



Supreme Court of Georgia

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SUMMARIES OF OPINIONS

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THE STATE V. TURNQUEST (S19A0157)

In another Driving Under the Influence case, the Supreme Court of Georgia has ruled that a person arrested for DUI does not need to be read *Miranda* rights prior to being asked to submit to a breath test.

“Nothing in the Georgia Constitution or Official Code of Georgia Annotated § 24-5-506 requires *Miranda*-style prophylactic warnings before a suspect in custody is asked to submit to a breath test,” **Justice Nels S.D. Peterson** writes in today’s unanimous decision.

With today’s decision, the high court has vacated a **Gwinnett County** court ruling in the case of **Stephen Turnquest**. The trial court had ruled that the failure to read Turnquest his *Miranda* rights before asking him to take a breath test violated his right against compelled self-incrimination under Georgia statutory and constitutional law, and that the test results therefore would be suppressed when his case went to trial.

In its 1966 decision in *Miranda v. Arizona*, the U.S. Supreme Court imposed on law enforcement the requirement to give persons in custody a warning of their rights before interrogating them. Those rights are: “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.”

According to the parties, in March 2017, an officer with the Lawrenceville Police Department responded to a single-vehicle wreck in Gwinnett County in which Turnquest had been driving. The officer initiated an impaired driving investigation and ultimately developed probable cause to arrest Turnquest for DUI. After placing Turnquest under arrest, the officer read him Georgia’s age-appropriate Implied Consent Notice as stated in Georgia Code § 40-5-67.1 (b)

(2), but the officer did not give him *Miranda* warnings. Turnquest gave his consent to provide a breath sample.

Prior to trial, Turnquest's attorney filed a motion to suppress the admission of his breath test results, based on his right against compelled self-incrimination. Turnquest argued that *Miranda* warnings must precede a request to perform a chemical breath test, because as this Court ruled in 2017 in *Olevik v. State*, under the Georgia Constitution, the right against compelled self-incrimination prohibits not only the compulsion of incriminating testimony, but also of incriminating acts. Under *Olevik*, submitting to a breath test is an incriminating act, which the State is therefore prevented from requiring. Turnquest also argued that the breath test should be suppressed because the implied consent advisement misled him by stating that if he refused the test, his refusal could be used against him at trial. Earlier this year, the Georgia Supreme Court ruled in *Elliott v. State* that the Georgia Constitution's right against compelled self-incrimination prohibits the State from introducing evidence of a defendant's exercise of that right.

Following a hearing, the trial judge ruled in Turnquest's favor, finding that the breath test was administered in violation of his statutory and constitutional right against compelled self-incrimination because the test was conducted in the absence of *Miranda*-style warnings. In reaching its decision, the trial court relied in part on the state Supreme Court's 1998 decision in *Price v. State*, in which the high court ruled that the failure to give *Miranda* warnings rendered evidence of field sobriety tests inadmissible because the defendant was in custody when asked to perform the tests. Following the trial court's pre-trial ruling in Turnquest's case, the State appealed to the Georgia Supreme Court, asking the high court to overrule *Price*.

In today's 42-page opinion, the high court has overruled *Price* and other Georgia appellate decisions to the extent they hold that either the Georgia statute prohibiting compelled self-incrimination or the Georgia Constitution "requires law enforcement to warn suspects in custody of their right to refuse to perform an incriminating act."

"Today we hold that neither the Georgia right against compelled self-incrimination, the Georgia right to due process, nor a Georgia statute prohibiting compelled self-incrimination requires law enforcement to provide similar warnings to persons arrested for DUI before asking them to submit to a breath test," today's opinion says.

The *Price* case was "wrongly decided," the opinion says, and "to the extent that it is contrary to our conclusion about the meaning of the Georgia Constitution and Official Code of Georgia Annotated § 24-5-506, we vacate the trial court's order suppressing breath-test results for failure to give *Miranda* warnings." (OCGA § 24-5-506 states that, "No person who is charged in any criminal proceeding with the commission of any criminal offense shall be compellable to give evidence for or against himself or herself.")

However, the Supreme Court is sending the case back to the Gwinnett County Court to consider Turnquest's other argument for suppressing his breath-test results – that the implied consent advisement given to him was misleading – in light of this year's decision in *Elliott*, "which had not been decided at the time the trial court ruled on the motion to suppress."

Attorneys for Appellant (State): Turnquest: Brian Whiteside, Gwinnett County Solicitor-General, Christopher DeNeve, Asst. Sol.-Gen.

Attorneys for Appellee (Turnquest): Fakiha Khan, Kendra Mitchell

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

- * Gregory Haney, Jr. (Fayette Co.)
 - * Ledarius J. Jackson (Fayette Co.)
 - * Michael Donnta Jones (Chatham Co.)
 - * Willie Jones (Muscogee Co.)
- * **HANEY V. THE STATE (S19A0351)**
 - * **JACKSON V. THE STATE (S19A0352)**
 - * **JONES V. THE STATE (S19A0101)**
 - * **JONES V. THE STATE (S19A0068)**
(Although the Supreme Court has upheld Jones’s murder conviction and life prison sentence for his connection with the 2010 shooting death of Wayman Glenn James, Jr., it has vacated his armed robbery conviction and sentence. Armed robbery was the predicate felony that supported the felony murder conviction. Therefore, the trial court should have merged the armed robbery count into the felony murder count for sentencing purposes rather than sentencing Jones separately on that count.)
 - * Demarcio Williams (Johnson Co.)
 - * Stevie Dustin Williamson (Seminole Co.)
- * **WILLIAMS V. THE STATE (S19A0346)**
 - * **WILLIAMSON V. THE STATE (S19A0276)**