



## Supreme Court of Georgia

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#### **REDMON V. JOHNSON, WARDEN (S16H1197)**

In response to a case now pending before the U.S. Supreme Court, Georgia’s highest court has issued an opinion to clear up confusion over the process it follows – and what the Georgia Supreme Court means – when it “summarily denies” a particular type of application to appeal.

In 2014, **Jarvis R. Redmon** was convicted in **Rockdale County** of two counts of sexual battery against a child. He appealed, and his convictions were affirmed by the Georgia Court of Appeals. He then filed a state petition for habeas corpus, which is a proceeding that allows already convicted prisoners to challenge their convictions on constitutional grounds in the superior court of the county where they are incarcerated – often referred to as the “habeas court.” They usually file the action against the prison warden, who in this case was **Glen Johnson**. The habeas court denied Redmon’s petition. Redmon then filed an application to the Georgia Supreme Court asking the state’s highest court to authorize him to appeal to it the denial of his habeas corpus petition.

Today’s opinion begins by “summarily denying” Redmon’s habeas application, meaning that the Georgia Supreme Court denies his request to appeal without writing an opinion explaining the reasons for doing so. Such a summary denial is usually done in a one-sentence, unpublished order of the type the Court is issuing in 20 other habeas cases today and has issued in thousands of habeas cases in the past.

In this case, however, the Court has issued an 11-page published opinion because, “there appears to be significant misunderstanding of the process by which this Court renders these

decisions and the import of our decisions, both among repeat litigants in state habeas proceedings and among the federal courts that sometimes see the same cases – particularly death penalty cases – later in federal habeas corpus proceedings.” One such death penalty case, *Wilson v. Sellers*, is currently pending before the U.S. Supreme Court. “While we offer no view on the question of federal habeas law presented in *Wilson*, the answer to that question appears to depend in part on presumptions about this Court’s summary denials of habeas applications, and those presumptions should be founded on reality rather than supposition, inference, or misinformation.”

At issue is whether by summarily denying a habeas application, the Georgia Supreme Court indicates its agreement with everything the habeas court said in its order denying habeas relief. Today’s opinion makes it clear it does not. Rather, “our summary denials of habeas applications should be understood, like summary affirmances by the Supreme Court of the United States and the federal circuit courts, as approving only the judgment of the court below, not all of its reasoning.”

Habeas courts are required to write orders explaining why they are denying the prisoners requested relief. Today’s opinion details the process the Georgia Supreme Court has used for decades in reviewing applications to appeal those orders. During this process, the Court occasionally identifies factual and legal errors the lower court made in its order. In complex death penalty cases, identifying at least a few such errors is a routine occurrence. If the Court decides that the errors would arguably result in the habeas court’s decision being reversed if an appeal were granted – that the application has “arguable merit” – then the Court grants the application and initiates the full appellate process. The Court granted applications to appeal in two other habeas cases today.

But if the errors are inconsequential – if applying the correct law to the facts as correctly found would not result in the prisoner being entitled to relief – then with rare exceptions the Court will summarily deny the application to appeal rather than spending the Court’s time and resources on a full appeal that would have no realistic chance of succeeding. Put another way, the Court is primarily focused on whether the habeas court reached the correct result in denying relief, not on the quality of the lower court’s reasoning.

The Court’s opinion notes a suggestion that, “we could revise our standard order so that, instead of simply saying that the habeas application is ‘denied,’ it says something like ‘denied based upon our independent review of the application, any response, and the entire record, notwithstanding any factual or legal errors in the habeas court’s order that we may have identified but which would not result in a different judgment.’” But the Court concludes that there is no value added by such verbiage, especially now that it has explained what it means when it says “summarily” that an application to appeal the denial of habeas corpus is “denied.”