



SUPREME COURT OF GEORGIA
Case No. S15C1197

Atlanta, June 15, 2015

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

THE STATE v. TERRY KELLEY

Court of Appeals Case No. A14A1682

The Supreme Court today granted the writ of certiorari in this case. All the Justices concur, except Benham, J., who dissents

This case will be assigned to the October 2015 oral argument calendar automatically under Supreme Court Rule 50 (2), as amended September 13, 1996. Oral argument is mandatory in granted certiorari cases.

This Court is particularly concerned with the following issue or issues:

1. Whether, absent the consent of the State, a trial court has the authority to enter judgment and impose sentence for an uncharged, lesser included offense upon the accused pleading guilty to such an offense. See OCGA Section 17-7-93(a). See also *Bostic v. State*, 184 Ga. App. 509 (361 SE2d 872) (1987).
2. If not, whether the State may withdraw its consent upon the trial court rejecting a material term of a negotiated plea agreement of which the State's consent was a part. See *State v. Harper*, 279 Ga. App. 620 (631 SE2d 820)(2006), overruled on other grounds in *State v. King*, 325 Ga. App. 445 (750 SE2d 756)(2013).

Briefs should be submitted only on these points. See Supreme Court Rule 45.

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.

Theresa A. Barnes, Clerk