

04-1327 HOLMES V. SOUTH CAROLINA

DECISION BELOW:605 SE2d 19

LOWER COURT CASE NUMBER: 25886

QUESTIONS PRESENTED:

In South Carolina, a criminal defendant's evidence of third-party guilt is inadmissible if, when comparing this evidence standing alone against the prosecution's evidence, the trial court finds that it fails to create a reasonable inference of innocence. In making this comparison, if the trial court finds the prosecution's evidence -- and especially its forensic evidence -- to be "strong," third-party guilt evidence is per se inadmissible because it is deemed, as a matter of law, to be insufficient to "overcome" the prosecution's evidence so as to create a reasonable inference of innocence.

1. Whether South Carolina's rule governing the admissibility of third-party guilt evidence violates a criminal defendant's constitutional right to present a complete defense grounded in the Due Process, Confrontation, and Compulsory Process Clauses?
2. Whether a capital defendant is denied due process when a prosecutor successfully moves for the exclusion of third-party guilt evidence and then, in closing argument, urges the jury to find the defendant guilty because of the absence of such evidence?

CERT. GRANTED 9/27/2005

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.