



SUPREME COURT OF GEORGIA
Case No. S18C0365

Atlanta, May 07, 2018

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

CHARLES WHITE v. THE STATE

Court of Appeals Case No. A17A1879

The Supreme Court today granted the writ of certiorari in this case. All the Justices concur.

This case will be assigned to the September 2018 oral argument calendar automatically under Supreme Court Rule 50 (2), as amended September 13, 1996. Oral argument is mandatory in granted certiorari cases.

This Court is particularly concerned with the following issue or issues:

1. Can a defendant invoke OCGA § 24-4-412 in order to prohibit the admission of evidence of a witness's past sexual behavior offered by the State? Compare, e.g., *Orengo v. State*, 339 Ga. App. 117 (10) (793 SE2d 466) (2016) (“‘the Rape Shield [S]tatute . . . cannot be invoked by a defendant to prevent a victim from offering otherwise relevant evidence’ (citation omitted)”) with, e.g., *Johnson v. State*, 146 Ga. App. 277 (2) (246 SE2d 363) (1978) (holding that a defendant may, by proper and timely objection, prevent the state from introducing evidence excluded by the Rape Shield Statute).
2. Is evidence of a complaining witness's past sexual behavior admissible if that evidence is relevant to an issue other than consent? Compare, e.g. *Warner v. State*, 277 Ga. App. 421 (2) (626 SE2d 620) (2006), with, e.g., *Herndon v. State*, 232 Ga. App. 129 (2) (499 SE2d 918) (1998).
3. Did the trial court improperly admit evidence of the complaining witness's past sexual behavior, and, if so, was any such error harmless?

Briefs should be submitted only on these points. See Supreme Court Rule 45.

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.

A handwritten signature in black ink, reading "Thrice A Barnes". The signature is written in a cursive style with a large, prominent initial "T".

, Clerk