



Supreme Court of Georgia

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SUMMARIES OF OPINIONS

Published Monday, August 19, 2019

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SMITH V. THE STATE (S19A0694)

The Supreme Court of Georgia has unanimously upheld the conviction and life-without-parole prison sentence given to a man for the brutal murder of a woman in **Richmond County**.

In this highly publicized case, **Corey Smith** was convicted of the 2010 murder of 54-year-old Patricia Burley, who had Down syndrome and who, according to the cousin who cared for her, had the mental capacity of a 7-year-old.

In today's opinion, written by **Justice Charles J. Bethel**, the high court has concluded that the evidence presented at trial "was sufficient for a rational trier of fact to find Smith guilty beyond a reasonable doubt of the crime for which he was convicted."

The opinion details what the evidence showed at trial: The morning of Aug. 22, 2010, Burley was at the house of her neighbor, Mary Williams. Burley was on the front porch when Smith approached and began talking to Burley. When Williams's grandson asked Burley who the man was, Burley responded that he was her boyfriend. The grandson went inside and told Williams about the man with Burley. Williams came outside and after asking his name, Smith introduced himself. Williams returned inside, but when she came out a little later, she found Smith "hugging on" Burley. She then asked Burley to come inside.

Later that night, at about 10 p.m., Burley's cousin called Williams and asked her to send Burley home. Williams's grandson later testified that rather than heading home, he saw Burley walking with Smith toward her church. Another neighbor saw her holding hands with Smith and walking through some bushes near his home.

Burley was missing for several days before her body was discovered next to a trashcan in a wooded lot. An autopsy revealed she had died from asphyxiation. Smith's partial palm print

and a fingerprint were found on the trashcan, and two witnesses told police they had seen Smith pushing a trashcan near the area. A couple of days before Burley's body was found, Smith was seen scrubbing his hands and wiping down his body with water at a gas station. Investigators later found Burley's DNA on Smith's shorts.

Following his arrest, a Richmond County grand jury indicted Smith on one count of malice murder and one count of felony murder based on aggravated assault. He was sentenced to life in prison with no possibility of parole. Smith appealed to the state Supreme Court, arguing that he received "ineffective assistance of counsel" in violation of his constitutional rights because his trial attorney failed to request that the jury be instructed about the law regarding the defense of insanity or mental illness.

"We disagree," today's opinion says.

Prior to trial, Smith had filed a notice of intent to raise insanity or mental incompetence as a defense. At a pre-trial special jury trial on the issue of Smith's competency, an evaluator testified that Smith suffered from schizophrenia "with paranoid subtype." "However, the evaluator did not testify that Smith was unable to distinguish between right and wrong or that he was operating under a delusional compulsion at the time of the offense," the opinion says. The special jury returned a verdict against Smith's special plea of incompetence.

Smith argued that the outcome of his trial would have been different had the jury been instructed about the defense of insanity or mental illness as written in Georgia Code § 17-7-131. But at a hearing on Smith's motion for new trial following his conviction, Smith's trial counsel testified that she had made a strategic decision not to pursue the defenses of insanity or mental illness because Smith maintained he did not commit the murder and because the evaluator had not concluded he was insane at the time of the murder. "Counsel's strategic decision was not unreasonable under these circumstances, so Smith has failed to prove that his counsel performed deficiently," the opinion says.

Attorney for Appellant (Smith): Michael Howard

Attorneys for Appellee (State): Natalie Paine, District Attorney, Joshua Smith, Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Meghan Hill, Asst. A.G.

THE STATE V. COLEMAN (S19A0603)

The Supreme Court of Georgia ruled today that the case of a 16-year-old, who was charged with felony murder and burglary, cannot be transferred from adult **Fulton County** Superior Court to Fulton County Juvenile Court.

With the unanimous decision, the high court has reversed the superior court's ruling that had transferred the case to juvenile court after the State failed to formally indict the youth within the time period prescribed by statute.

According to the facts of the case, on Feb. 17, 2016, **Vas Coleman** was arrested at his home in Huntsville, AL on charges that he had participated in the December 2015 burglary and murder of Jose Raman Greer. Coleman was released on a \$60,000 bond on March 24, 2016 from the Fulton County Youth Detention Center and has remained out on bond since.

Under Georgia Code § 15-11-560, superior courts have original jurisdiction over the trial of any child 13-to-17 years old who is charged with any of eight crimes, one of which is murder. On April 8, 2016, a grand jury formally indicted Coleman and his four co-defendants on felony

murder and burglary charges under Indictment No. 16SC142680. On March 20, 2018 – nearly two years later – the State re-indicted Coleman and the co-defendants on the same charges under Indictment No. 18SC158229. On Sept. 17, 2018, the State nolle prossed – or essentially dismissed – the first indictment, leaving only the second.

On Sept. 24, 2018, Coleman’s attorney filed a motion to have his case transferred from Fulton County Superior Court to Fulton County Juvenile Court on the ground that Indictment No. 18SC158229 was returned more than 180 days after Coleman was first detained, in violation of Georgia Code §17-7-50.1 (a). The statute says that, “Any child who is charged with a crime that is within the jurisdiction of the superior court, as provided in Code Section 15-11-560 or 15-11-561, **who is detained** shall within 180 days of the date of detention be entitled to have the charge against him or her presented to the grand jury.” The statute further states that, “If the grand jury does not return a true bill against the detained child within the time limitations set forth in subsection (a) of this Code section, the detained child’s case shall be transferred to the juvenile court...” Relying on the Georgia Court of Appeals decisions in *Edwards v. State* (2013) and *State v. Armendariz* (2012), the trial court granted Coleman’s motion and transferred the case to juvenile court. The State then appealed to the Georgia Supreme Court, arguing that the trial court erred in granting the motion.

In today’s opinion, **Chief Justice Harold D. Melton** writes that, “we agree and reverse the trial court’s transfer order.”

The trial court noted in its order of transfer that the phrase, “who is detained,” in the statute has been interpreted by the Court of Appeals to mean that “the date of detention is a specific point in time, rather than an ongoing condition necessary for the running of the 180-day time limitation.” In its *Edwards* decision, the intermediate appellate court determined that “nothing in the statute mandates that the defendant continue to be detained for the entire 180-day period.”

“We respectfully disagree,” today’s opinion says.

Webster’s New World College Dictionary defines the word “detain” as “to keep in custody; confine.” “It logically follows that if a child is released on bond or otherwise, he is no longer ‘detained’ within the meaning of the statute,” the opinion says.

“Reading the statute in its most natural and reasonable way, we conclude that the 180-day time limitation in §17-7-50.1 does not apply to a juvenile who is released and remains on bond prior to the running of 180 days. Based on the foregoing, we overrule *Edwards*, and further conclude that the trial court erred in transferring Coleman’s case to the juvenile court.”

Attorneys for Appellant (State): Paul Howard, Jr., District Attorney, Lyndsey Rudder, Dep. D.A., Teri Walker, Asst. D.A.

Attorney for Appellee (Coleman): Tanya Miller

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

* James Edward Cooper (Fulton Co.) **COOPER V. THE STATE (S19A0659)**

* Joshua James Cox (Lamar Co.) **COX V. THE STATE (S19A0791)**

- * Tobias Daniels (Chatham Co.)
- * Alvin Davis, III (Thomas Co.)
- * Jamal Nevin Foreman (Floyd Co.)
- * Calvin Wayne Foster (Richmond Co.)
- * Calvin Glenn (DeKalb Co.)
- * Betty Jacobs (Ware Co.)
- * Alvonte Creshod Mack (Chatham Co.)
- * Hajja Kenyatta Martin (DeKalb Co.)

- DANIELS V. THE STATE (S19A0695)**
- DAVIS V. THE STATE (S19A0880)**
- FOREMAN V. THE STATE (S19A0715)**
- FOSTER V. THE STATE (S19A0854)**
- GLENN V. THE STATE (S19A0683)**
- JACOBS V. THE STATE (S19A0723)**
- MACK V. THE STATE (S19A0947)**
- MARTIN V. THE STATE (S19A0635)**

(The Supreme Court has upheld Martin’s murder conviction and life prison sentence for the 2012 shooting death of Ralph McGhee. But it is sending the case back for resentencing as the trial court improperly posed a separate sentence for each of seven counts of possession of a firearm by a convicted felon based on the number of firearms Martin had at the time of the murder. But Georgia Code § 16-11-131 (b) “permits only one prosecution and conviction for the simultaneous possession of multiple firearms.” Therefore, the court has vacated Martin’s convictions and sentences for six of the counts and is remanding the case for the trial court to sentence him for only one of the counts.)

- * Curtis David McCammon (Newton Co.)
- * David Frank Moore (DeKalb Co.)
- * Eddie H. Robinson (Fulton Co.)
- * Rico Orlando Walker (Jenkins Co.)
- * Jacquez Worthen (Emanuel Co.)

- MCCAMMON V. THE STATE (S19A0490)**
- MOORE V. THE STATE (S19A0618)**
- ROBINSON V. THE STATE (S19A0954)**
- WALKER V. THE STATE (S19A0818)**
- WORTHEN V. THE STATE (S19A0924)**

IN LAWYER DISCIPLINARY MATTERS, the Georgia Supreme Court has **disbarred** the following attorneys:

- * Charles Edward Taylor **IN THE MATTER OF: CHARLES EDWARD TAYLOR (S19Y1192)**
- * Christopher J. Thompson **IN THE MATTER OF: CHRISTOPHER J. THOMPSON (S19Y0873)**

The Court has **rejected a petition for voluntary discipline** seeking **imposition of a public reprimand** from attorney:

- * Phillip Norman Golub **IN THE MATTER OF: PHILIP NORMAN GOLUB (S19Y1128)**