Supreme Court of Georgia
Jane Hansen, Public Information Officer
244 Washington Street, Suite 572
Atlanta, Georgia 30334
404-651-9385
hansenj@gasupreme.us

SUMMARIES OF OPINIONS

Published Tuesday April 26, 2016

Please note: *Opinion summaries are prepared by the Public Information Office for the general public and news media. Summaries are not prepared for every opinion released by the Court, but only for those cases considered of great public interest. Opinion summaries are not to be considered as official opinions of the Court. The full opinions are available on the Supreme Court website at* www.gasupreme.us .

CLARK ET AL. V. DEAL, GOVERNOR ET AL. (S16A0559)
DEAL, GOVERNOR ET AL. V. CLARK ET AL. (S16X0560)

In a decision today, the Supreme Court of Georgia has upheld the right of Gov. Nathan Deal to appoint three new judges to the Georgia Court of Appeals.

Five citizens, including the head of the Georgia NAACP, had appealed a ruling last December by a **Fulton County** judge who denied their petition to declare unconstitutional a 2015 statute that allowed the governor to appoint the three new judges. The citizens argued that under the state Constitution, the new judgeships should be filled by a statewide election.

But in today's 6-to-1 decision, written by **Justice Harold Melton**, the high court has ruled that the 2015 statute is constitutional. The main question, the majority says, is whether a newly created position on the Court of Appeals qualifies as a "vacancy" under the Constitution. "Both the appropriate rules of construction and the historical record indicate that it does," the majority opinion says.

Last year, the governor signed into law House Bill 279, which increased the number of judges on the Court of Appeals from 12 to 15. A new subsection of Georgia Code section 15-3-4 states that the newly created judgeships "shall be appointed by the Governor for a term beginning January 1, 2016, and continuing through December 31, 2018, and until their successors are elected and qualified." On Oct. 29, 2015, the governor announced he was appointing Brian Rickman, a district attorney, Nels Peterson, a vice chancellor, and Amanda Mercier, a superior court judge, to fill the three new judgeships. On Nov. 16, 2015, five citizens – John Clark, Athens attorney Ivory Kenneth Dious, Georgia NAACP President Francys Johnson, Jr., Henry C. Ficklin and Darryl A. Momon – filed a petition in the Fulton County

Superior Court seeking a "declaratory judgment" that declared the statute unconstitutional. They also sought an injunction to prevent the governor from appointing the three new judges. Clark and the others cited Article VI, Section VII, Paragraph I of the 1983 Georgia Constitution, which states that, "All Justices of the Supreme Court and the Judges of the Court of Appeals shall be elected on a nonpartisan basis for a term of six years." Therefore, they argued, House Bill 279, which provides for the governor's appointment to the newly created seats, "is void as being in contradiction of the Georgia State Constitution." Following a hearing, on Dec. 10, 2015, the judge ruled against them, denying their petition and ruling that the 1983 Georgia Constitution permits the governor to fill newly created seats on the Court of Appeals by appointment. Clark and the citizens then appealed to the Georgia Supreme Court, and in a cross appeal, the governor appealed the trial court's ruling that sovereign immunity did not protect him from the injunction and declaratory judgment action the citizens brought against him. Meanwhile, the citizens also filed in the state Supreme Court an emergency motion to stay any further actions by the governor to install the new appointees until the matter of whether the statute is constitutional was decided by this Court. Last December, this Court denied the citizens' emergency motion. The governor subsequently swore in the judges, and they took office Jan. 1, 2016.

The citizens' main argument on appeal is that Court of Appeals judges who fill newly created seats must be selected by a general nonpartisan election. But the "Constitution, itself, belies this claim," the majority opinion says. The Constitution specifically states: "Vacancies shall be filled by appointment of the Governor except as otherwise provided by law in the magistrate, probate, and juvenile courts."

"Therefore, the Constitution clearly allows the Governor to appoint new judges when there is a vacancy on the Court of Appeals," the majority opinion says. At issue in this case is the definition of "vacancy" and when a seat on the Court of Appeals is deemed to be "vacant."

The opinion quotes Black's Law Dictionary as defining "vacancy" as meaning "in its ordinary and popular sense that an office is unoccupied, and that there is no incumbent who has a lawful right to continue therein until the happening of a future event…." In other words, "the ordinary meaning of the term vacancy is, in essence, a public office without an incumbent," the majority opinion says. "The newly created positions on the Court of Appeals certainly fit this definition. Accordingly, the constitutionality of Georgia Code § 15-3-4 (b) is supported by this ordinary definition and plain meaning." Under the 1983 Constitution, which is the most recently one created in Georgia and ratified by its citizens, the governor has the authority "to appoint whenever a vacancy exists, not just when an office has been vacated."

In addition, the "history of gubernatorial appointments also gives support to a finding that Georgia Code § 15-3-4 (b) is constitutional," the majority opinion says. "The historical practice is clear." It is true that the first six seats on the Court of Appeals were filled by elections as established under the 1906 constitutional amendment, which specifically required elections to fill the newly created seats. However, "the provision for new seats to be filled initially by election was omitted from the 1945 Constitution, the 1976 Constitution, and most importantly, the 1983 Constitution," the majority opinion says. "Since 1945, whenever the General Assembly has exercised its constitutional authority to create new seats on the Court of Appeals by statute, it has authorized (explicitly or implicitly) the acting governor to fill those seats initially by appointment, and the governor has done so."

The majority points out that the statute "does not serve to wholly disenfranchise the citizens of Georgia with regard to the newly created seats on the Court of Appeals. To the contrary, all three of the new judges will be required to run in a nonpartisan general election to keep their new positions."

Because the new judges have already taken office, "those portions of Clark's action relating to the issuance of a declaratory judgment, injunctive relief, and a temporary restraining order against the Governor are now moot, as the very action which Clark sought to stop has already occurred," the majority opinion says. "Based on this same reasoning, the Governor's cross-appeal is moot as well."

In his dissent, **Justice Robert Benham** writes: "I have not been able to bring my mind to concur with my associates in the judgment rendered in this cause. This is to me a source of sincere regret. I esteem it a personal misfortune. I have labored to see this question in the light in which they view it, but have been unable to attain to the same conviction. With profound respect for them, and sincere distrust of the justness of my own conclusions, I am constrained to dissent." (This is a quote from an 1846 dissent by a Georgia Supreme Court Justice in the case of *Tuttle v. Walton*.)

Justice Benham writes that the Georgia Constitution of 1983 "unequivocally states that justices of the Georgia Supreme Court and judges of the Georgia Court of Appeals 'shall be elected.'" While the Constitution also states that "vacancies" can be filled by the governor, "historically, in this state, a vacancy is an event 'which causes an unexpired term.'" Furthermore, the full definition in Black's Law Dictionary states that the term vacancy "is principally applied to an interruption in the incumbency of an office." This definition "coincides with Georgia's historical understanding that a vacancy, for the purposes of gubernatorial appointment, is when an existing incumbency has been interrupted and there is no incumbent who can legally continue to serve," the dissent says. Also, Article V of the 1983 Constitution, which describes the governor's appointment powers, states that a gubernatorial appointee is to serve "for the **unexpired term**." "A newly created position cannot logically have an unexpired term that would need to be filled by appointment," the dissent says. In 1960, Gov. Ernest Vandiver became the first to appoint a newly created judgeship – the seventh – on the Court of Appeals. He and other governors have since appointed the next eight. "It is clear that Governor Vandiver had no constitutional authority for these actions," the dissent says. "The fact that these gubernatorial appointments went unchallenged, however, does not cure the constitutional problem at stake in the present controversy. The majority opinion has failed to explain how executive and legislative action cloaked as tradition, or what the majority terms as a 'standard practice,' which was not in fact the standard, can trump the constitution of our state."

"While I cannot change the past, I can be vigilant in the present and sound the alarm for the future," the 9-page dissent concludes. "I believe that the legislation allowing these gubernatorial appointments is unconstitutional and I believe the people of Georgia have been deprived of their constitutional right to elect the appellate judges who ultimately have the last say over their issues and disputes."

Attorney for Appellants (Clark): Wayne Kendall

Attorney for Appellee (Deal): Samuel Olens, Attorney General, Dennis Dunn, Dep. A.G., Russell Willard, Sr. Asst. A.G., Susan Haynes, Asst. A.G.

DEKALB COUNTY POLICE OFFICER KLIESRATH ET AL. V. ESTATE OF DAVIS ET AL. (S15G1206)

The appeal in this high-profile **DeKalb County** case, stemming from a man's death after police officers tased him, has been thrown out under an opinion today by the Georgia Supreme Court.

The Georgia Court of Appeals should have dismissed the four officers' appeal on procedural grounds, **Chief Justice Hugh Thompson** writes for the unanimous court. As a result, the high court is remanding the case to the lower appellate court "for proceedings consistent with this opinion." Ultimately, the case will go back to the DeKalb County State Court where it will likely proceed to a trial by jury.

According to the facts of the case, on May 9, 2010, DeKalb County Fire Rescue responded to a 911 call made by employees of the Budgetel Inn on Chamblee-Tucker Road after they found a man convulsing in one of the rooms. Fire Rescue personnel found Audrecas Davis, a 6-foot, 6-inch tall, 29-year-old man weighing 445 pounds, on the floor of a room with foam coming out of his mouth and feces covering the lower half of his body. His parents, Jimmy and Annie Davis, said their son suffered from hypertension and was borderline diabetic. The parties disputed the facts of this case, with Davis's parents claiming that the evidence shows their son was having a medical emergency that caused him to be in a zombie-like state, and clearly he did not understand what was going on. According to county attorneys, however, when a medic administered smelling salts, Davis became agitated and allegedly began to swing his arms. Due to Davis's size and weight, the medic requested additional Fire Rescue units for help to move him into the ambulance. Additional help arrived, and they attempted to roll Davis onto a stretcher and strap him to it. When Davis tore off the straps, Fire Rescue contacted dispatch and requested assistance from the DeKalb County Police. Nine officers responded to the scene, including Frank Kliesrath, Bernard Gales, Keith Cintron and Christopher Delon. Officers said they made various attempts to communicate with Davis while a medic administered some Valium to calm him, but he did not appear to understand directions and became aggressive, physically resisting efforts to strap him to a backboard. According to the county attorneys, officers attempted to hold his arms to his side, but Davis was too strong. Two supervising officers then directed two of their officers to use their Tasers on Davis. Tasers, which fire electrified darts, are used to stun and immobilize a person. One officer eventually "Drive Stunned" Davis by holding his Taser directly against Davis's upper-right shoulder for one second. (The Drive Stun mode does not involve firing projectiles, but rather is intended to cause pain to gain a person's compliance.) The officers continued trying to restrain Davis to get him into the ambulance. Due to his size, however, they were unable to handcuff him, and they claimed Davis continued to swing at them. Another officer deployed his Taser in the "dart mode," but Davis continued to resist and wrestle his arms away from officers. Only after the second injection of Valium were the officers able to restrain his arms using three pairs of handcuffs, but then Davis began kicking, according to the County, hitting one of the officers in the stomach. The officers continued to tase Davis, a total of at least six times. After they finally secured Davis face down on the stretcher, the medic noticed that his breathing was shallow. Davis was transported to DeKalb Medical Center and pronounced dead shortly after arrival.

Davis's parents filed a wrongful death lawsuit in DeKalb County State Court against a number of parties, including Officers Kliesrath, Gales, Cintron and Delon. They also filed a claim that the officers violated Davis's constitutional rights and amounted to unreasonable and excessive force. The trial court ultimately dismissed from the lawsuit any of the parties that were not directly involved in the use of the Taser. The officers then filed a motion asking the court to grant "summary judgment" in their favor, arguing they were protected by "qualified immunity" and "official immunity" from being sued. A judge grants "summary judgment" only after deciding that a jury trial is unnecessary because the facts are undisputed and the law falls squarely on the side of the party requesting it. In March 2014, the trial court denied summary judgment to the four officers who tased or supervised the tasing of Davis, ruling they were not entitled to immunity and the lawsuit against them should proceed to a jury trial. The judge concluded that a jury could possibly conclude that the use of a Taser in this case was not justified. The judge also concluded there was a question of fact a jury should determine as to whether Davis's constitutional rights were violated by the use of unreasonable force. On appeal, the Georgia Court of Appeals upheld the trial court's ruling in a one-page opinion. The officers then appealed the Court of Appeals ruling to the state Supreme Court, hoping to stop the case from going to jury trial.

Initially, the high court agreed to review the case to consider the merits of the officers' immunity claims. "However, because we now determine that the Court of Appeals did not have jurisdiction of the appeal, we vacate the judgment of the Court of Appeals and remand for proceedings consistent with this opinion," today's opinion says.

At issue in this case is the type of appeal the officers filed. Rather than file an *application* to appeal, petitioning the Court of Appeals to allow them to appeal the pre-trial ruling, the officers filed a *notice* of appeal, asserting they had the authority to file a "direct" or automatic appeal that didn't require the court's permission.

However, the state Supreme Court recently reiterated in *Rivera v. Washington*, an opinion it issued March 25, 2016, that a court order denying a motion based on an immunity defense is not directly appealable and must proceed under "interlocutory" – or pre-trial – procedures, which require the filing of an application.

"Thus, here, the trial court's order denying appellants' [i.e. the officers'] motion for summary judgment was not directly appealable," today's opinion says. "Accordingly, instead of affirming the judgment of the trial court, the Court of Appeals should have dismissed the direct appeal."

Attorneys for Appellants (Kliesrath et al): Laura Johnson, Deputy County Attorney, Terri Gordon, Sr. Asst. County Attorney

Attorneys for Appellees (Davis et al): Darren Summerville, Angela Fox, Lance Lourie, Stephen Chance

MCKINNEY ET AL. V. FUCIARELLI (S15G1885)

The Supreme Court of Georgia has decided in favor of the president and a former vice president of Valdosta State University, ruling that at least one of the claims in a lawsuit against them by a former graduate school dean may not go forward.

With today's unanimous ruling, written by **Chief Justice Hugh Thompson**, the high court has reversed a Georgia Court of Appeals decision that concluded the dean was not required

under the Georgia Taxpayer Protection Against False Claims Act to obtain the Attorney General's approval before filing his suit.

"Because the plain language of the statute requires the Attorney General to approve a taxpayer retaliation claim prior to filing suit, we reverse the judgment of the Court of Appeals," today's opinion says.

The case involves a tenured faculty member at Valdosta State University, Dr. Alfred Fuciarelli, who is a public employee of the Board of Regents of the University System of Georgia. At one time, Fuciarelli was an assistant vice president for research and a dean of the graduate school. In those roles, Fuciarelli recommended that the university put in place an electronic research administration system to better manage its grants and research programs and their funding sources, according to briefs filed in the case. Although VSU initially approved the system, it later removed Fuciarelli as the system's budget manager and declined to fund the system. Fuciarelli complained to the administration about VSU's "noncompliance with laws, rules and regulations." He expressed concerns that the university's lack of research tools exposed VSU to liability, and he complained about his exclusion from certain internal audits. Subsequently, VSU terminated Fuciarelli's contract as assistant vice president and dean, which ended his administrative duties. He remained a tenured faculty member, but his salary and benefits were reduced. Fuciarelli appealed his termination to the Board of Regents, but the Board affirmed VSU's decision.

On July 11, 2013, Fuciarelli filed a lawsuit in **Fulton County** Superior Court against the Board of Regents, William McKinney in his individual capacity and in his official capacity as president of VSU, and Karla Hull in her individual capacity and in her official capacity as former Acting Vice President for Academic Affairs at VSU. Fuciarelli asserted a claim against each defendant for "False Claims Whistleblower Retaliation," and sought damages under Georgia Code § 23-3-122, which is the Taxpayer Protection Against False Claims Act, and under Georgia Code § 45-1-4, which is the Public Employee Whistleblower Retaliation Act. In December 2013, the trial court dismissed Fuciarelli's claims under § 23-3-122 because he had failed to obtain the Attorney General's written approval before filing his claims. The Act says that a civil action "under this article" may be brought "by a private person upon written approval by the Attorney General." However, the trial court denied the defendants' motion to dismiss Fuciarelli's public employee whistleblower retaliation claim under § 45-1-4.

On appeal, Fuciarelli argued that the trial court erred in dismissing his claim under § 23-3-122 because "a retaliation civil action belongs exclusively to the party bringing the claim and does not require Attorney General approval." The Court of Appeals upheld the lower court's dismissal of his claims under § 23-3-122 against the Board of Regents, as well as McKinney and Hull in their *official* capacities, on the ground that they are protected by the doctrine of sovereign immunity, which protects the State government and its agencies from being sued. However, the Court of Appeals ruled the trial court was wrong to dismiss Fuciarelli's retaliation claims against McKinney and Hull in their *individual* capacities, stating that "Attorney General approval is not required for retaliation claims, which are personal to the plaintiff." McKinney, the Board of Regents, and Hull then appealed to the Georgia Supreme Court, which agreed to review the case to determine whether the Court of Appeals erred in ruling that the Georgia Taxpayer Protection and False Claims Act's anti-retaliation provision does not require Attorney General approval for retaliation claims.

The statute is clear, today's opinion says, in stating that "a civil action under this article may also be brought by a private person upon written approval by the Attorney General."

"Because the subsection allowing for taxpayer retaliation claims…lies within 'this article,' there can be only one conclusion – the Attorney General's approval is required before a taxpayer retaliation claim is filed," the opinion says.

While the Court of Appeals explained that a taxpayer retaliation claim is personal to the plaintiff and therefore the Attorney General's approval cannot be required and that to rule differently "would lead to absurd results," "this case does not meet the absurdity test," today's opinion says.

"Fuciarelli asserts the legislature could not possibly intend to require Attorney General approval of a taxpayer retaliation claim because to do so puts the Attorney General in a position of conflict – approving or disapproving an action to be brought against the State," the opinion says. "But this is a policy question best left to the legislature, not our courts. If the legislature wanted to exempt taxpayer retaliation claims from the Attorney General approval requirement, it could have done so."

"Our ruling is not complicated," today's opinion concludes. "It simply requires deference to the legislative prerogative of the General Assembly and adherence to the plain language of the Taxpayer Protection Against False Claims Act. The Court of Appeals erred in doing otherwise."

Attorneys for Appellants (McKinney): Samuel Olens, Attorney General, Britt Grant, Solicitor General, Dennis Dunn, Dep. A.G., Annette Cowert Sr. Asst. A.G., Shelley Seinberg, Sr. Asst. A.G.

Attorneys for Appellee (Fuciarelli): Brandon Hornsby, Graham Scofield

THE STATE V. BROWN ET AL. (S16A0122)

When a group of young people go on trial for murder in **DeKalb County**, the District Attorney will be prohibited from introducing a federal indictment alleging gang-related crimes in Virginia that the prosecutor claims are "required" to prove criminal gang activity in the Georgia case.

In an opinion released today, **Justice Carol Hunstein** writes for a unanimous court that the trial court correctly determined that State prosecutors could not admit as evidence an indictment involving parties unrelated to those on trial here.

"We find no abuse of discretion, and we therefore affirm" the trial court's ruling, today's opinion says.

According to briefs filed in the case, the State hopes to prove the following at trial: On May 19, 2014, Sonia Williams and Shaniqua Camacho went to the home of Jaimee Harrell on Maypop Lane in DeKalb County. According to the State, the home was a gathering place for the "Nine Trey Gangsters," which prosecutors identify as a specific "set" of the "Blood" street gang. ("Set" refers to a group of gang members.) Among those at the house that day were gang members Malcolm Brown, also known as "Dot;" Demetre Mason, aka "Flame" and "Assassin;" Frankland "Bad News" Henderson; Michael "Slim" Jenkins; and Katrina "Billy Jean" Shardow. Also affiliated with the group was Traon Turk, although the State claims he did not usually hang out at Harrell's home. On this particular day, Sonia Williams and Malcolm Brown got into an argument and Brown ordered Jaimee Harrell and Katrina Shardow to beat up Williams, which they did, stealing her shoes and purse and throwing her out of the house, prosecutors contend.

Shaniqua Camacho left with Williams who shouted she would have someone "handle" the situation for her. Because Brown did not want rival gang members to know where their particular gang set congregated, the State claims he ordered that both Williams and Camacho be killed. Mason, Jenkins and Henderson then left the home on Maypop Lane in a stolen silver BMW to find the two women, who had left on foot. Both Williams and Camacho were later found shot to death at an apartment complex nearby. According to the State, the murder weapon was a gun Mason and Traon Turk had stolen in Douglas County.

As background for its case, the State claims in briefs that the Nine Trey Gangsters was created as one of the eight original Blood "sets" on the East Coast and since its inception, has been one of the most active. The State describes a hierarchy in which members are organized into "line-ups" or "families." The "High Stain" appoints a "Lo Stain," who has generals ranking from four stars down to one star who report to him. "Soldiers" or "Scraps" are the lowest ranking members in the gang, the State claims. Members of Nine Trey Gangsters often refer to themselves as "Billy Bad Ass," and the DeKalb set refers to its hierarchy by floor level, so "5th Floor" represents the highest ranking member. Among common characteristics of the Blood gang and Nine Trey Gangsters sets are the refusal to use the letter "c" or the number "6," both of which are related to the rival "Crips" gang, the State claims.

In August 2014, Brown and the six others were indicted by a DeKalb County grand jury in a 21-count indictment for violating the State's "Street Gang Terrorism and Prevention Act" (Georgia Code § 16-15-1) and other violent crimes, including the double murder of Williams and Camacho. Five of the seven were indicted for violating the Racketeer Influenced and Corrupt Organizations (RICO) Act and two were indicted for armed robbery and hijacking a motor vehicle. In February 2015, the State filed a "Motion to Admit Evidence of Unindicted Criminal Gang Activity and in the Alternative Notice of Intent to Admit Evidence Pursuant to Georgia Code § 24-4-404 (b)," which allows the admission of certain evidence for the purpose of proving motive. Specifically, the State wanted to use a federal indictment of Nine Trey Gangsters members in Virginia to prove that the defendants in the Georgia case were part of a gang, which the law defines as an organization of three or more persons who engage in criminal gang activity. Following a hearing, the judge denied the State's motion, stating that evidence "of crimes committed by individuals not charged in the present case" was not admissible. The judge further found that the Virginia federal indictment "would be highly prejudicial." The State then appealed to the Georgia Supreme Court.

"We agree with the trial court that the federal indictment is inadmissible," today's 4-page opinion says. "An indictment is simply a 'formal written accusation of a crime,'…and the assertions therein are nothing more than hearsay statements by the prosecutor bringing the charges. As mere hearsay, a bare indictment is simply not admissible evidence."

"The fact that this case involves alleged violations of the Georgia street gang act does not alter this result," the opinion says. "In short, the fact that this case involves the prosecution of alleged gang-related crimes does not obviate the State's responsibility to prove its case in accordance with the rules of evidence applicable in all other prosecutions."

Attorneys for Appellant (State): Robert James, District Attorney, Lenny Krick, Asst. D.A., Antonio Veal, Asst. D.A.

Attorneys for Appellee (Brown): Daryl Queen, Asst. Public Defender, Bryan Henderson, Asst. Public Defender

****

IN OTHER CASES, the Supreme Court of Georgia has upheld **murder** convictions and life prison sentences for:

* Roger Shannon Brown (Cobb Co.)	**BROWN V. THE STATE (S16A0179)**
* Claron R. Carter (Coffee Co.)	**CARTER V. THE STATE (S16A0673)** (The Court has upheld Carter's convictions for malice murder and other crimes but is sending the case back to the trial court to correct his sentencing. While the judge properly sentenced him to life in prison for the murder, it failed to sentence him separately for armed robbery and burglary.)
* Carlisha Gray (Fulton Co.)	**GRAY V. THE STATE (S16A0278)**
* Ronnie Duane Lewis (Haralson Co.)	**LEWIS V. THE STATE (S16A0389)**

IN DISCIPLINARY MATTERS, the Georgia Supreme Court has **disbarred** the following attorney:

* Stephen Bailey Wallace, II	**IN THE MATTER OF: STEPHEN BAILEY WALLACE, II (S16Y0328)**

The Court has accepted a petition for **voluntary surrender of license** – tantamount to disbarment – from attorney:

* David P. Hartin	**IN THE MATTER OF: DAVID P. HARTIN (S16Y0873)**

The Court has rejected as insufficient a petition for voluntary discipline seeking a **Review Panel reprimand** from attorney:

* Morris P. Fair, Jr.	**IN THE MATTER OF: MORRIS P. FAIR, JR. (S16Y0917)**

The Court has accepted a petition for voluntary discipline and ordered the **6-month suspension** of attorney:

* Gayle S. Graziano	**IN THE MATTER OF: GAYLE S. GRAZIANO (S16Y0838)**

The Court has accepted a petition for voluntary discipline and ordered the **6-month suspension with conditions** of attorney:

* Mary Ellen Franklin	**IN THE MATTER OF: MARY ELLEN FRANKLIN (S16Y0777)**