



**Supreme Court of Georgia**  
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## **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, September 10, 2018**

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

#### **HOUSING AUTHORITY OF AUGUSTA V. GOULD (S18G0524)**

Augusta's Housing Authority is appealing a lower court's ruling that a woman whose Section 8 housing benefits were revoked by a hearing officer with the Authority has a right to appeal the decision in court.

**FACTS:** Section 8 of the U.S. Housing Act of 1937 provides for the payment of federal rental housing assistance to private landlords on behalf of low-income households. The **Housing Authority of Augusta** is the public housing authority that administers the federal government's Section 8 housing vouchers program for the city of Augusta. Under the voucher program, the housing authority issues vouchers to qualified families, the families submit the vouchers to participating landlords, and the landlords redeem the vouchers through the housing authority for payment. Under the Code of Federal Regulations (24 C.F.R. § 982.555 (a)), local public housing authorities must provide informal hearings to participants to resolve conflicts during the administration of the program.

**Carrie Gould** received a voucher from the Augusta Housing Authority, which she used to rent a home from her landlord. After an annual inspection, the housing authority determined that Gould's residence did not meet the quality standards required under federal regulations, and it gave notice to Gould that the vouchers to her landlord would be terminated. Gould then sought

approval from the housing authority to move to a new residence. However, based on the housing authority's administrative plan, before it could issue new vouchers for a new residence to Gould, she was required to submit a letter from her current landlord stating that Gould did not owe him money for rent or damages. The landlord refused to issue the letter. The housing authority then terminated her participation in the Section 8 Program and informed her of her right to contest the decision under the housing authority's administrative plan, according to 24 C.F.R. § 982.555. Gould requested an informal hearing and was represented by counsel. A hearing officer representing the housing authority subsequently upheld the housing authority's decision terminating Gould's participation in Section 8.

Gould filed a petition for "a writ of certiorari" in **Richmond County** Superior Court requesting judicial review of the decision to terminate her rental assistance. The housing authority filed a motion asking the court to dismiss the petition, arguing that the decision to terminate her assistance was an administrative one by the authority and not subject to review by the court, which lacked jurisdiction or authority. The superior court agreed with the housing authority and dismissed the petition, finding that Gould "has means to redress any wrongs she believes she has suffered at the hands of the housing authority by filing suit." Gould then appealed to the Georgia Court of Appeals, the state's intermediate appellate court. In a 5-to-4 decision, that court reversed the superior court's ruling. It agreed with Gould that the hearing officer's decision was subject to judicial review "because the hearing was quasi-judicial in nature and the hearing officer exercised judicial powers." The Augusta Housing Authority now appeals the ruling to the state Supreme Court. At issue is whether a hearing officer's decision to revoke a tenant's Section 8 benefits is subject to judicial review, which depends on whether the hearing officer exercised judicial or quasi-judicial powers, or whether he exercised merely administrative functions.

**ARGUMENTS:** Under Georgia Code § 5-4-1 (a), judicial review is proper "for the correction of errors committed by an inferior judicatory or any person exercising judicial powers." "Here, the Section 8 informal hearing is not 'inferior' to the Superior Court," the housing authority's attorney argues in briefs. "The Section 8 Program is created and operated under regulations of the federal government and the Department of Housing and Urban Development, neither of which is 'inferior' to the State of Georgia or its courts." Furthermore, a lawsuit filed in a Georgia court claiming improper termination of section 8 benefits "would be subject to removal to the federal court," the attorney argues. Although the Augusta Housing Authority has been administering the federal Section 8 Program for 40 years, it claims there never has been an attempted judicial appeal for one of its decisions. That is because its decisions "are not understood to be made by 'inferior judicatories' or 'persons exercising judicial powers.'" "A plain reading of the statute, and the application of common sense, demonstrates that the informal hearing is not subject to appellate review because it is not a 'judicatory' or an exercise of 'judicial power,'" the housing authority's attorney contends. Also, informal hearings administered by public housing authorities lack judicial procedures and are not even "quasi-judicial." "The nature of the informal hearing here is administrative, not judicial." Finally, Section 8 participants may pursue relief by filing a lawsuit when necessary. "Under Georgia law, certiorari was intended for review of lower court decisions where no other recourse was available. Conversely, in most states, an aggrieved participant of Section 8 termination may pursue relief through the filing of a lawsuit challenging the termination process."

Gould's attorneys argue that the Supreme Court should uphold the Court of Appeals decision. A public housing hearing officer's decision to terminate an individual's participation in the Section 8 voucher program is subject to judicial review because "it is the decision of an inferior judicatory, and the hearing officer exercised judicial powers," the attorneys argue in briefs. Furthermore, "it is a quasi-judicial decision." "If Georgia's superior courts lack jurisdiction to review by certiorari public housing hearing officer decisions terminating housing voucher assistance, participants such as Ms. Gould will have no state law remedy to challenge hearing decisions that fail to comply with applicable laws and regulations. Participants' only avenue to protect their due process rights would be federal court, which is more costly, protracted, and procedurally complex than Georgia's superior courts." The hearing officer's decision was quasi-judicial, not administrative, because Gould had a legal right to a hearing conducted according to judicial procedures, and the hearing officer was required to issue a written decision, her attorneys contend. "Permitting state court review of a public housing hearing officer's decision to terminate a participant's housing voucher will not create a conflict between federal law and Georgia law," they argue. "Courts in other states, with procedures similar to Georgia's review by certiorari, have found that a hearing officer's termination decision is quasi-judicial and allow rental assistance participants to seek judicial review in state courts." Finally, judicial review of decisions by hearing officers will not unduly burden housing authorities or the courts; "any resulting burden must be balanced against the harm to participants of wrongful terminations."

**Attorney for Appellant (Authority):** Christopher Cospers

**Attorneys for Appellee (Gould):** Kenneth Jones, Lisa Krisher, Ira Foster

### **MAYOR AND ALDERMEN OF SAVANNAH V. HERRERA ET AL. (S18G0481)**

The City of Savannah is appealing a pre-trial ruling by the Georgia Court of Appeals allowing a lawsuit to go forward in which the City is being blamed for a car wreck for failing to remove two trees that blocked the view of oncoming traffic.

**FACTS:** On July 10, 2010, Lisa Nicole Muse, a nurse at Memorial Health University Medical Center in Savannah, **Chatham County**, was driving west on Lee Boulevard when she attempted to turn left at the intersection of White Bluff Road. A Chatham County Narcotics Team officer, driving north on White Bluff Road in a 2001 Chevrolet Silverado pick-up, slammed into the driver's side of Muse's 2003 Honda Accord Coupe. The impact shoved Muse's car onto the center median north of the intersection, onto the curb, and into a utility pole on the passenger side. Muse received an incapacitating brain injury as a result of the wreck and has never been able to provide an account of what happened. The accident was extensively investigated, and police interviewed numerous witnesses, including the officer driving the truck. He said he did not see Muse in the intersection until seconds before hitting her, and that while he tried to stop, he could not avoid the wreck. Several witnesses told police the officer appeared to be speeding, and according to the air bag module right before deployment, he was driving 59 miles per hour in a 40 mile per hour zone.

Two large decades-old oak trees, one of which is on the City's right of way, were situated to the left of Muse along the side of the roadway at the intersection. According to several witnesses who had traveled through the intersection, the line of sight of a driver looking left toward the northbound lanes was obstructed by the oak trees. Tests conducted at the scene

demonstrated there were two blind spots along the intersection and that a car traveling from Lee Boulevard would have to “ease up” after going through the stop sign and “intrude” into the northbound lane of Bluff Road before getting an unimpeded view.

**Ann Herrera**, who was appointed as Muse’s conservator to oversee the incapacitated woman’s finances, and Gloria Fay Muse, who was appointed as her guardian, sued the **Mayor and Aldermen of the City of Savannah** in Chatham State Court. They contended the City acted negligently and created a nuisance by allowing the line of sight of motorists entering the intersection to be obscured by two large trees, one of which was located on the City’s right of way. The City filed a motion, asking the court to grant “summary judgment” in its favor, arguing that it was protected from the negligence claims by “sovereign immunity,” the legal doctrine that protects the government from being sued without a waiver. (A trial court grants summary judgment when a judge determines a jury trial is unnecessary because the facts are undisputed and the law falls squarely on the side of one of the parties.) In this case, the trial court denied the City’s motion. The City then appealed to the Court of Appeals, Georgia’s intermediate appellate court, and that court upheld the trial court’s ruling, allowing the lawsuit to proceed.

The City of Savannah now appeals to the Georgia Supreme Court, which has agreed to review the case to answer whether under state statutory law (Georgia Code § 36-33-1 (b)), the negligent failure of a municipality to clear vegetation adjacent to an intersection of public roads that blocks the sight of motorists is an omission that automatically waives the protection of sovereign immunity.

**ARGUMENTS:** Attorneys for the City of Savannah argue the Court of Appeals erred by holding that sovereign immunity does not apply to decisions about clearing vegetation, which is a “governmental” function. “A waiver of immunity is only appropriate under § 36-33-1 (b) for the ‘improper or unskillful performance of their ministerial duties,’ thus the Court of Appeals’ decision substantially alters the law of sovereign immunity in Georgia,” the attorneys argue in briefs. (“Ministerial duties” are defined as simple, absolute and definite, requiring merely the execution of a specific duty that doesn’t require personal deliberation and judgment. The doctrine of sovereign immunity offers officials greater protection when they are faced with a situation that requires them to make a judgment call – so that they may make that decision based on something other than the fear of being sued – and less protection when they are performing simple, automatic tasks governed by clear rules.) One of the issues here is whether removing the vegetation would be a ministerial or governmental function. The City claims it is protected by sovereign immunity for its “governmental function of determining how or whether to clear vegetation near an intersection of public roads.” That decision “is not a ministerial duty for which municipal immunity is waived.” “Should this Court allow the decision of the Court of Appeals to stand, several bedrock principles of Georgia law and the authority to make law will be directly affected and changed,” the City’s attorneys argue. “Moreover, the public purse of cities – large and small and throughout Georgia – will be exposed to previously non-existent, significant exposure.” “The Court of Appeals’ holding is in error because it lacks the authority to impose or extend a judicially created exception to immunity by finding that a city has a ministerial duty to determine how to address a tree located outside the road,” the City’s attorneys contend. Because sovereign immunity is not waived by § 36-33-1 (b) for the decision of whether to clear vegetation, “sovereign immunity bars all negligence and nuisance claims against the City

of Savannah.” This Court should reverse the Court of Appeals decision as it “substantially erodes the bedrock principle of sovereign immunity in Georgia,” the City’s attorneys argue.

Attorneys for Herrera and Muse argue that the answer to the question posed by the Georgia Supreme Court is yes, sovereign immunity is waived under the statute because it “does not shield a municipality from liability for negligently performing a ministerial duty. Savannah has a ministerial duty to maintain its streets in a safe condition for travel,” the attorneys argue in briefs. “Savannah is liable for injuries resulting from defects in its roads of which it has actual or constructive knowledge.” Three categories of evidence show that Savannah had notice of the danger posed at this intersection. Over a decade earlier, the Director of Savannah’s Traffic Department visited the intersection and noted the restriction in visibility caused by several trees. He recommended the trees be removed. In 2007 a similar wreck to Muse’s occurred, with the police report finding that the vision of the driver who entered the intersection was obscured by the trees. And a few months before Muse’s wreck, an anonymous caller left a message for city officials that “the two trees” at the intersection caused a “view obstruction.” “Savannah has no sovereign immunity for knowingly maintaining a hazardous intersection due to a tree that obstructed vision of approaching vehicles,” the attorneys argue. “While municipalities are protected by sovereign immunity pursuant to the Georgia Constitution, that immunity can be waived by the General Assembly and has been waived in this case.” Muse’s nuisance claim should be allowed to proceed to a jury “as ordered by the trial court and the Court of Appeals,” the attorneys for Herrera and Muse contend.

**Attorneys for Appellants (City):** Patrick O’Connor, Benjamin Perkins, David Mullens, W. Brooks Stillwell, Jennifer Herman

**Attorneys for Appellees (Herrera):** Jarome Gautreaux, Brian Adams, Brent Carter, Richard Sizemore

### **CHRISTOPHER PLUMMER V. ELIA PLUMMER (S18G0146)**

A man is appealing the dismissal of his child custody modification action, arguing that the **Camden County** Superior Court, and subsequently the Georgia Court of Appeals, erred in ruling that the Georgia courts lost their authority to change custody arrangements because both parents eventually moved out of state.

**FACTS:** Christopher and Elia Marie Plummer, parents of a young son, were divorced in December 2013 in Camden County. They were awarded joint legal custody of the boy with the mother having primary physical custody. By the time the divorce went through, the mother and boy had moved to Florida while the father remained in Georgia. In May 2015, the father filed a modification action in Camden County, and on July 8, 2016, the trial court entered a temporary modification action, granting the father additional visitation with his son, including a month of summer visitation. In August 2016, the mother filed a motion to dismiss the order, arguing that under Georgia Code § 19-9-62 (a) (2), the trial court no longer had jurisdiction over the child’s custody because neither parent lived any longer in Georgia. Shortly after filing the motion, she and the child moved from Florida to Arizona. Christopher opposed Elia’s motion, but conceded that on July 1, 2016, he had been relocated by the U.S. Navy to Norfolk, VA.

Under the Uniform Child Custody Jurisdiction and Enforcement Act, “a Georgia court that makes an initial child custody determination generally will have exclusive, continuing jurisdiction over custody matters,” according to the Court of Appeals’ 2009 decision in *Hall v.*

*Wellborn*. Georgia Code § 19-9-62 (a) (2), however, states that such jurisdiction shall continue until, “A court of this state or a court of another state determines that neither the child nor the child’s parents or any person acting as a parent presently resides in this state.” Based on the statute, the trial court ruled in the mother’s favor and dismissed the father’s custody modification action because “neither the child nor the parents now reside in Georgia.” On appeal, the Court of Appeals upheld the ruling. Christopher Plummer now appeals to the state Supreme Court.

**ARGUMENTS:** Christopher’s attorney argues that the trial court erred in dismissing his action because jurisdiction – or the court’s authority to rule on his action – was determined at the time he filed it. The Uniform Child Custody Jurisdiction and Enforcement Act, which has been adopted in all 50 states and the District of Columbia, was enacted so that child custody cases could be decided around the country with “uniformity and reliability.” Georgia adopted the uniform act in 2001, replacing its predecessor because the former act’s imprecise language “often allowed for the existence of concurrent jurisdiction over custody matters in multiple states, thereby fostering competition among jurisdictions and forum shopping by the parties.” The 2001 act “now remedies these earlier unintended problems by establishing continuing jurisdiction in the state in which the original custody decree was entered.” In upholding the trial court’s decision, the Court of Appeals failed to follow language governing interpretation of the uniform act. “It is undisputed that jurisdiction was proper in Georgia when this case was filed,” Christopher’s attorney argues in briefs. “The trial court erred by ignoring clear precedent that jurisdiction for a custody modification action is determined at the time of filing.” The trial court’s “literal and legalistic reading” of Georgia Code § 19-9-62 (a) (2) defeats the entire purpose of the uniform act “by creating tremendous uncertainty as to which state should have jurisdiction and arguably creating a situation where no state has jurisdiction,” the attorney argues. Under its interpretation, “every time someone got an adverse ruling in the court, they could just leave the state and there would no longer be jurisdiction.” In upholding the trial court, the intermediate appellate court also ignored the guidance of decisions by other states. Finally, the Court of Appeals’ decision “effectively denies equal protection and due process” constitutional rights from servicemen and women due to the disadvantage in which it puts them in custody litigation, Christopher’s attorney contends.

Elia’s attorney argues the trial court properly dismissed the father’s action because “a Georgia court may lose subject matter jurisdiction subsequent to filing.” “The trial court’s interpretation of Georgia Code § 19-9-62 (a) (2) was in accordance with the plain and ordinary meaning of the statute as well as the reasons for its adoption by the General Assembly,” the mother’s attorney argues in briefs. And the simplest and most logical way to interpret this statute is that “a Georgia court loses jurisdiction when the parties and the child no longer live in Georgia.” In upholding the trial court’s order, the Court of Appeals was not required to follow the nonbinding comments to the Uniform Child Custody Jurisdiction and Enforcement Act and decisions from other states, and it properly interpreted § 19-9-62 (a) (2) in accordance with Georgia’s adoption of the uniform custody act and Georgia rules of interpretation. Finally, the “decision of the Court of Appeals does not violate the equal protection and due process rights of servicemen and women,” Elia’s attorney argues.

**Attorney for Appellant (Christopher):** Jacqueline Fortier

**Attorney for Appellee (Elia):** Joseph East

## **2:00 P.M. Session**

### **RICHARDSON V. THE STATE (S18A1328)**

A man is appealing his murder conviction and life prison sentence for the shooting death of a man outside a convenience store in **Fulton County**.

**FACTS:** Sometime before Kyle Jennings was shot and killed, he purchased a \$5 Ecstasy pill from **Charles Richardson**. Jennings used a counterfeit \$100 bill to buy the drug. Not knowing the bill was fake, Richardson gave Jennings the pill and \$95 in return. The transaction took place at the home of a friend of Jennings, Cyruss Hearst, who witnessed the sale. The next morning, Richardson showed up at the home of another friend of Jennings, Terrell McBride, asking to speak to Jennings about “some fake money” Jennings had given him the night before. According to prosecutors for the State, Richardson and Jennings spoke, then Richardson left, but he returned later that day, telling McBride that there were “some people outside with some pistols.” They quickly left, however, when McBride came to the door with a rifle.

At about 1:00 a.m. on April 11, 2008, Jennings, McBride and Hearst walked to a convenience store on Martin Luther King, Jr. Drive in Atlanta. After making their purchases, Jennings and Hearst walked outside while McBride remained in the store gathering his items. Moments later, Richardson suddenly appeared, confronted Jennings, and shot him three times, killing him. Richardson then fled the scene and was arrested months later in Illinois during a traffic stop.

Following an April 2010 jury trial, Richardson was convicted of malice murder, felony murder, aggravated assault, and possession of a firearm during the commission of a crime. He was sentenced to life plus five years in prison. Richardson now appeals to the state Supreme Court.

**ARGUMENTS:** Richardson’s attorney argues his convictions and sentence must be reversed because his trial attorney rendered “inefficient assistance of counsel” in violation of his constitutional rights. The attorney failed to call a critical witness at trial who would have provided evidence helpful to Richardson and supportive of his innocence. At a later hearing after Richardson’s conviction and in response to his motion requesting a new trial, this witness testified that he had been present at the murder scene, that he had witnessed the shooting, and that the shooter was not Richardson. He also swore that he had been available to testify at Richardson’s trial. The evidence against Richardson “came solely from the mouths of a convicted felon and active fugitives who, on the night of the shooting, lied to law enforcement officers about their names,” the attorney argues in briefs, referring to Hearst and McBride who testified against Richardson at his trial. The trial attorney was also deficient for failing to object to the prosecutor’s improper closing argument in which he expressed his personal belief about the veracity of the two witnesses. And the trial attorney failed to object to impermissible evidence presented by the prosecution concerning Hearst and McBride, who supplied all the testimony that Richardson had killed Jennings. Richardson’s trial attorney “made no effort to challenge the veracity of either of these prosecution witnesses with specific allegations of recent fabrication, improper motive or improper influence,” Richardson’s appeals attorney argues. Without objection from Richardson’s attorney, a police detective also was able to testify that he had learned about the “counterfeit money” motive for Richardson to kill Jennings from Hearst,

which wrongly bolstered Hearst's testimony. None of the prior statements of Hearst and McBride should have made their way into evidence, the attorney argues.

The State, represented by the District Attorney's and Attorney General's offices, argues that Richardson's trial attorney was not ineffective for failing to call a "critical, exculpatory witness at trial," who would have presented evidence favorable to Richardson. The trial attorney's decision not to call the witness was "a reasonable one," the State argues. The witness's testimony about what he saw the night of the shooting would not have supported the trial attorney's theory at trial. Furthermore, "Decisions as to which defense witnesses will be called is a matter of trial strategy and tactics, and such decisions, even if erroneous, do not constitute ineffective assistance of counsel unless they are so unreasonable that no competent attorney would have made them under the circumstances." The trial attorney also was not ineffective for failing to object to the State's closing argument as the prosecutor's comments were not improper. And the trial attorney was not ineffective for failing to object to the "impermissible" evidence concerning the two eyewitnesses, the State contends. Contrary to Richardson's contentions, his trial attorney did challenge the veracity of both Hearst's and McBride's testimony at trial.

**Attorney for Appellant (Richardson):** Brian Steel

**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., Paula Smith, Sr. Asst. A.G., Vanessa Meyerhoefer, Asst. A.G.

### **BEASLEY V. THE STATE (S18A1252)**

A man is appealing his murder conviction and life prison sentence for the shooting death of a man at a party in Atlanta.

**FACTS:** The evening of Nov. 21, 1998, **Terrance Beasley** attended a party in southwest Atlanta, located in **Fulton County**. The party was a birthday party for Tony Hamm and took place at the home of Emily Gibson, who was the grandmother of Tony Hamm and his siblings, most of whom lived with their mother at their grandmother's home. According to a number of witnesses who later testified, at the party, Beasley, who was intoxicated, was lying on top of his then-girlfriend on a couch and kissing her. Shatoya Hamm, who was 14 years old, confronted Beasley, saying his behavior was "inappropriate" and disrespectful of her grandmother. She then got her brothers, Tony and Rodriguez Hamm, who asked Beasley to leave. He complied, but not before angrily announcing "he would be back." Two hours later, Beasley returned to the party with Jamar Hendricks. After tapping on a sliding glass door at the grandmother's house, one of the partygoers let Beasley in. Armed with a sawed-off shotgun and wearing army fatigue pants, Beasley proclaimed he was going to "kill every m-----r in here," after asking his "people" to make a swift and timely exit. The remaining friends and family at the party fled for cover, according to witnesses. Beasley stepped back outside, fired a gunshot into the air, and re-entered the residence. He then fired two gunshots hitting Rodriguez Hamm in the leg and chest. The chest wound caused an enormous blood loss and killed Hamm. After getting a number of statements from witnesses and putting together a photo lineup, police identified Beasley and Hendricks as suspects.

Beasley was indicted by a Fulton County grand jury in June 1999 for the malice murder of Rodriguez Hamm, his felony murder, aggravated assault and possession of a firearm during

the commission of a felony. Following a 2000 jury trial, Beasley was convicted of all offenses and sentenced to life plus five years in prison. In 2009, he was granted a new trial, and in 2011, he was retried. He was again convicted of all indicted offenses and given the same sentence. Beasley filed another motion for new trial, but the trial court denied it. Beasley now appeals to the state Supreme Court.

**ARGUMENTS:** Beasley's attorney argues his convictions and sentence should be reversed and he should be granted a new trial because he received "ineffective assistance of counsel" from his trial attorney, in violation of his constitutional rights. His attorney failed to object when the prosecutor improperly questioned Beasley about why he never called law enforcement after an armed male purportedly threatened Beasley the first time he left the party. In his closing, the prosecutor improperly argued that Beasley could have explained to law enforcement officers that he had been a victim of an aggravated assault before returning to the party with a shotgun; and that Beasley had not had to return at all to the house with a shotgun but could have simply reported to law enforcement that he had been a victim of aggravated assault and that his friends may be in grave danger. The trial attorney was also ineffective for failing to object when the prosecutor's improper argument during closing argument, coupled with the trial court's inaccurate jury instruction, resulted in an "erroneous, confusing jury charge," which was harmful to Beasley's case, his attorney argues. Finally, the trial court illegally closed the courtroom during a portion of Beasley's trial in violation of his constitutional right to a public trial. Again, his trial attorney failed to object, rendering "ineffective assistance of counsel."

The State, represented by the District Attorney's and Attorney General's offices, argues the trial court properly found that the ineffective assistance claim, based on the trial attorney's decision not to object to a line of questioning, lacked merit. The State's broad questioning regarding Beasley's timeline of events "points to his failure to tell police about a purported assault that occurred during the time between when he left the home and returned two hours later with a gun where he proceeded to shoot and kill Rodriguez Hamm," the State argues in briefs. His trial attorney later testified he made a strategic decision not to object because he determined that the line of questioning was so broad it was not improper. The State argues that the trial court properly found that Beasley has not met his burden to show that his trial attorney performed deficiently and that, but for the trial attorney's allegedly deficient performance, there is a reasonable probability that the result of Beasley's trial would have been different. Finally, the trial court properly found that the ineffective assistance claim, based on the trial attorney's decision not to object to the limited closure of the courtroom, lacked merit. The judge called a brief recess and closed the courtroom only after Beasley vomited during court due to alcohol consumption.

**Attorney for Appellant (Beasley):** Brian Steel

**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., Paula Smith, Sr. Asst. A.G., Katherine DeRosa, Asst. A.G.