



Supreme Court of Georgia

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SUMMARIES OF OPINIONS

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DAVIDSON V. THE STATE (S18A0933) and GRANT V. THE STATE (S18A0934)

The Supreme Court of Georgia has reversed the murder conviction and life prison sentence given to **Michael Denay Grant**, while it has upheld the murder conviction and life-without-parole prison sentence given to his co-defendant, **Richard Davidson**.

In today's unanimous opinion, **Justice Keith Blackwell** writes that, "We find no harmful error with respect to Davidson. We conclude, however, that the trial court erred when it admitted a statement against Grant that law enforcement officers elicited from him in a custodial interrogation after he unequivocally invoked his right to remain silent, and the State has failed to show that this error was harmless beyond a reasonable doubt."

According to the facts of the case, on March 12, 2013, Christopher Walker and his friend, Alberto Rodriguez, went to a Taco Bell in Alpharetta, GA. Rodriguez later testified that as Walker and he entered the restaurant, they passed three men who were outside talking to one another and were later identified as Grant, Davidson, and Matthew Goins. Rodriguez said he thought he noticed Goins eyeing the gold chain Walker wore 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, one of whom Rodriguez recognized as the same man who had been eyeing Walker's chain, but he said he didn't "think too much of it" at the time. He and Walker then proceeded to drive to Walker's home in Milton, GA. 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 at first started to walk away, but he returned and told Walker he liked his gold chain. Davidson then pulled out a gun and demanded Walker's chain. When Walker

refused, Davidson held the gun to Walker's head, and following a brief struggle, shot him. As Rodriguez ran to call for help, he saw Davidson flee to Grant's car, and Grant then drove Davidson away from the scene "at a high rate of speed." Walker died later that night.

A detective with 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 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? (*Miranda* rights, read upon arrest, include: "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've got nothing to say about nothing.

However, when one of the detectives 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 made an incriminating statement, saying that Goins "didn't know we was doing none of that; he didn't know we was going to do that; he didn't know we planned on doing nothing; he was just trying to get home."

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 **Fulton County** 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; Goins was acquitted on all counts. In a separate trial, Davidson was convicted of malice murder and sentenced to life without parole. Davidson and Grant subsequently appealed to the Georgia Supreme Court.

Today's opinion outlines the arguments Davidson made on appeal, but the high court has rejected them all and found "that the evidence presented against Davidson is legally sufficient to authorize a rational jury to find beyond a reasonable doubt that he is guilty of the crimes of which he was convicted." In addition, "although the case against Grant is considerably weaker, we conclude that the evidence presented at his trial also is legally sufficient to authorize a rational jury to find beyond a reasonable doubt that Grant is guilty of the crimes of which he was convicted." With today's opinion, however, Grant is entitled to a new trial. It will be up to the State to determine whether to retry him.

In his appeal, Grant argued the trial court erred when it admitted the statement in which he attempted to exonerate Goins and managed to incriminate himself. The Supreme Court agrees. "The trial court should have granted the motion to suppress, and the admission of the statement was error that requires us to reverse Grant's convictions."

"From the review of the record, it seems clear that Grant invoked his constitutional right to remain silent early and often in the interview, but the investigators repeatedly disregarded those invocations and pressed forward with their efforts to elicit a statement from Grant," the opinion says. "The State argued in the trial court – and continues to argue on appeal – that any invocations that precede the reading of *Miranda* warnings are ineffectual. The trial court found that argument persuasive. We do not."

"A person in the custody of law enforcement officers has a constitutional right to remain silent in response to their questions, regardless of whether he fully understands that right or has been advised of it under *Miranda*," the opinion says. "The law is clear that, when a person in the custody of law enforcement officers unambiguously and unequivocally invokes his right to remain silent in connection with their interrogation, the interrogation must cease immediately." Whether an invocation is unambiguous "depends on whether the accused articulated a desire to cut off questioning with sufficient clarity that a reasonable police officer in the circumstances would understand the statement to be an assertion of the right to remain silent." In Grant's case, "No reasonable officer could have understood these repeated statements as anything other than clear assertions of the right to remain silent."

In a footnote, the high court reminds prosecutors that *Miranda* warnings "are a shield for persons in police custody;" they "are not a sword for the police" or a "means for police to deny the right of a citizen to remain silent."

"The position of the prosecution is baseless," the footnote states. "In this regard, we also remind prosecuting attorneys of their solemn obligation to seek justice in every case. Sometimes, when a trial court has clearly gotten it wrong (even when it was the prosecution that originally led the trial court into that error), seeking justice on appeal means conceding the obvious error, and in those instances, that is the duty of the Attorney General and the district attorney."

"Finally, we note that Goins – whose culpability seemed no more doubtful than Grant's apart from Grant's statement exonerating Goins and arguably incriminating himself – was acquitted of all charges by the same jury that found Grant guilty," today's opinion concludes. "The State has failed to prove beyond a reasonable doubt that the erroneous admission of Grant's custodial statement did not contribute to the guilty verdicts, and Grant is entitled to a new trial."

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

- * Johnathan Lee Felton (Richmond Co.) **FELTON V. THE STATE (S18A0627)**
- * Phillip Scott Kirby, Sr. (Emanuel Co.) **KIRBY V. THE STATE (S18A0936)**