



JUNE 29, 2015

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State v. Springer

The Supreme Court of Georgia holds that multiple guilty verdicts for the same conduct that are based on varying levels of mens rea are not mutually exclusive, and overrules Jackson v. State, 276 Ga. 408 (2003)

In *State v. Springer*, S14G1539 (June 29, 2015), the evidence showed that Springer and a co-defendant exchanged multiple gunshots in a parking lot, killing an innocent bystander. Springer was indicted on charges of felony murder, aggravated assault, and possession of a firearm during the commission of a crime. The jury ultimately found Springer guilty of involuntary manslaughter based on reckless conduct, aggravated assault, and possession of a firearm during the commission of a crime. Relying on *Jackson v. State, 276 Ga. 408 (2003)*, the Court of Appeals vacated Springer's involuntary manslaughter and aggravated assault convictions, finding the jury's verdicts are mutually exclusive because there was a reasonable probability that the jury concluded that Springer acted both with and without an intent to harm the victim when he discharged his gun in the parking lot.

Upon an examination of the basis for its ruling in *Jackson*, the Court, in a 5-2 decision, found that Justice Carley in his *Jackson* dissent was correct and should be followed. Justice Carley argued that because reckless conduct is a lesser included crime in an aggravated assault, requiring only a "less culpable mental state" or "lesser kind of culpability," verdicts finding a defendant guilty of both offenses are not mutually exclusive. The Court stated that in such cases, and especially where the lesser included crime does not require proof of the *absence* of a greater mens rea, the greater proof of a defendant's intent does not negate or contradict the lesser proof, but only subsumes it.

Moreover, the Court found, upholding *Jackson* would require a conclusion that proof of a greater mens rea cannot be used as proof to establish a lesser mens rea. "This proposition, like mutually exclusive verdicts, is neither logically nor legally sustainable." Thus, the Court noted, even assuming that a jury finds a defendant guilty of an assault under OCGA § 16-5-20 (a) (1), proof of commission of the lesser included offense of reckless conduct may be established by proof of the greater offense of aggravated assault predicated on subsection (a) (1), the essential distinction between these crimes being the level of mental culpability. Such distinction does not mean that findings of guilt as to both offenses are irreconcilable or that if the State proves the greater mens rea, a jury would not be authorized to convict of the lesser included crime based on the finding of the greater. "One cannot and should not be allowed to defend against a lesser

State Prosecution Support Division



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included charge by proving that he is more culpable.” Accordingly, the Court concluded, multiple guilty verdicts for the same conduct that are based on varying levels of mens rea are not mutually exclusive. Therefore, the Court overruled *Jackson* and its progeny, and held “that where the evidence authorizes a finding that a defendant’s reckless conduct is an included crime in an aggravated assault, verdicts finding him guilty of both of those offenses are not mutually exclusive.”

In so holding, however, the Court distinguished cases where a jury returns verdicts convicting a defendant of two or more crimes and the existence of an element of one of the crimes *negates* the existence of a necessary element of another crime. See, e.g., *Thomas v. State*, 261 Ga. 854, 855 (1) (guilty verdicts on charges of armed robbery and theft by receiving mutually exclusive because essential element of theft by receiving is that the goods are stolen by someone other than the accused).