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STATE OF CONNECTICUT *v.* VICTOR SMALLS  
(SC 19014)

Rogers, C. J., and Palmer, Zarella, Eveleigh, McDonald, Espinosa and  
Robinson, Js.

Argued April 23—officially released June 10, 2014

*Raymond L. Durelli*, assigned counsel, for the appellant (defendant).

*Rita M. Shair*, senior assistant state's attorney, with whom were *David I. Cohen*, state's attorney, and, on the brief, *James Bernardi*, supervisory assistant state's attorney, for the appellee (state).

*Opinion*

PER CURIAM. The defendant, Victor Smalls, was convicted, after a jury trial, of murder in violation of General Statutes § 53a-54a and carrying a pistol without a permit in violation of General Statutes § 29-35 (a). The trial court rendered judgment in accordance with the jury's guilty verdict and sentenced the defendant to a total effective sentence of forty-five years imprisonment. The defendant appealed from the trial court's judgment to the Appellate Court, claiming, inter alia, that the trial court improperly concluded that there was sufficient evidence to sustain the defendant's conviction for murder as either a principal or as an accessory. *State v. Smalls*, 136 Conn. App. 197, 202, 44 A.3d 866 (2012).<sup>1</sup> The Appellate Court concluded that "[a]lthough the evidence did not reveal whether it was the defendant or [the other participant in the shooting] who had fired the shot that fatally wounded the victim, the jury reasonably could have determined that there was sufficient concert of action between the defendant and [the other participant] to support the accessory allegation"; *id.*, 204–205; and, therefore, "the evidence was sufficient to support the defendant's conviction for murder as a principal or an accessory." *Id.*, 205. Accordingly, the Appellate Court affirmed the trial court's judgment. *Id.*, 210. We thereafter granted the defendant's petition for certification to appeal, limited to the following issue: "Did the Appellate Court properly apply the concert of action doctrine; see *State v. Diaz*, 237 Conn. 518, 679 A.2d 902 (1996); in concluding that there was sufficient evidence to support the defendant's conviction for murder as either a principal or an accessory?" *State v. Smalls*, 306 Conn. 906, 52 A.3d 732 (2012).

After examining the entire record on appeal and considering the briefs and oral arguments of the parties, we have determined that the appeal in this case should be dismissed on the ground that certification was improvidently granted.

The appeal is dismissed.

<sup>1</sup> The defendant also claimed that the trial court improperly found that there was sufficient evidence to support a finding of probable cause that the defendant caused the death of the victim, Edgar Sanchez. *State v. Smalls*, *supra*, 136 Conn. App. 205. The Appellate Court rejected this claim; see *id.*, 205–10; and it is not part of the appeal to this court.

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