



## Supreme Court of Georgia

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



## CASES DUE FOR ORAL ARGUMENT

### Summaries of Facts and Issues

**Please note:** *These summaries are prepared by the Office of Public Information to help news reporters determine if they want to cover the arguments and to inform the public of upcoming cases. The summaries are not part of the case record and are not considered by the Court at any point during its deliberations. For additional information, we encourage you to review the case file available in the Supreme Court Clerk's Office (404-656-3470), or to contact the attorneys involved in the case. Most cases are decided within six months of oral argument.*

**Monday, June 4, 2018**

### **10:00 A.M. Session**

#### **WILLIS V. THE STATE (S18P0915)**

In this death penalty case, a man is appealing his convictions and three death sentences for the 2004 murders of a couple and their 3-year-old son.

**FACTS:** In the early hours of June 28, 2004, five members of a family who lived on Westwood Avenue in **Fulton County** were shot. Three were killed, including a 3-year-old, and two more children were injured. Thirty-year-old Jerry D. Williams was shot at close distance three times in the back of his head as he lay on a couch in the living room. Each shot was fatal. Twenty-six-year-old Talisa Hankins was shot twice in the back of the head and once in the back of her shoulder. It appeared as though she had been trying to escape through a window of a bedroom at the time of her death. Four young children were in another bedroom. Three-year-old Jerry D. Williams, whose nickname was "Man-Man," was fatally shot in the left side of his forehead. Five-year-old Cora Hankins was shot in her upper back, and 10-year-old Quinsha Hankins was shot in her thigh. The fourth child, Jerrian Hankins, hid under the bed during the shooting and was the only one who escaped injury. Cora, Jerrian, and "Man-Man" were the children of Williams and Hankins. The oldest child, Quinsha, was Hankins' daughter by a previous relationship with **Demetrius G. Willis**.

According to the evidence, on June 23, 2004, Willis, whose nickname was “Sweet Pea,” rode to Atlanta with two friends from his home in Clarksdale, Mississippi. While there, Willis, 27, attended a barbecue on Sunday, June 27, at the home of Williams and Hankins, the mother of his 10-year-old daughter. Later he went out drinking with friends, returning to his friend Ray Hollins’ home at about 5:00 a.m. After the men ate breakfast, Willis asked Hollins to ride with him back to the home of Williams and Hankins so he could see his daughter before he returned to Mississippi. With Willis driving, the two went back to the home on Westwood Avenue. Hollins remained in the car while Willis went inside. Hollins later said he could hear Hankins speaking to Willis, and she said, “Sweet Pea, what’s wrong with you?” Multiple gunshots followed. Quinsha and Cora later testified that Cora saw Willis shoot Hankins, and the children then all ran into a bedroom. Willis then entered the bedroom where they were and started shooting. Baby Jerry was standing when Willis shot him in the head. Cora was on her bed when she was shot in her back/shoulder. Quinsha tried to hide under the bed with Jerrian, but was shot in the thigh. According to Quinsha, Willis was wearing a yellow-looking jersey and jeans. Quinsha said she did not see anyone other than her father doing the shooting.

Outside, after hearing the gunshots, Hollins initially got out of the car and ran up the street, but he returned to the car when he saw Willis leaving the home carrying a pistol. Hollins noticed that Willis had specks of blood on his face and shirt. Hollins asked Willis what had happened, and Willis replied he had killed everyone in the house. He never said why.

The next day, Willis and his friends road back to Mississippi in the black Impala car they had used throughout the trip. On the way, Willis stopped and threw the shirt he had been wearing into a trash can and the pistol into a body of water. Once back in Mississippi, Willis turned himself in.

Willis was indicted on three counts of malice murder, nine counts of felony murder, and one count each of burglary, cruelty to children in the second degree, possession of a firearm during the commission of a felony, and possession of a firearm by a convicted felon. In September 2004, the State announced it would seek the death penalty. Following a 2008 trial, the jury convicted him of all counts except the aggravated assault of Jerrian and the counts involving burglary. Willis was sentenced to death for each of his convictions for malice murder, plus additional years for his other crimes. Willis now appeals to the Georgia Supreme Court.

**ARGUMENTS:** In their 180-page brief, attorneys for Willis argue the trial court made five errors, including the court’s denial of a number of Willis’s pre-trial motions. Among the motions denied were his motion to strike down the death penalty as unconstitutional “cruel and unusual punishment.” The trial court also erred during the jury selection process; it erred by intimidating the jury before the guilt-innocence phase of the trial began; it erred by allowing in evidence of Willis’ gang membership during the sentencing phase of his trial; and it erred by allowing in improper victim impact evidence during the sentencing phase, the attorneys contend.

The State, represented by the District Attorney’s and Attorney General’s offices, who filed briefs ranging in length from 140-to-181 pages, argue the trial court made no errors in denying Willis’s pre-trial motions, and correctly denied Willis’s multi-part “Motion to Strike” the death penalty as unconstitutional. His 37 specific enumerations of error regarding the jury selection process are all without merit, and even assuming there was some error, the error was harmless and does not require a reversal, the State’s attorneys contend. Willis’s assertion that the trial court intimidated the jury is “unfounded and without merit.” His claim that the trial court

erred by allowing the introduction of evidence of Willis's gang membership during sentence is also "without merit." And the victim-impact testimony of four witnesses during the sentencing phase was not improper, and if any of it was error, it was harmless error, the State contends.

**Attorneys for Appellant (Willis):** Charley Frier, Akil Secret

**Attorneys for Appellee (State):** Paul Howard, Jr., District Attorney, Lyndsey Rudder, Dep. D.A., Kevin Armstrong, Sr. Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Sabrina Graham, Sr. Asst. A.G., Channell Singh, Asst. A.G.

### **PARKS V. THE STATE (S18A0949)**

A young man is appealing his conviction and life prison sentence for his role in the murder of an 18-year-old.

**FACTS:** The afternoon of April 16, 2008, **Dexter Parks**, who was 16 or 17 at the time, rode with about 14 young men in five or six cars to Hotel Street in the "Babyland" neighborhood of Austell, **Cobb County**. Among those with Parks was Rodger Jackson, Jr., known as "Peebo." Lavita Harrison, who lived in the area, was there when the cars pulled into her neighborhood and the young men started yelling and creating chaos. Harrison alleged they were members of the "GMC" street gang, with the acronym standing for "Get Money Click." Looking to start a fight, Jackson and others got out of their cars and approached the lawn in front of Harrison's house. One of them told Harrison that her brothers and cousins needed to stay away from his "homeboys" at school. Harrison told them there were young children inside and they needed to leave. At the same time, Harrison's cousin, 18-year-old Caleb Burroughs, was walking up the street toward Harrison's home after visiting his grandmother's house. Moments later, Parks, who had remained in the car, yelled, "bust that shit, ni\*\*a," and Jackson, described by prosecutors as Parks' right hand man, fired twice into the air before lowering his gun and firing into the crowd. One of the shots hit Burroughs in the abdomen, killing him.

In July 2008, Parks and Jackson were indicted for Burroughs' murder. Their prosecutions subsequently were severed and they were tried separately. At Parks' February 2010 trial, two witnesses disputed that GMC was a street gang and testified that GMC was a "music group" or rap group that had even recorded CDs. Agent Shawn Vereen of the Cobb Anti-Gang Enforcement Unit, however, testified as an expert in criminal street gang activity that GMC was a "nontraditional or hybrid gang." He described it as "a group of individuals that clicked up together or became a part of one another through a common idea, rapping or whatever, and they've evolved into criminal activity." He said this was "the new pattern of gang activity in our area." Following trial, the jury convicted Parks of murder, aggravated assault, possession of a firearm during the commission of a felony, and participation in criminal street gang activity. He was sentenced to life plus five years in prison. Parks now appeals to the state Supreme Court.

**ARGUMENTS:** Parks' attorney argues the trial court erred by allowing in Vereen's testimony because it was, "1) based on inadmissible hearsay, 2) not beyond the ken of jurors, and 3) there is no science or reliable information that the expert based his opinion on." His testimony was adduced primarily through personal interviews of known and suspected gang members and two training seminars, the attorney argues in briefs. The evidence also was insufficient to support Parks' convictions, the attorney argues. Under the state Supreme Court's 2000 decision in *Jordan v. State*, "mere presence at the scene of a crime and mere approval of the criminal act do not amount to sufficient evidence to establish that a defendant is a party to a crime." The State

must prove that the defendant, “intentionally encouraged the commission of the criminal act,” according to *Jordan*. All of the evidence against Parks was circumstantial, which requires that the facts must exclude every other reasonable hypothesis other than that the accused is guilty, the attorney argues. “Multiple circumstances fail to exclude Parks’ guilt,” the attorney argues. The evidence does not support a conclusion that Jackson shot Burroughs at Parks’ encouragement. “First, nothing in the record ties the statement made – ‘bust that shit’ – to shooting Burroughs,” the attorney argues. “It would also be impossible for Parks to share a common criminal intent with Jackson if he accidentally shot Burroughs.”

The State, represented by the District Attorney’s and Attorney General’s offices, argues that under Georgia’s former Evidence Code, expert witnesses were allowed to base their opinions on hearsay and other forms of inadmissible evidence. Agent Vereen did not directly repeat or quote statements or assertions of others from the witness stand and properly testified as a qualified gang expert at trial, the State contends. “No hearsay was admitted,” and the evidence “in question in this case is clearly and undoubtedly admissible under Georgia’s new Evidence Code.” Furthermore, Georgia courts have been clear that, “Acceptance or rejection of the qualifications of a proposed expert witness is within the sound discretion of the trial judge and will not be disturbed on appeal absent manifest abuse.” The State also argues that the evidence against Parks was “overwhelming.” Parks was present at the time of the murder; the attack “was committed by over a dozen GMC members who invaded the Babyland neighborhood;” GMC was a criminal street gang, and Parks and Jackson were members who shared a close relationship; Parks “issued the profane call for shooting to begin,” after which “Peebo opened fire,” killing Burroughs. Under Georgia’s “party to a crime law,” “a jury may infer a common criminal intent from the defendant’s presence, companionship, and conduct with other perpetrators before, during, and after the crimes.” In this case, “there is both direct and circumstantial evidence of Parks’ guilt,” the State contends. “Parks is guilty as a party to the crimes.”

**Attorney for Appellant (Parks):** Mark Yurachek

**Attorneys for Appellee (State):** D. Victor Reynolds, District Attorney, Michael Carlson, Dep. Chief D.A., John Melvin, Chief Asst. D.A., Amelia Pray, Sr. Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Vanessa Meyerhoefer, Asst. A.G.

#### **GRANT V. THE STATE (S18A0934)**

A man is appealing his conviction and life prison sentence for murder, arguing that the trial court should have suppressed his statements to police who violated his constitutional right to remain silent.

**FACTS:** On March 12, 2013, Christopher Walker and his friend, Alberto Rodriguez, went to a Taco Bell in **Fulton County**. Also at the restaurant were **Michael Grant**, Matthew Goins, and Richard Davidson. Rodriguez later testified that as Walker and Rodriguez walked into the restaurant, they passed Grant, Goins and Davidson who were outside talking to one another. Rodriguez said he thought he noticed Goins eyeing the gold chain Walker was wearing around his neck. Later, when he and Walker came out of the restaurant, Rodriguez noticed that Grant’s car had moved across the street and was now facing the Taco Bell. Three people were in the car, including Goins, but Walker said he didn’t “think too much of it” at the time. He and

Walker then proceeded to drive to Walker's home. As they were getting out of the car, they were approached by someone later identified as Davidson, who asked Walker and Rodriguez if they knew where to get some marijuana. When they said no, Davidson pulled out a gun and demanded the chain around Walker's neck. Walker refused, and following a brief struggle between the two, Davidson shot him in the head. Walker died later that night.

Detective Kevin Barry of the Milton Police Department posted information about the case, including surveillance footage from the Taco Bell, on Crime Stoppers, a service used by law enforcement to obtain help from the public in tracking down criminals. A woman named Danielle Weed, who lived with Grant's brother, saw the post and told police that the men in the Taco Bell video were Grant, Goins and Davidson. She also provided the tag number of a vehicle registered to Grant.

Grant was brought to the Roswell Police Department where he was interrogated by Milton police. The interrogation was recorded on audio and video and played for the jury at trial. The following exchange occurred:

Detective: Do you want to waive your *Miranda* rights and let us tell you what this is about?

(When police arrest someone, they are required to read the defendant his *Miranda* rights: "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you.")

Defendant: Do I want to waive my rights? No.

Detective: You don't? So you don't know what it's about?

Defendant: I'm not waiving nothing.

Detective: So you don't, you don't want us to tell you?

Defendant: Not if it causes me to give up my rights, no...

(Grant then asked the detective if he was under arrest, and the detective said he was.)

Defendant: Then I don't got nothing to say...

The officers then told Grant he was under arrest for murder and other charges, left the interview room and returned 10 minutes later, at which time they read Grant his *Miranda* rights. Then there was this exchange:

Detective: Want to hear your side of it, but we can't unless....

Defendant: If I'm already under arrest, then I don't got nothing to say about nothing.

However, when one of the defendants again asked, "so you don't – you don't want to sign this and waive your rights," Grant relented and agreed to sign. Eventually he agreed to speak to the other detective, and he acknowledged being at the scene and driving the vehicle. He denied knowing about Davidson's plan to rob Walker and said he was merely following Davidson's instruction to follow Walker and Rodriguez when they left the Taco Bell. Grant said that when Davidson returned to the car, he said he had accidentally shot someone. However, in defending Goins, his cousin, Grant stated that, "he didn't know we was going to do that...he didn't know we planned on doing nothing...."

In June 2013 Grant, Davidson and Goins were indicted for malice murder, felony murder, and other crimes. Prior to trial, Grant's attorney filed a motion to suppress his statements during the interrogation on the grounds that law enforcement had failed to honor Grant's repeated invocations of his constitutional right to remain silent. Following a hearing, the trial court denied

his motion, finding that a criminal defendant cannot effectively invoke his constitutional rights prior to being advised of what they are.

At a joint jury trial with Goins in October 2014, Grant was convicted of felony murder, aggravated assault, attempted armed robbery and firearm possession. He was sentenced to life plus five years in prison. (In a separate trial, Davidson was convicted of murder and sentenced to life without parole; Goins was acquitted on all counts.)

Grant now appeals to the Georgia Supreme Court.

**ARGUMENTS:** Grant’s attorney argues the trial court erred in admitting Grant’s statements into evidence at trial when Grant “unequivocally, unambiguously and repeatedly invoked his right to remain silent in the face of custodial interrogation.” “It is difficult to imagine a more clear-cut invocation of the right to remain silent than what Mr. Grant repeatedly expressed to the law enforcement officers in this case,” the attorney argues in briefs. “It is equally difficult to imagine a more clear-cut disregard of such an invocation by law enforcement officers.” Also, where the evidence established no more than Grant’s mere presence at the scene and mere association with the principle, “the State failed to prove beyond a reasonable doubt that the Appellant [i.e. Grant] was a party to the crimes,” the attorney argues. “In a case where the evidence of Mr. Grant’s knowledge and thus his liability as a party to the crimes, was otherwise flimsy, the admission of his statement was undeniably prejudicial. Without it, he likely would have been acquitted like co-defendant Goins, for whom the evidence was actually more damning in other respects....”

The State, represented by the District Attorney’s and Attorney General’s offices, argues that the trial court correctly denied Grant’s motion to suppress his statement. Grant did not clearly and unequivocally invoke his *Miranda* rights before the officers left the room because he had not yet been read his *Miranda* rights. “No reasonable officer would have assumed that Appellant was fully apprised of his *Miranda* rights simply because he said he was,” the State’s attorneys argue in briefs. “Given law enforcement’s strong interests in public safety and duty to prosecute criminal activity, the only option for a reasonable officer would have been to clarify Appellant’s intent by reading him his rights in their entirety before deciding to cease interrogation altogether.” “Given Appellant’s equivocal responses, law enforcement was entitled to ask questions to clarify Appellant’s intentions.” But even if the trial court did err in denying Grant’s motion to suppress, the error was harmless, the State contends. The evidence was sufficient to prove Grant’s guilt beyond a reasonable doubt. Here, “there was sufficient evidence that Appellant was the ‘getaway driver,’ and was thus a party to Davidson’s crimes.”

**Attorney for Appellant (Grant):** Benjamin Goldberg

**Attorneys for Appellee (State):** Paul Howard, Jr., District Attorney, Lyndsey Rudder, Dep. D.A., Arthur Walton, Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Matthew O’Brien, Asst. A.G.

### **KENNEDY V. THE STATE (S18A0845)**

A man is appealing his murder conviction and life prison sentence for shooting to death a man who had come to his home to buy a car.

**FACTS:** On the morning of May 24, 2012, Isiah Archible and his brother-in-law, Ronald Woods, drove to **Quinntavish Kennedy’s** apartment at Pine Tree Condominiums in **Fulton County** where Archible hoped to buy a car from Kennedy, whom Archible called “Q.” When

Archible and Woods arrived, Kennedy approached the car, opened the rear door and asked repeatedly to see the money. Archible and Woods asked to see the car first. Finally, Kennedy said, "You know what time it is," and he pulled out a silver pistol. When Archible saw the gun, he put the car in drive and began to accelerate. Kennedy then jumped into the backseat of Archible's car as it moved, firing the pistol. Woods reached into the backseat and struggled with Kennedy, trying to direct the gun away from himself and Archible. During the struggle, Woods was shot in the thumb. Archible was fatally shot in the back of the head. The car traveled a short distance before crashing into a utility pole. Woods then ran to a nearby house to call for help, while Kennedy ran off toward the woods through Creel Park, eventually fleeing to South Carolina before he was brought back to Fulton County.

Police recovered \$1,900 in cash from Archible's car, as well as ballistic evidence that showed the shots all came from the same gun. At trial, Kennedy testified that he was meeting with Archible and Woods to sell them marijuana. He claimed self-defense, saying that after Kennedy got into Archible's car and showed them the marijuana, Woods pulled a gun and tried to rob him. Kennedy grabbed at the gun and it went off during the struggle, killing Archible.

During the trial, the State introduced what is now called "other acts" evidence, calling two witnesses to testify about Kennedy's prior robberies to show intent and identity. The first witness, Freddie Buffington, testified that several hours before Archible's murder, Kennedy and another man robbed him at gunpoint at the same condominium complex. The second witness, Rori Williams, testified that in 2007, Kennedy and another man robbed her at gunpoint as she and a friend were sitting in her parked car at Creel Park, next to the complex.

In his closing argument, the State prosecutor reminded jurors of the testimony by the two witnesses who said they had been robbed by Kennedy, with one having been robbed only hours before Archible was killed. "Ladies and gentlemen, what you have witnessed in this courtroom over the past two to three days is the graduation of a criminal," the prosecutor said. "He started off with robbery. He stepped it up to armed robbery. And then he goes and does an armed robbery, or attempts to do one, and kills someone."

Following a May 2015 trial, the jury found Kennedy guilty of murder, criminal attempt to commit armed robbery, and other crimes, and he was sentenced to life plus 25 years in prison. Kennedy now appeals to the Georgia Supreme Court.

**ARGUMENTS:** Kennedy's attorney argues that the trial attorney who represented him at his trial rendered "ineffective assistance of counsel" in violation of Kennedy's constitutional rights. The attorney was ineffective for failing to object during the prosecutor's closing argument. "Of course, the State is not allowed to use character evidence to show the defendant has a propensity for committing crimes, which is what the prosecutor meant when he said that the testimony from Williams, Buffington, Archible and Woods shows the 'graduation of a criminal,'" the attorney argues in briefs. The trial attorney's deficient performance was harmful to Kennedy's case because "there is a reasonable likelihood that but for the error, the outcome of the trial would have been different." There was not overwhelming evidence that Kennedy was the robber, instead of the victim of a robbery, because that conclusion relies on witness credibility, and Woods and Kennedy were the only witnesses to the transaction. "There is no other evidence of what happened inside the car," the attorney argues. "Furthermore, Wood's conviction for felony possession of marijuana corroborates Kennedy's testimony about meeting Archible and Woods to sell marijuana."

The State, represented by the District Attorney's and Attorney General's offices, argues that the trial court did not err in ruling that Kennedy's trial counsel did not render ineffective assistance of counsel. For one thing, the record shows that Kennedy's trial attorney vigorously objected numerous times when she felt that the "other acts" evidence was running afoul of the permissible purposes of intent and identity. Also, the prosecutor's closing argument that the jury had observed "the graduation of a criminal" did not constitute improper commentary on Kennedy's propensity to commit crimes or his future dangerousness, the State argues, and any objection to that effect would have been without merit. The trial court found that the prosecutor's closing argument referred to Kennedy's criminal "rampage" that included his robbery of witness Buffington and his murder of Archible on the very same day. The prosecutor's closing argument indicated that the jury had seen the "graduation of a criminal" during the rampage because Kennedy's crimes had escalated in severity, leading ultimately to murder, the State contends. Even assuming that the State did make improper suggestions during closing arguments, Kennedy cannot show that but for his trial counsel's failure to object to the statements, the outcome of the trial may have been different. The evidence against Kennedy was "overwhelming," the State argues, and included cell phone records showing Kennedy's presence near the crime scene, his prior inconsistent statement to police that he was in South Carolina at the time of the murder, Woods' testimony that Kennedy was the aggressor, the substantial amount of money found in Archible's car, and the fact that all of the shots were fired from the same weapon.

**Attorney for Appellant (Kennedy):** Ryan Locke

**Attorneys for Appellee (State):** Paul Howard, Jr., District Attorney, Lyndsey Rudder, Dep. D.A., F. McDonald Wakeford, Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Jason Rea, Asst. A.G.