



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

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BENNETT V. THE STATE (S17A1150)

The Supreme Court of Georgia has unanimously upheld the murder and child abuse convictions of a **Fulton County** man for abusing, and eventually killing, his girlfriend's 9-month-old baby girl, Masiah Copeland. The man's mother and girlfriend were also convicted of child abuse for failing to get medical help for the baby, who by the time she died had old and new injuries, including fractures in each of her arms and legs, blunt force trauma to her head, which caused her brain and eye to bleed, and a laceration to her lip and gum, consistent with someone striking the baby in the face or her face striking an object.

Otis Lee Bennett appealed the convictions, arguing the evidence was insufficient to prove his guilt. But in today's opinion, written by **Justice Michael Boggs**, the high court disagrees, finding that "the evidence presented was sufficient to authorize a rational trier of fact to find beyond a reasonable doubt that Bennett was guilty of the crimes for which he was convicted."

According to the facts of the case, Masiah's mother, Cella Copeland, moved in with Bennett and his mother, Hetty Bennett, when she was three months pregnant with Masiah. Although she later moved out of the Bennett home, she returned when Masiah was 6 months old, then again left and returned when the baby was 8 months old. Copeland said that Bennett, and to a lesser extent his mother, helped care for the baby. But Bennett would become irritated when the baby didn't sleep at night and stayed awake playing. One night when Masiah remained awake, he said, "She's defective. We should put her in a bag with some rocks and just throw her in the river." Copeland said that about a month before Masiah's death, Bennett had roughly laid the baby on her back, held her arms down with his leg and turned her head to administer medicine for the baby's ear infection. The day before the baby's death, Copeland asked Bennett

why Masiah's arm was swollen, and he replied, "It's probably just sprung." Copeland began to notice that the baby screamed whenever Bennett got near her. Copeland was going to call 911 because of the baby's arm, but Bennett's mother and brother told her not to. They said if she called 911, the police would come, lock them all up, and take the children. Instead, Hetty Bennett gave the baby some Children's Tylenol and put something on her arm to ease the pain.

The next day, Bennett took Masiah to feed her so Copeland, who was not feeling well, could rest. He then put the child down for a nap while Copeland went into another room to sleep. At some point, after Hetty Bennett came home, and Copeland got up from her nap, someone discovered Masiah was not breathing and called 911. When emergency personnel arrived at the home, the infant was limp, had no pulse and her right eye was bloodshot. Bennett told a paramedic that 30 minutes earlier, the baby had been fine. Both Copeland and Bennett told a detective she had an "asthma condition." Emergency personnel tried to resuscitate Masiah, but they were unsuccessful, and they transported her to a hospital, where she was pronounced dead. When Copeland asked Bennett if he was coming to the hospital, he said he was going to first smoke marijuana.

A medical examiner testified that the autopsy revealed Masiah had two broken legs, two broken arms, a number of contusions over her eyebrows and behind her right ear, a number of hemorrhages in her scalp, a subdural hemorrhage in her brain, a hemorrhage in her right eye, and contusions to her lower back, the right side of her chest, and on the bridge of her nose. The fractures to her right arm had occurred within the week of her death, while the fracture to her left arm was one to three weeks old. The fractures to her legs were in the healing stage and had also likely occurred many days before her death. The medical examiner concluded that the cause of Masiah's death was blunt force injuries to her head and extremities, with the bleeding in her brain causing her organs to shut down and stop her breathing.

In talking to officers, Bennett gave varying accounts of how Masiah could have been injured, initially stating that her swollen arm resulted from her falling off the bed. Later he said she could have fallen out of her car seat that had been sitting on the couch, and at another point, he said the baby's arm was injured when he tripped over a laundry basket while holding her. At yet another point, he said that when he found the baby was not breathing, he had "snatched the child up," and may have injured her arm then. As to how Masiah's legs were broken, Bennett said that when the baby had been constipated, Hetty Bennett suggested an old-time remedy of crossing the baby's legs and pressing them into her chest to force a bowel movement, and doing that could have fractured her legs. Hetty Bennett told police that she knew Masiah's arm was injured and she told Copeland and Bennett "to take the child to the hospital, but they didn't."

At a joint trial of Otis and Hetty Bennett, a forensic psychologist testified that Bennett told him he had used methamphetamine the day before Masiah's death and that he regularly used meth and marijuana. The psychologist testified that meth can cause paranoia and violent behavior. Following the January 2014 trial, Bennett was found guilty on all 22 counts against him, including murder, aggravated assault, and cruelty to children in the first degree. He was sentenced to life plus 20 years in prison. (Hetty Bennett was acquitted of felony murder, but found guilty on multiple counts of child cruelty involving her failure to seek medical attention for Masiah. In a plea bargain, Copeland pleaded guilty to two counts of cruelty to children, also based on her failure to get her baby help.)

In his appeal before the Georgia Supreme Court, Bennett argued that the evidence was insufficient to convict him because it did not exclude the reasonable hypothesis that Copeland had committed the crimes. He claimed that Copeland never cared for the baby and had been abusing and neglecting Masiah long before she moved in with him and his mother. Furthermore, all the evidence against him came from Copeland, he argued.

In today's opinion, the high court disagrees the evidence was insufficient. "Here, evidence of Bennett's almost daily drug use that could result in violent behavior, that he was alone with Masiah just before her death, that he presented multiple explanations for how he likely caused some of her prior injuries, as well as his behavior after emergency personnel arrived, was sufficient for the jury to find that he inflicted Masiah's prior injuries as well as the injuries that caused her death," the opinion says. "The jury was authorized to reject Bennett's hypothesis that Copeland caused Masiah's death...."

Attorney for Appellant (Bennett): Tyler Conklin, Georgia Public Defender Council
Attorneys for Appellee (State): Paul Howard, Jr., District Attorney, Lyndsey Rudder, Dep. D.A., Kevin Armstrong, Sr. Asst. D.A.

HENRY COUNTY BOARD OF EDUCATION V. S.G. (S16G1700)

The Supreme Court of Georgia has ruled in favor of a high school senior who was expelled from her **Henry County** high school for fighting with another girl.

In today's unanimous opinion, the high court has reversed a Georgia Court of Appeals decision and ruled that schools with "zero tolerance" policies against school fights must nevertheless apply the Georgia statute that gives students the right to argue self-defense as justification for the fight.

According to the facts of the case, on Jan. 24, 2014, S.G. and S.T. got into a fight at Locust Grove High School. According to testimony, the girls had a "history of not getting along as a result of jealousy and competition for friends, fueled by commentary on social media." S.G. and her mother, a school employee, had reported accusations of S.T.'s bullying to school administrators prior to the fight. After school on Jan. 24, S.G. went to her mother's car in the parking lot to retrieve some personal items and was on her way back to the school when she and S.T. got into a verbal confrontation. A video recording shows S.T. following behind S.G. at a clip, and the students' gestures and body language indicate they are in a heated verbal confrontation. A school secretary later testified that S.T. was "animated" and appeared to be the aggressor by taunting S.G. and yelling, "If you want to do something, do it now," or "We'll do it now." S.G.'s mother testified that she witnessed S.G. trying to get away from the other student, as she had advised her daughter to do, but the other student was intent on fighting. The video shows S.T. coming very close to touching S.G. who held up her hand as if to indicate, "Stop." Due to the quality of the video, however, it is not possible to determine whether the other student pushed or made contact with S.G. before the two started fighting. The two girls ended up on the sidewalk and S.G. struck S.T. with her fist several times until S.G.'s mother pulled her off the girl. S.T. got up, again moved toward S.G., who again threw S.T. to the ground and sat on her before being pulled off a final time.

The school charged S.G. with violating Section-2, Rule #4 (physically abusing others) and Section-2, Rule #11 (violations that constitute a criminal misdemeanor) of the school district's Secondary Student and Parent Handbook. Following a hearing, the hearing officer

found S.G. guilty of violating the rules with which she was charged, “for being involved in a fight on the school grounds,” and expelled S.G. for the remainder of the school year with the opportunity to attend the alternative school, Patrick Henry Academy. S.G. appealed to the local school board, arguing that S.T. was the aggressor and she had acted in self-defense. The local board upheld the hearing officer’s findings and the expulsion. She then appealed to the State Board of Education, which affirmed the local board’s decision.

S.G. then appealed to the superior court, which reversed the decision, concluding that the State Board had misapplied the law regarding self-defense by requiring S.G. to show that she had no ability to retreat before using force. The superior court concluded that S.G.’s actions were justified because the other student had “lunged” at S.G. before S.G. responded with force. The court ordered the local board to remove the disciplinary findings from the student’s record. The Henry County School Board then appealed to the Court of Appeals, which upheld the superior court’s ruling, concluding that, “The local board, through its actions and arguments, has demonstrated a policy of expelling students for fighting on school grounds regardless of whether the student was acting in self-defense. The local board’s rejection of S.G.’s justification defense is consistent with that zero tolerance policy, is inconsistent with the requirements of Georgia Code § 16-3-21 (c), is not supported by the record, and therefore, amounted to an abuse of discretion.”

Georgia Code § 16-3-21 states that, “A person is justified in threatening or using force against another when...he or she reasonably believes that such threat or force is necessary to defend himself or herself or a third person against such other’s imminent use of unlawful force....” Subsection (c) of that statute says that any rule or policy of any state or county agency “which is in conflict with this Code section shall be null, void, and of no force and effect.” The Henry County School Board then appealed to the state Supreme Court, which agreed to review the case to determine two issues: whether the Court of Appeals imposed an improper burden of proof upon local school boards when a student claims self-defense for fighting, and whether the appellate court erred in determining that the local board improperly rejected S.G.’s self-defense claim.

“First, we hold that the Court of Appeals announced an improper burden-shifting evidentiary rule when a local school board is considering a student’s claim of self-defense against a disciplinary charge for fighting,” **Justice Robert Benham** writes for a unanimous court in today’s 20-page opinion.

School disciplinary proceedings are civil matters, not criminal matters, and in a civil case, the burden of proof is upon the party asserting it. Yet the Court of Appeals improperly relied upon criminal law in concluding that once a student raises self-defense as justification for fighting, the burden of proof is upon the school board to disprove that defense beyond a reasonable doubt.

“In accordance with the general rule for the burden of proof in civil cases, when a student raises an affirmative defense in a school disciplinary proceeding, the student bears the burden of proving that defense,” the opinion says. “Unlike the burden of proof in a criminal case, the burden does not shift to the local board of education to refute the student’s defense.”

As to whether the Court of Appeals properly reversed the ruling of the local board, “we agree with the Court of Appeals that the record does not reflect whether the local board properly considered the self-defense evidence or, even if it did, whether it properly applied the law

regarding self-defense,” the opinion says. “The Court of Appeals, however, improperly made its own findings with respect to S.G.’s self-defense claim,” exceeding its scope of review.

“Where the Court of Appeals veered off course was in substituting its own findings of fact instead of remanding the case to the local board to apply the proper law to the record evidence and reach its own findings,” the opinion says. Therefore, “We reverse the Court of Appeals decision and remand the case with direction that it remand the matter to the superior court with instructions to remand to the local board for further findings and conclusions after applying the appropriate law to the evidence in accordance with this opinion.”

Attorneys for Appellant (local board): A.J. “Buddy” Welch, Jr., Megan Pearson

Attorneys for Appellee (S.G.): Michael Tafelski, Lisa Krisher, Phyllis Holmen, Robert Ashe III

RICHARDSON-BETHEA V. THE STATE (S17A1104)

The Georgia Supreme Court has unanimously upheld a **Newton County** jury’s verdict finding a female caregiver guilty of the abuse and murder of a disabled woman by punching and kicking her to death.

Although in her appeal, Cornelius Richardson-Bethea did not challenge the sufficiency of the evidence against her, “we have independently reviewed the record and conclude that the trial evidence was legally sufficient to authorize a rational trier of fact to find beyond a reasonable doubt that she was guilty of the crimes for which she was convicted,” **Justice Nels S.D. Peterson** writes in today’s unanimous opinion.

According to the facts of the case, Susan Walter was a 48-year-old woman who suffered from intellectual and physical disabilities and was unable to care for herself. Her mother had cared for her until she died in 2003, and eventually Walter was placed in a personal care home funded by the state, according to briefs filed in the case. In 2011, shortly after Richardson-Bethea received her training to operate a personal care home, Lutheran Services, which matched adults needing care with caregivers, placed Walter in Richardson-Bethea’s home in Newton County. Walter was Richardson-Bethea’s first and only in-home client and Walter lived there from September 2011 until her death in March 2013. Walter’s case manager from Lutheran Services spoke with Walter by phone and visited her in person at least once a month. The State also monitored her care on a monthly basis by visits from an organization called Creative Consulting.

On March 2, 2013, Richardson-Bethea called 911 and reported that she had found Walter dead. When a Newton County Sheriff’s Deputy arrived on the scene, he found Walter sitting in a reclining chair in her room and noticed she was bruised about her face, neck, arms and legs. She was cold to the touch and not breathing. The coroner arrived and made similar observations about Walter’s bruising, saying she had a “grab-type bruise” on her chin and that he had rarely seen the level of bruising he saw on Walter. Richardson-Bethea told law enforcement officers and the coroner that Walter had suffered a seizure the day before while sitting in the chair in her bedroom, causing her to fall out of the chair onto her face. Richardson-Bethea said she had immediately notified the case manager, the state coordinator and Walter’s brother about the seizure. Richardson-Bethea said Walter ate dinner that evening but later threw up in her bed. She said she assisted moving Walter to the recliner, then changed the linens on her bed. She left her in the recliner so she would not choke if she again vomited. Richardson-Bethea said she gave Walter her anti-seizure medicine and later checked on her at around midnight, observing that Walter seemed fine. When she checked again at 2 a.m., Walter was dead.

Dr. Kris Sperry, at the time Georgia's Chief Medical Examiner, performed the autopsy. He found extensive bruising to Walter's face, head, chest, arms, legs, feet and abdomen. He noted that she had bruising consistent with grab marks around her chin and what appeared to be defensive wounds in the form of large bruises on the inside of her right upper arm and lower left leg. He noted bruising on her right cheek and around her eye that he said came from multiple impacts to her face. He also found extensive and severe abdominal bruising indicative of a high velocity impact, such as one would get from a car wreck, a fall from great heights or a severe beating. Within the large abdominal bruise, he noted 15 distinct areas of impact indicating at least 15 blows. He noticed additional multiple bruises, inconsistent with falling. Sperry found severe bleeding and swelling of her brain consistent with blows to her head. He concluded Walter had died from blunt force head trauma and the manner of death was homicide. He also concluded that the severe abdominal bruising was not consistent with Walter having fallen on the shower bar about a week prior to her death, as Richardson-Bethea had said she had done. Sperry testified Walter had no trace of the anti-seizure medication, Keppra, in her body, and it appeared she had not eaten for 10-to-12 hours prior to her death as her small intestine was empty.

In May 2013 a Newton County grand jury indicted Richardson-Bethea for malice murder, felony murder, aggravated battery, aggravated assault, and abuse of a disabled adult. At trial, her attorney called a number of character witnesses on her behalf who testified to the loving relationship she shared with Walter. No complaints ever had been filed against her. Her first trial ended in a mistrial when the jury could not reach a verdict. Following a May 2014 jury trial, Richardson-Bethea was convicted on all counts and sentenced to life in prison without parole. Her new attorney filed a motion for new trial, claiming her trial attorney had given her "ineffective assistance of counsel," in violation of her constitutional rights, for failing to call an independent medical expert to challenge Sperry's findings.

At the hearing on the motion for new trial, Dr. Joseph Burton – also an experienced medical examiner – testified that while he agreed with most of Sperry's findings, he believed the massive bleeding and swelling of Walter's brain occurred from the injury to her cheek and could have occurred when her face hit the floor following the seizure. He also testified, however, that the multiple impacts to the top of her head, as well as the injury to her abdomen, were consistent with being punched or kicked. He testified that he believed a majority of pathologists would have found that Walter was beaten to death. Thomas Clegg, Richardson-Bethea's trial attorney, said that after consulting with another attorney, he had decided against bringing in a medical expert for the defense because he didn't feel it would be helpful to Richardson-Bethea's case as he was building the defense around her good relationship with Walter and Walter's history of falls. The trial judge found Clegg had provided reasonable and effective counsel and that Richardson-Bethea's case was not prejudiced by Clegg's decision not to bring in an independent expert. Richardson-Bethea then appealed to the state Supreme Court, arguing she was denied effective assistance of counsel by her trial attorney's failure to retain expert testimony to refute the State's medical testimony.

"Assuming without deciding that trial counsel was deficient for failing to present expert medical testimony to the jury – or, at the very least, consult with a potential expert witness – we conclude that Appellant [i.e. Richardson-Bethea] is not entitled to a new trial because she 'cannot show a reasonable likelihood that, but for the failure to retain an independent expert, the outcome of her trial would have been more favorable,'" today's opinion says.

Under the U.S. Supreme Court’s 1984 decision in *Strickland v. Washington*, to prove “ineffective assistance of counsel,” a defendant must show that his trial attorney provided deficient performance and that, except for that unprofessional performance, there is a reasonable probability that the outcome of the proceeding would have been different.

In assessing whether the trial attorney’s performance prejudiced – or damaged – Richardson-Bethea’s case, it is not enough to rely on what some hypothetical expert might say. Rather, she must show there is a reasonable likelihood that the testimony of Burton would have changed the outcome of her trial. But if Burton’s testimony was the same as what he said at the hearing on her motion for new trial, it “would have bolstered, rather than rebutted, the testimony of the State’s expert,” the opinion says. Among other things, Burton testified that multiple blows to Walter’s belly with a fist could have created the bruising pattern on her abdomen. He also said that the physical evidence showed someone had struck Walter on the head multiple times with an object.

“Given the equivocal nature of Burton’s testimony, the many ways in which Burton bolstered Sperry’s damning testimony, and Burton’s inability to address other aspects of the State’s case, we cannot conclude that there is a reasonable probability that the result of the trial would have been different had trial counsel presented Burton’s testimony,” today’s opinion says. “The trial court did not err in rejecting Appellant’s motion for new trial.”

Attorney for Appellant (Richardson-Bethea): Teresa Doepke

Attorneys for Appellee (State): Layla Zon, District Attorney, Randy McGinley, Chief Asst. D.A., Jillian Hall, Dep. Chief Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Scott Teague, Asst. A.G.

EDWARDS V. THE STATE (S17A0929)

In another metropolitan Atlanta case involving the death of a child, the Georgia Supreme Court has upheld the murder conviction and life prison sentence with no chance of parole given to Ryan Russell Edwards for the murder of his 13-month-old son.

In today’s unanimous opinion, written by **Justice Nels S.D. Peterson**, “we conclude that the evidence was sufficient to authorize a rational trier of fact to find beyond a reasonable doubt that Edwards was guilty of the crimes of which he was convicted.”

According to the facts of the case, Toni Brown was in a relationship with Edwards when she discovered she was pregnant. Mikkah Brown was born in December 2010. Brown and Edwards did not live together, and Edwards did not meet his son until the baby was 4 or 5 months old, according to briefs filed in the case. In January 2012, Mikkah lived with his mother and her two other children, ages 12 and 3, in a town house on Trammell Road in **Clayton County**. At the time, Brown was working two jobs, including one with a night shift, while also taking classes at Clayton State University. She hired a babysitter to watch the kids while she was at work, and her 12-year-old son watched Mikkah and the other child while she was in class.

On Jan. 24, 2012, the babysitter suddenly quit, and Brown asked Edwards if he could watch the kids while she worked. Brown agreed and stayed at the house for the next few days. On Thursday, Jan. 26, Brown saw Mikkah before she left for work that night. Edwards was then alone with the three children. During the night, Brown’s 12-year-old son went downstairs to get a drink of water. On his way to the kitchen, he saw Edwards with the baby. He observed that Miccah had something tied around his neck, then observed as Edwards repeatedly swung the

baby around by his neck like “some type of rag doll.” When Edwards finally noticed the boy watching, he sat Mikkah on the floor. Because Edwards had the only phone in the home, the boy could not call his mother for help.

When Brown returned home from work the morning of Jan. 27, she went upstairs to see her kids. Mikkah was lying on Brown’s bed with Edwards and appeared to be asleep. She bent down to kiss him and noticed an abrasion on his forehead. She asked Edwards what had happened and he said that perhaps Mikkah had fallen off his training potty. When Brown picked up the baby, his head appeared “wobbly.” But Edwards assured her nothing had happened and he took the baby from the room, telling her to get some rest.

Later that morning, Brown’s 12-year-old son told his mother what he’d witnessed the night before. She again went to check on Mikkah, and when she picked him up out of his crib, he was unresponsive and his head was “flopping around.” She then told everyone to get dressed, and she rushed Mikkah to Children’s Healthcare of Atlanta on Mt. Zion Blvd. Edwards and the other two children went with her. At the hospital, her older son approached an employee and said he had seen Edwards sling the baby around like a rag doll the night before. The employee called police. Edwards told the law enforcement officers that Mikkah had been sick and throwing up the night before and that Edwards began to play “fight” with the child to “get his energy level back up.”

Mikkah was airlifted to Children’s Healthcare at Egleston where he was put on life support. Doctors told Brown that Mikkah had severe brain damage and part of his brain stem was gone. They said he would never again speak or breathe or eat on his own. A few days later, the baby was taken off life support and he died. A medical examiner testified that the cause of death was “non-accidental, inflicted” blunt force head trauma. The autopsy revealed fractures of the baby’s skull, bleeding and swelling of the brain, retinal hemorrhages, spinal cord hemorrhages, and external injuries to his neck, chest, arms, face and legs. A physician with child abuse experience testified that the retinal hemorrhages were consistent with rapid acceleration and deceleration of the head, such as by significant head trauma. A tear in the baby’s frenulum was likely caused by a very forceful impact to his mouth.

Edwards was indicted on one count of malice murder, three counts of felony murder, two counts of aggravated assault, three counts of aggravated battery, and five counts of cruelty to children. Following a May 2013 trial, the jury convicted him of all counts except one of the child cruelty counts. He was sentenced to life without parole plus six consecutive 20-year sentences.

In his appeal before the state Supreme Court, Edwards argued that the trial court erred in granting state prosecutors’ motion that challenged as racially discriminatory Edwards’ striking of some prospective jurors. But in today’s opinion, the Supreme Court finds that the trial court conducted the proper inquiry and rejects Edwards’ argument. Edwards also argued that the trial court prevented Edwards from preserving for appeal his claim that he had received “ineffective assistance of counsel” from his trial attorney in violation of his constitutional rights. “We disagree,” the opinion says, also rejecting that argument. The high court does agree, however, that the trial court made sentencing errors by “merging” the felony murder counts into the malice murder count rather than “vacating” them, as the law requires. And while Edwards didn’t raise the issue, one of the aggravated battery counts should have merged with malice murder for sentencing purposes because the aggravated battery “was not separate and distinct from the malice murder.”

“We agree that the trial court made a merger error and therefore vacate in part and remand for resentencing, but we otherwise affirm Edwards’s convictions,” the opinion says. **Attorney for Appellant (Edwards):** Genevieve Holmes, Georgia Public Defender Council **Attorneys for Appellee (State):** Tracy Lawson, District Attorney, Elizabeth Baker, Dep. Chief Asst. D.A., Elizabeth Rosenwasser, Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Jason Rea, Asst. A.G.

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

- * Erwin Trevor Brewer (Troup Co.)
- * Henry Earl Crump (Paulding Co.)
- * Rodney Jackson (DeKalb Co.)
- * Willie Jackson (Fulton Co.)
- * David William Keener (Hall Co.)
- * Phillip N. Kerch (Pierce Co.)
- * Eugene Leslie (Newton Co.)
- * Rodney McCarthy (Quitman Co.)
- * Shamel Stroud (Fulton Co.)
- * Leshan Tremiele Tanner (Hall Co.)

- BREWER V. THE STATE (S17A0895)**
- CRUMP V. THE STATE (S17A1146)**
- JACKSON V. THE STATE (S17A1128)**
- JACKSON V. THE STATE (S17A1171)**
- KEENER V. THE STATE (S17A0974)**
- KERCH V. THE STATE (S17A0820)**
- LESLIE V. THE STATE (S17A1313)**
- MCCARTHY V. THE STATE (S17A0693)**
- STROUD V. THE STATE (S17A0709)**
- TANNER V. THE STATE (S17A1024)**

(The Supreme Court has upheld Tanner’s murder conviction and life prison sentence, but it is sending the case back to the trial court to fix a sentencing error. Because Tanner was found guilty of, and sentenced to, felony murder while in the commission of conspiracy to commit robbery, he could not also be sentenced for the underlying felony of conspiracy to commit robbery. Rather, that crime merges into the felony murder and the sentence for the underlying felony must be thrown out.)

- * Deron Williams (Cobb Co.)

- WILLIAMS V. THE STATE (S17A0954)**

(The Supreme Court has upheld Williams’s murder conviction, but it has thrown out his sentence to life without parole and is sending the case back to the trial court for resentencing. The trial court erred in using Williams’s former pleas as a “first offender” to sentence him as a repeat offender. Pleas under the First Offender Act are not “convictions” as understood in the criminal code and therefore cannot be used to sentence someone as a recidivist.)

IN DISCIPLINARY MATTERS, the Georgia Supreme Court has accepted a petition for **voluntary surrender of license** – tantamount to disbarment – from attorney:

* Cassandre M. Galette **IN THE MATTER OF: CASSANDRE M. GALETTE**
(S17Y1852)

The Court has ordered the **4-year suspension with conditions for reinstatement** of attorney:

* Fincourt Braxton Shelton **IN THE MATTER OF: FINCOURT BRAXTON SHELTON**
(S17Y1780)

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

* John Dennis Duncan **IN THE MATTER OF: JOHN DENNIS DUNCAN**
(S17Y1532)

The Court has accepted a petition for voluntary discipline and ordered the **public reprimand** of attorney:

* Lakeisha T. Gantt **IN THE MATTER OF: LAKEISHA T. GANTT**
(S17Y1811)

The Court has accepted a petition for voluntary discipline and ordered the **Review Panel reprimand** of attorney:

* Emmanuel Lucas West **IN THE MATTER OF: EMMANUEL LUCAS WEST**
(S17Y1684)

The Court has **rejected petitions for voluntary discipline** from attorneys:

* Gary Lanier Coulter **IN THE MATTER OF: GARY LANIER COULTER**
(S17Y1431)