



SUPREME COURT OF GEORGIA

Case No. S18I0656

Atlanta, February 1, 2018

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

BRYANT CULLENS v. THE STATE

The application for interlocutory appeal in this case is granted. All the Justices concur. The Court is particularly concerned with the following question:

Given that Article I, Section I, Paragraph XVI of the Georgia Constitution preserves the right to refuse to submit to chemical breath tests, see Olevik v. State, ___ Ga. ___ (Case No. S17A0738, decided Oct. 16, 2017), may the State nevertheless introduce into evidence the fact that a defendant declined to submit to a chemical breath test as provided by OCGA § 40-6-392 (d)? See Elliott v. State (Case No. S17G0716, cert. granted Dec. 11, 2017); Garvin v. State (Case No. S18I0610, application granted Jan. 11, 2018). See also Simpson v. Simpson, 233 Ga. 17 (1974); Loewenherz v. Merchants & Mechanics Bank of Columbus, 144 Ga. 556 (1916); Harrison v. Powers, 76 Ga. 218 (1886).

The appellant's notice of appeal must be filed in the trial court within ten days of the date shown above. Once the record is received from the trial court and docketed in this Court, notices will be mailed to all counsel showing the date of docketing and the case number assigned. The appellant's enumeration of errors and brief will be due in this Court within 20 days of docketing; the appellee's brief will be due within 40 days of docketing, or within 20 days of the filing of appellant's briefs, whichever is later. See Rule 10.

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.

Suzanne C. Fulton, Chief Deputy Clerk