatched to a complaint she had made about Peterson, “so I can just shoot him.”¹⁴ When the officer said that she shouldn’t do so, Howard replied, “I wish I could just shoot him.”¹⁵ On June 24, 2021, at Vanira Villiage Apartments in Fulton County, Georgia, Howard’s wish came true.¹⁶

That night, Peterson and another resident of Vanira Village were having a verbal dispute.¹⁷ Howard, who had been sitting in the stairwell, stood up and interjected herself, telling Peterson that he was not supposed to be there and needed to leave.¹⁸ When he refused, Howard pushed Peterson, and he slapped her hand away.¹⁹ She pushed him again,²⁰ and when he pushed her back, Howard shot him.²¹ Peterson died of this gunshot wound.²²

⁹ V9, p. 85 (“It was like every other day she was talking about if he just comes around her and just touch her one more time or doing anything to her, she was going to shoot him.”).

¹⁰ Id. at p. 108 (“She was saying that she was going to – if he came on the property or anything, he came by, she was going to murder him. She was going to kill him.”).

¹¹ Id. at p. 126 (“She was outside with somebody and said she wanted to kill him.”).

¹² Id. at p. 156 (“...she brought the gun in the office and told me she was going to shoot him if he didn’t leave her alone.”).

¹³ V8, p. 228.

¹⁴ V9, p. 273.

¹⁵ Id. at p. 260.

¹⁶ V10, p. 74.

¹⁷ V9, pp. 219-223.

¹⁸ V8, pp. 242-243, 253; V9, p. 82, 240-241.

¹⁹ V8, pp. 243, 254–55, 261; V9-46, 75, 231, 242.

²⁰ Id. at pp. 254, 261; V9-231, 242.

²¹ Id. at pp. 243, 254, 261; V9-47, 75, 231.

²² V10, pp. 124, 129, 132-135.

ARGUMENT AND CITATION TO AUTHORITY

I: The evidence was sufficient to authorize Howard’s convictions because the shooting was on video and seen by multiple witnesses, because Howard had previously expressed her desire to shoot and kill Peterson, and because the circumstantial evidence rule does not apply since there was direct evidence.

First, Howard claims that the evidence was insufficient as a matter of constitutional due process to authorize her convictions.²³

Howard’s first argument on this point is that the evidence “was not sufficient to exclude every reasonable hypothesis save that of guilt.”²⁴ But that requirement, a matter of Georgia statutory law, applies only where the evidence is **entirely** circumstantial. Where there is **any** direct evidence, the circumstantial evidence statute does not apply.²⁵ Here, the State presented direct evidence in the form of a surveillance video of the shooting as well as the testimony of multiple eyewitnesses to the shooting. Therefore, the circumstantial evidence statute does not apply and the State is not required to exclude every reasonable hypothesis other than guilt.²⁶

In evaluating the sufficiency of the evidence from a constitutional perspective, “the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have

²³ Brief of Appellant, p. 1. While Howard cites law establishing this Court’s power to review the evidence for constitutional sufficiency, she does not make an argument as to why the evidence in this case was not constitutionally sufficient. This Court should therefore deem this enumeration abandoned. *See Byrd v. State*, 321 Ga. 222, 225 (2025).

²⁴ Brief of Appellant, p. 6.

²⁵ *Jackson v. State*, 311 Ga. 626, 630 (2021) (“If there is any direct evidence presented by the State, the circumstantial evidence statute does not apply to a sufficiency analysis.”).

²⁶ *See Coston v. State*, 321 Ga. 760 (2025) (circumstantial evidence rule did not apply because a video of the shooting constituted direct evidence of the crime; it was a jury question as to whether it established identity).

found the essential elements of the crime beyond a reasonable doubt.”²⁷ This Court explains that “it is for the jury to determine the credibility of witnesses and to resolve any conflicts or inconsistencies in the evidence.”²⁸ “[T]he resolution of such conflicts adversely to the defendant does not render the evidence insufficient.”²⁹ In sum, “as long as there is some competent evidence, even though contradicted, to support each fact necessary to make out the State’s case, the jury’s verdict will be upheld.”³⁰

Whether a killing is justified under the governing law is a jury question.³¹ Here, witnesses testified that the initial verbal altercation was started by Howard, and that the victim was reacting to their aggression. Further, Howard had a pre-existing desire to shoot the victim. From this evidence, the jury was authorized to reject Howard’s claim of self-defense.³²

II: Howard’s proposed evidence attacking Peterson as being a convicted felon and “neighborhood drug dealer” was classic improper character evidence and thus properly excluded by the trial court.

Howard’s second argument is that the trial court should have allowed her to present evidence attacking Peterson’s character. Specifically: 1) that he “was a convicted felon and therefore precluded from carrying a weapon;” 2) that he “was the neighborhood drug dealer;” 3) that he “[had] a conviction for armed

²⁷ *Jackson v. Virginia*, 433 U.S. 307, 319 (1979).

²⁸ *Vega v. State*, 285 Ga. 32, 33 (2009).

²⁹ *Graham v. State*, 301 Ga. 675, 677 (2017).

³⁰ *Miller v. State*, 273 Ga. 831, 832 (2001).

³¹ *Howard v. State*, 298 Ga. 396, 398 (2016).

³² See *Giddens v. State*, 276 Ga. App. 353, 355 (2005) (jury authorized to believe a witness’ testimony that the victim made no threats to the defendant and that the defendant provoked the deadly encounter); *Maynor v. State*, 317 Ga. 492, 497 (2023) (jury authorized to reject defense of justification where, among other things, defendant previously expressed his desire to kill the victim).

robbery and six other felonies;” and 4) that Howard had a prior interaction with him and told him to stop dealing drugs around her house.³³ But this is classic propensity evidence, and the trial court thus properly excluded it.

While a victim’s violent character may be pertinent to a claim of self-defense, the fact that the victim may have been a drug dealer does not establish a violent character.³⁴ Dealing drugs is not a violent crime in and of itself. Similarly, the fact that the victim carried a gun, even though he was not supposed to do so as a convicted felon, is not a crime of violence and does not establish violent character.³⁵ At most, this was a status offense. The defense was not entitled to use it as a proverbial back door to besmirch the victim’s character by making it known to the jury that he was a convicted felon.

With respect to Peterson’s criminal history, precedent from this Court holds that, because a victim’s violent character is pertinent to, but not an essential element of, a self-defense claim, evidence of that character may be admitted only in the form of reputation or opinion evidence, not evidence of specific bad acts.³⁶ While Howard cites to *Morris v. State*, that case specifically dealt with only the victim’s **reputation**, not specific bad acts.³⁷ Thus, Howard’s attempt to offer evidence of specific bad acts (convictions) was properly denied. The trial court properly allowed Howard to explore Peterson’s reputation only.³⁸

³³ Brief of Appellant, pp. 6-7.

³⁴ See *Prather v. State*, 275 Ga. 268, 270 (2002) (victim’s past conduct did not show character for violence).

³⁵ See *Smith v. State*, 270 Ga. 240, 243 (1998), *overruled on other grounds by O’Kelley v. State*, 248 Ga. 758 (2008).

³⁶ *Wood v. State*, 320 Ga. 466, 470 (2024).

³⁷ 303 Ga. 192, 194 (2018) (“*Morris* asserts that the trial court erred in preventing the defense from questioning Little on cross-examination about Miller’s **reputation for violence and carrying a gun...**”) (emphasis added).

³⁸ V9, pp. 53-54.

Moreover, at the time of the shooting, Howard did not know the specific crimes for which Peterson had been convicted and imprisoned in the past.³⁹ Therefore, such evidence would have been irrelevant to her state of mind at the time of the shooting, and thus irrelevant to her claim of self-defense. The trial court properly exercised its discretion and excluded the evidence whose sole value would be to besmirch Peterson's character.

III: The trial court properly instructed the jury with respect to self defense and did not violate the *Edge* rule.

Howard next claims that the trial court erred “in failing to charge the jury on the lesser included of voluntary manslaughter in accordance with *Edge v. State*... and Pattern Charge No. 2.10.40.”⁴⁰ In support of her claim, she observes that the verdict form on Count 1 only included options for murder, voluntary manslaughter, and not guilty – and that self-defense was not included on the form. This argument lacks both factual and legal merit.

As a factual matter, the trial court did instruct the jury on voluntary manslaughter, by giving the pattern jury charge 2.10.40 requested by Howard.⁴¹ This instruction did not run afoul of *Edge v. State*⁴² – in fact the stated purpose of the instruction is to *comply* with that decision. In *Edge*, this Court disapproved of a sequential instruction, in which a jury was instructed that it could only consider voluntary manslaughter if it had already considered and found the defendant not guilty of murder.⁴³ No such sequential instruction was used here. Rather, the trial court properly instructed the jurors that, if they found that Howard had been sufficiently provoked, they could not find her

³⁹ V8, pp. 88-89.

⁴⁰ Brief of Appellant, p. 7.

⁴¹ V11, pp. 101-102; 206-207.

⁴² 261 Ga. 865 (1992).

⁴³ *Id.* at 867.

guilty of malice murder, but could find her guilty of voluntary manslaughter. The jurors simply did not so find.

Contrary to Howard's insinuation, the law does not require that an option for "self-defense" be placed on the verdict form. Rather, if the jury finds that a defendant was justified because he or she acted in self-defense, the correct verdict is one of "not guilty." The trial court so advised the jury in this case. "The State has the burden of proving beyond a reasonable doubt that the defendant's actions were not justified. If you decide the defendant's actions were justified, then it would be your duty to find the defendant not guilty."⁴⁴ Because the verdict form is read in conjunction with the trial court's instructions, there is no reason to believe that jurors were confused or otherwise misled by the verdict form.⁴⁵

IV: Howard's counsel did not render ineffective assistance for not requesting a pattern jury charge because she did request and receive the jury charge at issue.

Howard accuses her trial counsel of ineffective assistance for allegedly "fail[ing] to request Pattern Charge # 2.10.40 and fail[ing] t[o] object to the trial court's failure to give that charge."⁴⁶ But the record shows that Howard's counsel did in fact request that charge.⁴⁷ And the trial court did give the requested charge.⁴⁸ Therefore, this enumeration lacks merit.

Blended in with this enumeration are Howard's general complaints that her trial counsel failed to represent her at all and failed to subject the State's case to meaningful adversarial testing. She does not elaborate on these claims

⁴⁴ V11, p. 210.

⁴⁵ See *Rowland v. State*, 306 Ga. 59, 67-68 (2019).

⁴⁶ Brief of Appellant, p. 8.

⁴⁷ V1, p. 142.

⁴⁸ V11, pp. 101-102; 206-207.

or indicate what, specifically, counsel should have done better – except for the factually baseless claim regarding the jury instruction. Nor did she raise this claim before the trial court, or call counsel as a witness to explain her performance and decision making.

In claiming ineffective assistance of counsel, a defendant bears the burden of overcoming—by clear and convincing evidence—the “strong presumption” that counsel performed “within the wide range of reasonable professional lawyering.”⁴⁹ Mere allegations and repeated citations to broad legal standards, without explaining what counsel did wrong, are insufficient to meet this burden.

V: The trial court acted properly when it gave a general curative instruction in response to an improper argument by Howard’s counsel, instead of repeating it to the jury and thus emphasizing it.

Finally, Howard complains that, when her counsel made an improper statement in closing argument, the trial court should have given a specific curative instruction instead of the general instruction that it gave. Notably, Howard does not argue that the statement was proper, or that the trial court erred in sustaining the State’s objection to it. Rather, Howard wishes that the trial court had repeated the offending remark to the jury and then instructed them to disregard it. The law does not requires such a procedure. On the contrary, the trial court acted well within its discretion in giving a general curative instruction that did not emphasize the offending remark.

In her closing, counsel claimed that witness Corri Page had testified that Peterson “has a reputation for carrying a gun and... had a prior conviction for

⁴⁹ *Bridges v. State*, 286 Ga. 535, 537 (2010) (cleaned up).

carrying a gun.”⁵⁰ The State immediately objected on the ground that this was not in evidence.⁵¹ After reviewing Page’s testimony and concluding that the State was correct, the trial court decided to give a curative instruction and worked to craft an instruction that would not emphasize the offending argument to the jury.⁵² The language that it settled on was: “Ladies and gentlemen, during the defense’s closing argument, an argument was made that was 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.”⁵³ Howard’s counsel objected only to the word “inappropriate,” on the grounds that her remark was not intentional.⁵⁴ When the jury returned, the trial court gave the curative instruction, and closing argument resumed.⁵⁵

Because Howard’s counsel did not object to the curative instruction on any ground except the word “inappropriate,” this Court should review the matter for plain error only.⁵⁶ Such review requires, among other things, that there be a clear and obvious error; that is, not merely an error, but an error that is not subject to reasonable dispute.⁵⁷ Here, not only is there no clear and obvious error, there is no error at all, as the trial court properly took care not to emphasize the offending argument.

Howard’s citations to the contrary are not on point. She cites to law from another state requiring a specific and detailed instruction when evidence of

⁵⁰ V11, p. 155.

⁵¹ Id. at pp. 155-156.

⁵² Id. at pp. 160-163.

⁵³ Id. at p. 164.

⁵⁴ Id. at p. 163.

⁵⁵ Id. at p. 164.

⁵⁶ O.C.G.A. § 17-8-58(b).

⁵⁷ *Bowdery v. State*, 321 Ga. 890, 898-899 (2025).

prior bad acts is admitted under Rule 404(b). In such a case, the jury should indeed be instructed to limit its consideration of that evidence only to the purposes for which it has been properly admitted, and not to consider it for any other purposes (such as, most commonly, propensity).⁵⁸ That rule, based on the “inherently prejudicial nature” of 404(b) evidence,⁵⁹ has no application to the situation here.

Here, the court acted well within its discretion in crafting a curative instruction that did not repeat and re-emphasize the offending closing argument. Howard has cited no authority indicating that such an instruction was in any way defective or improper. To hold otherwise would allow a defendant to benefit from making an improper argument by requiring the trial court to repeat it to jurors. Therefore, this Court should respectfully reject this final enumeration of error.

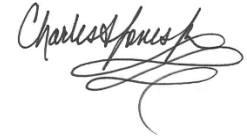
CONCLUSION

For the foregoing reasons, Howard’s appeal lacks merit. After a fair trial which fully respected his rights of due process, twelve of his fellow citizens had no reasonable doubt that she committed murder and related offenses. This Court should respectfully **AFFIRM** the convictions.

⁵⁸ *New Jersey v. Fortin*, 162 N.J. 517, 534 (2000).

⁵⁹ *Id.*

It is respectfully submitted on the 19th day of May, 2026 by the undersigned attorney, who certifies that this submission does not exceed the word count imposed by Supreme Court Rule 20.



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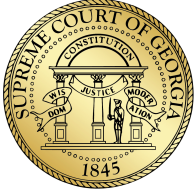
CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of May, 2026, I served a copy of the foregoing upon counsel for the Appellant, and the Office of the Georgia Attorney General, by e-mail service. I certify that there is a mutual agreement with those offices or attorneys to allow documents in a PDF format sent by e-mail to suffice for service. The Attorneys so served are:

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SUPREME COURT OF GEORGIA
Case No. S26A1087

May 18, 2026

SEQUOYAH HOWARD v. THE STATE.

Your request for an extension of time to file the brief of appellee in the above case is granted until May 19, 2026.

A copy of this order **MUST** be attached as an exhibit to the document for which the appellee received this extension.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.


, Clerk