



Supreme Court of Georgia

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SUMMARIES OF OPINIONS

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JAMI LEA JONES V. THE STATE (S16A1790)

LOUIS DAVID JONES V. THE STATE (S16A1791)

The Supreme Court of Georgia has unanimously upheld the convictions and life prison sentences given to a husband and wife for the murder, physical abuse, and medical neglect of their 6-year-old adopted son.

On Christmas Eve, 2009, Jami Lea Jones called 911 to report that her little boy, Colin, was having trouble breathing. Colin and his younger brother had lived with the Joneses and their other children for just over a year, and the couple had adopted Colin in April 2009. When first responders arrived at the family's Loganville home in **Walton County**, they found the boy and his father, Louis David Jones, in the bathroom. Colin, who was lying on the floor, had blood coming from his mouth and was unresponsive. Bruises of varying colors covered his body from his head "all the way to the bottom of his feet." His parents told paramedics that he "falls a lot," that he had not been eating and that he was "throwing up a lot." Paramedics rushed Colin to the Walton County Regional Medical Center where Dr. Howard Stirne found the child in a deep coma and barely able to breathe. Believing Colin had a bacterial infection, he started intravenous antibiotics. When he proceeded to intubate Colin, he noticed the boy was missing his two front teeth, which concerned him. The doctor also noted that Colin's entire lower extremities were massively swollen and the tissue was like a sponge. The doctor determined that most of the bruising would have had to come from blunt force trauma, being struck repeatedly over a period of time. Stirne asked Mrs. Jones how the boy had been injured, and she admitted she had struck his penis with a spoon "because the child had wet the bed," according to briefs filed in the case. She also told him that due to Colin's diarrhea, she had duct taped a diaper to his waist "for

prolonged periods of time so he wouldn't have leakage." Doctors determined that Colin had been beaten, had a "very severe" brain injury, was malnourished, and was suffering from E. coli meningitis, a severe bacterial infection. Stirne believed that the broken skin from injuries to his genitals made him "a hundred percent more susceptible" to infection from E. coli bacteria that is prevalent in human feces. In 32 years of practicing medicine, Stirne said he had only seen one other child as badly abused as Colin. Later that day, the little boy was airlifted to Egleston children's hospital in Atlanta, where he was placed on a breathing machine and a drain was placed in his head to siphon away excess fluid and alleviate the pressure on his brain. Among the many wounds the Egleston physicians found was a dead leg muscle that would have prevented Colin from being able to walk and play, as well as injuries to his torso, buttocks, inner thigh, and especially his neck, ears, cheeks and genitals. Like Stirne, the Egleston physician characterized Colin's condition as "extreme" and said he was suffering from an "overwhelming infection" from the E. coli bacteria that had gotten into his bloodstream and entered his brain. The physician said it appeared as though Colin was a victim of "significant physical abuse" and had been "medically neglected over time because he had been losing weight over a substantial period and was rather thin." Despite doctors' efforts, Colin died four days later without ever regaining consciousness.

The medical examiner determined that Colin died from an infection that affected his entire body and that multiple blunt force traumas "absolutely" contributed to his death because they allowed E. coli bacteria to enter his body and because they lessened his ability to fight the infection. The medical examiner also found neglect to be a cause of death given that Colin's injuries would have been "very obvious" for days and weeks prior to his death.

In pre-trial statements, Jami and Louis Jones both admitted that they regularly "whooped" Colin for his misbehavior. They claimed that since he had come to live with them, he displayed extreme misbehavior that they were trying to correct. They also said that his lack of nourishment was due to the fact that he refused to eat. His mother said Colin refused to eat as "a way to defy me," and that she had not taken him to the hospital for his weight loss because she thought that he was "just being stubborn." They maintained this defense at trial, arguing that they were always legally disciplining the child.

But the jury rejected their defense, and following a joint trial in September 2013, both Jami Lea and Louis David Jones were found guilty of malice murder, felony murder, and two counts of cruelty to children and sentenced to life in prison. The couple then appealed to the Georgia Supreme Court.

"We conclude that the evidence adduced at trial was legally sufficient to authorize a rational trier of fact to find beyond a reasonable doubt that Jami and Louis were not being truthful when they provided their pretrial statements and that they were guilty of malice murder," **Justice Keith Blackwell** writes for the Court in today's opinion.

In their appeal, both Jami and Louis claimed they were denied effective legal assistance at their trial, in violation of their constitutional rights. In addition, Jami argued the trial judge erred by failing to instruct the jury about certain evidence.

But in today's opinion, the high court has rejected their arguments. "Judgments affirmed," the opinion says. "All the Justices concur."

Attorneys for Appellants (Jones): Donald Samuel (for Jami), Brian Steel (for Louis)

Attorneys for Appellee (State): Layla Zon, District Attorney, Samuel Olens, former Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Scott Teague, Asst. A.G.

DANIELLE ROLLINS v. GLEN ROLLINS (S16A1449)

The Supreme Court of Georgia has thrown out on procedural grounds a **Fulton County** court order finding Danielle Rollins in contempt and fining her hundreds of thousands of dollars for taking furniture and vandalizing property that had been awarded to her husband, Glen Rollins.

In this contentious, high-profile divorce, the Supreme Court has found that the Fulton County court lacked the authority to enter a final contempt order while her appeal from the initial contempt order was still pending in this Court. It has therefore vacated the final contempt order and has remanded the case to the trial court to again consider whether Danielle should be held in contempt.

Glen Rollins is the former president and grandson of the founder of the multi-billion-dollar Orkin pest-control company. (Glen Rollins also has had appeals in this Court involving the lawsuit he and three siblings brought against their father and uncle regarding the division of the family trusts.) According to briefs filed in the case, the couple divorced in 2013, and Danielle was awarded more than \$15 million plus \$15,000 a month in child support while Glen was awarded the couple's multi-million dollar estate on Habersham Road in Buckhead. As part of the settlement, the parties agreed to submit to an arbitrator how to divide the furnishings and personal property located in the home. In 2014, Glen claimed that Danielle had stolen numerous pieces of furniture, furnishings and personal property that had been awarded to him in arbitration. He also claimed she had vandalized the residence and property. In August 2014, the trial court ordered Danielle to account for the items the arbitrator had awarded to Glen. Glen subsequently filed a motion to hold Danielle in contempt of the August 2014 court order. In April 2015, the trial court ruled that Danielle was in willful contempt and entered an initial contempt order directing Danielle to show why she should not be incarcerated. Danielle tried to appeal that initial contempt order to the state Supreme Court, but in May 2015, this Court denied her application for review; in December 2015, it also dismissed her "direct" appeal, explaining that any appeal from the initial contempt order had to come by application and noting that this Court had already denied her application to appeal.

Before that December dismissal, in November 2015, the trial court entered a final order finding Danielle in contempt of the August 2014 order. The November order stated that Danielle Rollins had been ordered in 2014 to return to Glen Rollins "all items of furniture, furnishings and personal property that were awarded to him by the Arbitrated Award of Furniture and Personalty and specifically identified by the arbitrator as being located in the Habersham home." Danielle did not do that, the judge stated in the order, fining her \$301,512.51 for the items Danielle had not yet delivered to Glen, according to the briefs. In addition, "This court finds that Ms. Rollins purposefully and with malice vandalized the home and property of Mr. Rollins on Habersham Road." The court stated Danielle was "hereby ORDERED to immediately pay Mr. Rollins the sum of \$79,446.91" for damages due to her vandalism. In addition, the trial court found "that Ms. Rollins and her legal counsel have engaged in a deliberate, concerted practice of abusive litigation as warrants an award to Mr. Rollins of his attorney's fees and expenses of litigation..." "Ms. Rollins' litigation tactic has been driven by one objective, and that is to delay and frustrate

the ability of the court to enforce its orders,” the judge stated in her order. As a result, “Ms. Rollins is hereby ORDERED to immediately pay to Mr. Rollins the sum of \$163,758.58 for his attorney’s fees and expenses,” the trial court’s order says. “Furthermore, this court finds that Ms. Rollins’ abusive litigation tactics and efforts at delay and harassment have been facilitated by her legal counsel, Christopher Corbett.” The court ordered Corbett to “jointly” – with Danielle – pay Glen Rollins the \$163,759.58 in legal fees. Finally, the court fined Danielle Rollins \$1,000 per contemptuous act, finding she had committed 34 “acts of willful contempt” for a total of \$34,000 that she was immediately to pay Glen Rollins. Danielle then filed another application to appeal the November 2015 order to the state Supreme Court, which this time agreed to review the case.

In her appeal, Danielle’s attorney, Christopher Corbett, argued that the trial court lacked the authority or “jurisdiction” to enter the November 2015 contempt order because one of her related appeals was still pending in the Georgia Supreme Court.

“We agree,” **Justice Keith Blackwell** writes for a unanimous court. “The appellate court maintains jurisdiction...until it has filed an order dismissing the appeal (or otherwise disposing of it), the appellate court has issued the remittitur, and the remittitur has been received and filed by the clerk of the court.” (The “remittitur” is the official transfer of the appellate court’s ruling to the trial court and the return of jurisdiction over the case from the appellate court to the trial court.) “Only then does the trial court regain jurisdiction to take further action with respect to the judgment appealed.” Here, the trial court issued its final contempt order in November 2015, but the Supreme Court did not formally dismiss her appeal of the initial order until December 2015.

“Because Danielle’s direct appeal from the initial contempt order remained pending, ‘the trial court lacked jurisdiction on [Nov. 24, 2015] to enter [the final] order holding [Danielle] in contempt....,’ today’s opinion says. “As a result, the final contempt order is null and void,” and the case is remanded.

Attorney for Appellant (Danielle): Christopher Corbett

Attorneys for Appellee (Glen): Randall Berryman

WYATT V. THE STATE (S16A1581)

In another child killing, the Georgia Supreme Court has upheld the convictions and life prison sentence given to a man for abusing and murdering his girlfriend’s 2-year-old daughter.

According to the facts at trial, in April 2009, John Randall Wyatt, 29, was involved romantically with Nicoleta Cosma, formerly Nicoleta Marginean. Nicoleta and her three children – two boys, ages 5 and 7, and her daughter, 2-year-old Andrea Marginean – lived in Lawrenceville, **Gwinnett County, GA**. Periodically, Wyatt stayed at her house and watched the children while she worked. On April 11, 2009, Nicoleta left Wyatt at home with the children while she went to work. When Nicoleta returned home that day at about 1 p.m., she found Andrea lying on the corner of Nicoleta’s bed. The child’s breathing sounded a little congested, and her mother noticed a new, circular bruise on the child’s cheek, as well as bruising and a large red spot on the child’s back. When Nicoleta lifted Andrea from the bed, the toddler had no control of her head and was unresponsive to her mother’s voice. She asked Wyatt what had happened, and he made inconsistent statements, saying that Andrea was sick; that she had slipped in the bathroom and hit her nose, affecting her breathing; and that she had “freaked out” in the bathroom and started banging her head on the toilet while he was cleaning her because she did not like water.

Nicoleta took Andrea to Gwinnett Medical Center, where doctors found the toddler stiffening and unresponsive with bruises on her face, chin, forehead, groin area, and right arm. She had multiple bruises on her lower extremities. After a CT scan revealed severe brain injuries, Andrea was taken via life-flight to Scottish Rite Children's Hospital in Atlanta for immediate surgical intervention. But several days later, on April 14, 2009, Andrea died from her brain injuries.

During their investigation, law enforcement officers spoke to Andrea's older brothers who told them that on the day of the incident, they had heard their baby sister in the bathroom, crying and screaming for their mother while Wyatt yelled at her to be quiet. One of the boys then heard a loud banging on the bathtub. Wyatt also spoke to the officers, at first denying any responsibility for Andrea's injuries. Eventually he admitted striking the toddler in the head with an open hand but said he had not struck her hard enough to cause severe head trauma.

An autopsy revealed major swelling, two subarachnoid hemorrhages and bruising of the child's brain, as well as severe retinal hemorrhaging of her right eye. The medical examiner concluded that along with the little girl's lack of responsiveness and abnormal breathing, her injuries indicated that some kind of rotational force with a shaking component had caused her death. State prosecutors later offered testimony from a medical expert who said that Andrea's injuries were consistent with Shaken Baby Syndrome. An expert for the defense, on the other hand, testified that the contusions on the child's brain did not occur as a result of being shaken, and that while her death was caused by blunt impacts to the head, there was no way to determine if they were caused accidentally or intentionally.

Following a trial in November 2014, a jury found Wyatt guilty of three counts of felony murder (based on aggravated battery, aggravated assault and cruelty to children in the first degree), and of aggravated battery and aggravated assault. He was sentenced to life in prison and subsequently appealed to the state Supreme Court, arguing that the evidence against him was insufficient to sustain his convictions, and that the trial court erred by allowing the State's medical expert to offer testimony about Shaken Baby Syndrome because the State had failed to provide notice of that particular doctor's opinion 10 days prior to trial, as the law requires.

In today's opinion, written by **Justice Carol Hunstein**, the Supreme Court has unanimously rejected his arguments. As to the State's expert, two other State experts had already testified regarding Shaken Baby Syndrome by the time this particular doctor testified, and the defense attorney admitted he had been put on notice prior to trial that the State might put forward this theory through its expert witnesses. "More importantly, the defense presented its own expert at trial as rebuttal expert testimony," the opinion says.

"Based on the foregoing, the record shows that there was sufficient evidence to enable a rational trier of fact to conclude beyond a reasonable doubt that Wyatt was guilty of the crimes for which he was convicted."

Attorney for Appellant (Wyatt): Maryann Blend

Attorneys for Appellee (State): Daniel Porter, District Attorney, Christopher Quinn, Asst. D.A., Richard Vandever, Dep. Chief Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Matthew Crowder, Asst. A.G.

PHILMORE V. THE STATE (S17A0723)

A man who has already served more than 24 years of a life sentence with no chance for parole has had that sentence thrown out with a decision today by the Georgia Supreme Court.

Under today’s unanimous decision, written by **Justice Carol Hunstein**, the case of Guy Lawson Philmore, who was convicted in **Glynn County** for the 1990 murder of a man he stabbed to death during an attempted robbery, must be returned to the trial court for resentencing. At the time he was sentenced, life-without-parole was not an available sentencing option in his case.

According to the facts at trial, Philmore – now in his 60s – was a drug dealer operating at an intersection in Brunswick on the nights of July 25 and 26. Jimmy David Hearn, a crack cocaine addict, came to the intersection by taxi with bags of marijuana, which he proceeded to either sell or trade for drugs. As Hearn was exchanging his largest bag with another man for crack, Philmore approached and demanded Hearn give him the marijuana. Hearn refused, Philmore pulled out a knife, Hearn punched Philmore and knocked him to the ground, then Philmore got back up and began stabbing Hearn repeatedly. Hearn died from a stab wound to his heart. Philmore had previously been convicted of three felonies – possession of heroin, sale of heroin, and armed robbery.

In 1991, Philmore was convicted of felony murder and sentenced to life without parole under the state’s recidivist statute. In 1993, the Georgia Supreme Court upheld his convictions and sentences. At the time Philmore was convicted and sentenced, Georgia’s former recidivist statute (Georgia Code § 17-10-7 (b)), stated that anyone already convicted of three felonies who committed another felony, “other than a capital felony,” must “serve the maximum time provided in the sentence of the judge based upon such conviction and shall not be eligible for parole until the maximum sentence has been served.” Murder is a “capital felony,” and under the Georgia Supreme Court’s 2003 opinion in *Funderburk v. State*, the sentencing provisions of § 17-10-7 (b) did not apply to murder because it was a capital felony. Therefore, the statute in effect at the time Philmore was sentenced did not apply to him. In December 2016, Philmore, representing himself “pro se,” filed a motion to modify his sentence, alleging that his life-without-parole sentence was void under *Funderburk*. The trial court denied his motion, and Philmore then appealed to the state Supreme Court. State prosecutors filed a brief agreeing with Philmore, stating that the “trial court erred in sentencing Philmore to life without parole in a capital case based upon the provisions of § 17-10-7” as they existed in 1991.

In today’s 2-page opinion, “we agree that, based upon the language of the 1991 version of the recidivist statute and our holding in *Funderburk*, Appellant’s sentence is void. Therefore, Appellant’s [i.e. Philmore’s] life-without-the-possibility-of-parole sentence must be vacated. We further reverse the trial court’s denial of Appellant’s motion to modify and remand to the trial court with direction to enter a legal sentence.” That legal sentence may not include life without parole.

Attorney for Appellant (Philmore): Guy Philmore, pro se

Attorneys for Appellee (State): Jackie Johnson, District Attorney, Andrew Ekonomou, Asst. D.A., Thomas Buscemi, Asst. D.A., Hadley Mann, Asst. D.A.

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

- * Superiore Emonte Allen (Clayton) **ALLEN V. THE STATE (S16A1528)**
- * Quinnard Gibson (Fulton Co.) **GIBSON V. THE STATE (S16A1507)**
- * Shaheed Kaba Huff (DeKalb Co.) **HUFF V. THE STATE (S16A1619)**
- * Sean Mosley (Richmond Co.) **MOSLEY V. THE STATE (S16A1657)**
- * Chinua Anozienyako Plez (Clayton Co.) **PLEZ V. THE STATE (S16A1537)**
- * Christopher Rayshun Smith (Floyd Co.) **CHRISTOPHER SMITH V. THE STATE (S16A1781)**

(While the Court has upheld Christopher Smith’s felony murder conviction and life prison sentence, the trial judge erred by separately sentencing him to each of the underlying felonies instead of merging them into the murder conviction for sentencing purposes. The Court is remanding this case for resentencing.)

- * Roderick Smith (Fulton Co.) **RODERICK SMITH V. THE STATE (S16A1766)**

(While the Court has upheld Roderick Smith’s felony and malice murder convictions, as well as his life prison sentence, it is sending the case back to the trial court to additionally sentence him for possession of a firearm by a convicted felon. The trial court incorrectly merged that charge into the murder conviction, which was wrong since it required proof of elements not included in malice murder.)

- * Earlin Turner (DeKalb Co.) **TURNER V. THE STATE (S16A1583)**
- * Julius Ryan Thomas (Clayton Co.) **THOMAS V. THE STATE (S16A1520)**
- * Desmond Brandon Nixon (Clayton Co.) **NIXON V. THE STATE (S16A1521)**

In two other **murder** cases, in which the defendants pleaded guilty but later filed motions to withdraw their guilty pleas, the high court has upheld lower court decisions denying their motions, thereby upholding the murder convictions and life prison sentences of:

- * Michael Berrien (Coffee Co.) **BERRIEN V. THE STATE (S16A1474)**
- * Sylvester Leon Henderson (Rockdale Co.) **HENDERSON V. THE STATE (S16A1658)**