



**SUPREME COURT OF GEORGIA
CLERK'S OFFICE**

244 Washington Street, SW, Room 572
Atlanta, Georgia 30334

Therese S. Barnes, Clerk

(404) 656-3470

September 17, 2018

TO ALL COUNSEL:

RE: S1811649. QUINCY JOHN DIBERNARDO v. THE STATE

The Supreme Court today granted the above referenced application for Interlocutory Appeal.

Melton, C.J., Nahmias, P. J., Benham, Hunstein, Blackwell, Boggs, and Peterson, JJ., concur.

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 briefs will be due in this Court within 20 days of docketing; the appellee's briefs will be due within 40 days of docketing, or within 20 days of the filing of appellant's briefs, whichever is later. See Rule 12.

This Court is particularly concerned with, and requests that you address in your brief, the following:

1. Did the trial court err when it denied defendant's motion to suppress in light of the fact that defendant was not given *Miranda* warnings prior to submitting to a custodial breath test?

2. Is OCGA § 40-5-67.1 (b) unconstitutional inasmuch as it states that a person's refusal to submit to required testing "may" be used as evidence against that person at trial?

Therese S. Barnes, Clerk

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