



## Supreme Court of Georgia

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## SUMMARIES OF OPINIONS

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### **THE STATE V. HAMILTON (S19A0722)**

The Georgia Supreme Court has upheld a **Barrow County** judge's order granting a new trial to **Paul Lamar Hamilton**, who was convicted by a jury of shooting and killing his nephew. Relying on his statutory authority to sit as a "13<sup>th</sup> juror," the judge granted the new trial after determining that the jury's verdict "was contrary to the evidence and principles of justice and equity."

According to the evidence, Hamilton owned a mobile home at 1302 Charlie Hall Road in Barrow County. Brandon Lay, Hamilton's nephew, grew up with Hamilton in the mobile home. At some point, when Lay was a teenager, Hamilton kicked him out of their home and the two did not remain in touch. In 2015, Lay, by then 32 years old, was living in Statham, GA with his girlfriend, Teddi Taylor. Lay had recently gotten out of prison and was doing odd jobs to earn income. Hamilton still owned the mobile home on Charlie Hall Road but no longer lived there. The mobile home was abandoned and in disarray. According to state prosecutors, on Oct. 17, 2015, Lay and Taylor drove a U-Haul truck to the mobile home on Charlie Hall Road and took household items, including blankets, towels, and a dresser.

Before dawn the morning of Oct. 17, three hunters arrived at Hamilton's property to hunt deer, which Hamilton had given them permission to do. When they arrived, they found a U-Haul truck in the wooded driveway and parked behind it. Accounts differ, with Taylor later testifying that she attempted to tell the hunters that her boyfriend had grown up there and they were not stealing, but that the hunters started shooting at her. She said she and Lay jumped into the U-

Haul and rammed the U-Haul into the hunters' truck several times before they were able to get past it and escape. As they drove away, because the U-Haul was not closed, some household belongings fell out of the truck along Charlie Hall Road. Lay drove the U-Haul to a place near the home of Judy Hewatt, where he parked it. He and Taylor then walked to Hewatt's home.

According to the hunters, however, after finding the U-Haul in the driveway, one of them asked Taylor, whom the hunters did not recognize, what she was doing there and told her he was going to call 911. Once he said that, Hamilton and Lay jumped into the truck and backed up "full throttle," requiring the hunters to jump out of its way. The hunters testified they never fired any shots at Taylor.

Hamilton was not there, but he later came to the property and met with law enforcement officers after the hunters called 911. Hamilton told a deputy from the Barrow County Sheriff's Office that, "If I catch someone else on my property, you'll need to call the coroner." Later that day, Hewatt drove Lay and Taylor in her Ford Ranger to the intersection of Charlie Hall Road and Old Hog Mountain Road to retrieve some of the items that had fallen out of the U-Haul. Two women who saw them picking up items on the side of the road flagged down Hamilton in his vehicle and told him that some people who might have been involved in the incident at Hamilton's property were picking up items at the intersection of Charlie Hall Road and Old Hog Mountain Road. Hamilton drove his car to the intersection and parked it directly in front of the Ranger so Hewatt, Lay, and Taylor could not drive forward. According to Taylor, Hamilton got out of his vehicle and approached the driver's side of the Ranger carrying a handgun. Taylor said that Hamilton then shot Lay in the head, killing him almost instantly.

However, in two statements to police that day, Hamilton said that when he arrived at the intersection where the Ranger was, he got out of his car holding his gun by his side and approached the driver's side of the truck. He said he repeatedly told the occupants of the Ranger not to leave and insisted that his purpose was to detain Taylor and Lay until police arrived. He said that when he reached into the Ranger to take the key out of the ignition, Lay grabbed his left hand. Hamilton said his finger must have been on the trigger of the gun, and while trying to pull away from Lay's grasp, the gun "unfortunately" discharged.

A Barrow County Grand Jury indicted Hamilton in November 2015, charging him with malice murder, felony murder, and aggravated assault. Following an October 2018 trial, the jury found Hamilton guilty of felony murder and aggravated assault and he was sentenced to life in prison. The jury found him not guilty of malice murder. Immediately following the filing of the sentence, however, the trial judge, on his own, granted a new trial, ruling that he had erred in instructing the jury on self-defense and intent, and that the jury's verdict "was contrary to the evidence and principles of justice and equity, and that the evidence adduced at trial was decidedly and strongly against the weight of the evidence to support conviction on these charges, as determined by the court sitting as a 13<sup>th</sup> juror."

Georgia Code § 5-5-20 states: "In any case when the verdict of a jury is found contrary to evidence and the principles of justice and equity, the judge presiding may grant a new trial before another jury." Georgia Code §5-5-21 states that a judge may grant a new trial in "cases where the verdict may be decidedly and strongly against the weight of the evidence even though there may appear to be some slight evidence in favor of the finding." These grounds for a new trial – commonly called the "general grounds" – allow the trial judge to exercise a "broad discretion to sit as a 'thirteenth juror.'" The State then appealed the Barrow County judge's

ruling, arguing that this Court must reverse the grant of Hamilton’s motion for new trial on the general grounds.

“We disagree,” **Justice Sarah H. Warren** writes for the Court. “It is well settled that even when the evidence is legally sufficient to sustain a conviction, a trial judge may grant a new trial if the verdict of the jury is ‘contrary to...the principles of justice and equity,’ or if the verdict is ‘decidedly and strongly against the weight of the evidence.’” Furthermore, under Georgia Code § 5-5-50, “An appellate court will not disturb the first grant of a new trial based on the general grounds unless the trial court abused its discretion in granting it and the law and the facts demand the verdict rendered.”

“In granting the motion, the trial court explained in its written order that, ‘as determined by it sitting as a 13<sup>th</sup> juror’ and based ‘on the conflicts in the testimony and in the evidence’ and the ‘Court’s perception of the credibility of the witnesses,’ the grant of a new trial was consistent with ‘principles of equity and justice.’”

“Having reviewed the entire record, and considering that the trial court was authorized, as the 13<sup>th</sup> juror, to discount Taylor’s and Hewatt’s testimony and to credit Hamilton’s story, and bearing in mind the standard of review set forth in § 5-5-50, we cannot say that the trial court’s conclusion was an abuse of its substantial discretion to grant Hamilton a new trial.”

“Judgment affirmed,” the opinion concludes. “All the Justices concur.”

**Attorneys for Appellant (State):** J. Bradley Smith, District Attorney, Patricia Brooks, Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G.  
**Attorney for Appellee (Hamilton):** Matthew Winchester

### **THE STATE V. HOLMES (S19A0613)**

The Georgia Supreme Court has upheld a **Fulton County** judge’s ruling granting a new trial to a man a jury convicted of murder.

In this case, the trial judge exercised his discretion as the “13th juror” and, based on conflicts in the evidence, the credibility of witnesses, and the demeanor of witnesses during trial, determined that **Quantravious Antwan Holmes** was entitled to a new trial. The State, represented by the Fulton County District Attorney, appealed to the Supreme Court, arguing that the trial court “manifestly abused its discretion in precipitously granting a new trial as the 13<sup>th</sup> juror.”

But in today’s unanimous decision, “we cannot say that the trial court abused its substantial discretion in granting Holmes a new trial on the general grounds,” **Justice Sarah H. Warren** writes for the Court. The “general grounds” are described in two statutes that govern the granting of a new trial – Georgia Code § 5-5-20, which states that a judge may grant a new trial “when the verdict of a jury is found contrary to evidence and the principles of justice and equity,” and Georgia Code § 5-5-21, which states that a judge may grant a new trial in cases “where the verdict may be decidedly and strongly against the weight of the evidence.”

This is the second time this case has come before the Georgia Supreme Court. In June 2015, Holmes was convicted by a jury of malice murder and possession of a firearm by a convicted felon in connection with the shooting death of Todd Burkes. In November 2017, the trial court granted Holmes’s motion for a new trial. The State appealed, and the Georgia Supreme Court sent the case back to the trial court with direction that it consider the grounds for granting a new trial using a proper legal analysis.

On remand, the trial court granted Holmes's motion for new trial on the "general grounds" under Georgia Code § 5-5-20 and Georgia Code § 5-5-21. It found that the evidence showed the following:

"Todd Burkes was killed on a pedestrian bridge in downtown Atlanta on October 22, 2013. The evidence at trial showed that Burkes had been downtown with his friend, Quantravious Holmes. They were seen together on video, laughing and joking, outside of the Waffle House shortly before the shooting. Around 3:30 a.m., a man named Cody Greer heard gunshots from a nearby bridge and saw someone running away from the bridge. He noted that that person was wearing a gray hoodie but did not notice any emblem on it. Mr. Holmes was wearing a gray hoodie with a big, white emblem on it that night.

"A firearm was not recovered, but the testimony at trial was that a revolver had been used. One witness, Debra Dunbar, testified that she had been with Mr. Holmes and Mr. Burkes earlier in the evening. During the police investigation, Ms. Dunbar said she saw Mr. Holmes with a revolver, but at trial, she testified that she did not actually see him with a revolver and just said that to get out of criminal charges. Christopher Odister, a multiple-time convicted felon, testified that he saw Mr. Holmes and Mr. Burkes pass around a pistol much earlier in the day and admitted that he was high that night. Like Ms. Dunbar, he also testified that Mr. Burkes and Mr. Holmes were friends.

"Mr. Burkes's phone and wallet were missing, leading the State to argue that someone had killed him as part of a robbery. Phone records admitted at trial established that Mr. Burkes's phone was used after the murder to call Colin Hamilton's number. At trial, Sandra Thomas testified that her friend, Colin Hamilton, called her that night from Mr. Burkes's phone."

After reviewing the law governing the grant of new trials based on the general grounds, the trial court concluded that, based on the evidence and considering the credibility and demeanor of the witnesses at trial, "and the weight of evidence in this case," it "hereby exercises its discretion as the 'Thirteenth Juror' in Mr. Holmes's case, and having done so is satisfied that [he] is entitled to a new trial." The State again appealed to the Georgia Supreme Court.

But in today's opinion, the high court has rejected the State's arguments, finding that "the trial court's written order on remand does not reveal any improper basis for the grant of a new trial on the general grounds, and instead shows that the court properly exercised its discretion." Although the State again asked this Court to remand the case, "the trial court did not repeat its prior errors on remand when it granted a new trial on the general grounds, and we have not identified any reason for another remand of this case," the opinion says. "Here, the record shows that, after presiding over trial and two motion-for-new-trial hearings, the trial court considered the evidence presented – including conflicts in the evidence, the credibility and demeanor of the witnesses during trial, and the weight of the evidence – and granted a new trial by exercising its discretion as the 'thirteenth juror.'"

"Having reviewed the record ourselves, and bearing in mind the standard of review set forth in Georgia Code §5-5-50, we cannot say that the trial court abused its substantial discretion in granting Holmes a new trial on the general grounds."

**Attorneys for Appellant (State):** Paul Howard, Jr., District Attorney, Lyndsey Rudder, Dep. D.A., Marc Mallon, Sr. Asst. D.A.

**Attorney for Appellee (Holmes):** Suzanne Tevis

**BENTON, WARDEN V. HINES (S19A0927)**

A woman who was sentenced to 20 years in prison for her role in an armed robbery and for involving her 12-year-old son in the crime will remain in prison under a ruling today by the Georgia Supreme Court.

A “habeas” court in Habersham County, where **Bridgette Hines** is in prison, set aside her convictions and sentence after finding she received “ineffective assistance of counsel” from her appeals attorney, in violation of her constitutional rights. But in today’s unanimous opinion, written by **Justice Keith R. Blackwell**, the Supreme Court has reversed the habeas court’s ruling and reinstated Hines’s convictions and sentence.

According to today’s opinion, the facts are as follows: Hines, Geoffrey Jupiter, and Ricky Timmons, Jr. were involved in the 2009 robbery of a **Clayton County** convenience store. Hines and Jupiter were tried together and Timmons testified against them as part of a plea deal that allowed him to plead guilty to simple robbery and avoid being prosecuted for the more serious offense of armed robbery.

At trial, Timmons testified that late on the evening of Jan. 1, 2009, Hines, her 12-year-old son, and Jupiter picked up Timmons from his house. Hines then drove the group to Lucky’s convenience store near Jonesboro. Hines and her son went into the store while the others waited in the car. Hines and her son then returned to her car, and Hines drove the group to a nearby residential area. There, Hines stopped and asked her son to remove the car’s license plate. At some point, Hines gave Timmons a gun. Hines then drove the group back to Lucky’s and parked on the far side of the lot, away from the store. Timmons and Jupiter went inside the store, both wearing masks and carrying guns. Timmons told the clerk to “freeze” while Jupiter grabbed cash from behind the counter. Both men then ran out, got back into the car, and Hines drove them away from the scene. Soon after, they were stopped by law enforcement officers, at which point Timmons and Jupiter jumped out of the car and ran away. Timmons was caught almost immediately, but Jupiter escaped and was apprehended later. Shortly after his arrest, Timmons gave a written statement to investigators that was largely consistent with his trial testimony.

The two officers who stopped Hines’s car had been in the area at the time of the robbery and had seen Timmons and Jupiter run across Lucky’s parking lot and jump into the car. They testified that after the two men ran from the car, they detained Hines and her son. They found a 9 millimeter pistol under the driver’s seat, near where Hines’s son was sitting. Hines’s son had hundreds of dollars in cash stuffed into the sleeve of his jacket.

At the trial, Hines testified in her own defense, saying that her son removed her license plate after noticing it “was hanging by one screw.” She denied knowing that Jupiter and Timmons were going to rob the store and said she had driven to Lucky’s with Jupiter and Timmons because she wanted to play a slot machine for money and Jupiter had told her he knew “the people” at Lucky’s who would let her do that. When they arrived at Lucky’s, she said she and her son went into the store, but the clerk refused to let her play so they went back to the car and she started to drive away. She said that she turned around and went back to Lucky’s after Timmons said he wanted to buy some cigarillos. Hines said Timmons and Jupiter then went into

Lucky's and were gone just long enough to make a purchase when they came running out of the store. She said she had not seen them carrying weapons. Hines said she only learned about the robbery after the officers stopped her car. However, Hines's testimony was inconsistent with a statement she had previously given to investigators, in which she said Jupiter had offered to pay her for a ride and that she saw "the gun" before Jupiter and Timmons went inside the store.

In March 2009, a Clayton County grand jury indicted Hines, with Jupiter and Timmons, for armed robbery, aggravated assault, contributing to the delinquency of a minor, and concealing the identity of a motor vehicle. At a jury trial with Jupiter in October 2009, the jury found Hines guilty of all five counts, and she was sentenced to 20 years in prison. She appealed to the Georgia Court of Appeals, which upheld her convictions and sentences.

In August 2017, Hines filed a petition for a "writ of habeas corpus." Habeas corpus is a civil proceeding that allows already convicted prisoners to challenge their convictions on constitutional grounds in the county where they're incarcerated. They generally file the action against the prison warden, who in this case was **Brooks Benton**. In her petition, Hines claimed she received ineffective assistance from her appeals attorney because he failed to raise the issue that her trial attorney had been ineffective for not discrediting Timmons as a witness by pointing out the maximum sentence he was avoiding by pleading guilty to simple robbery – 30 years in prison with no chance of parole if he went to trial and was convicted of armed robbery. Following a hearing, the habeas court agreed and granted Hines a writ of habeas corpus, setting aside her convictions. The State, represented by the Attorney General's office, then appealed to the state Supreme Court.

In today's opinion, the high court finds that, "Hines has failed to show ineffective assistance of appellate counsel," and it has reversed the habeas court's ruling

"To obtain relief based on the denial of the effective assistance of appellate counsel, a petitioner must establish that her 'appellate counsel was deficient in failing to raise an issue on appeal and that, if counsel had raised that issue, there is a reasonable probability that the outcome of the appeal would have been different,'" the opinion says. "Even if Hines could have shown that her trial counsel acted deficiently in failing to impeach Timmons on this particular issue, she likely would not have been able to show prejudice," or "a reasonable probability that the outcome of the appeal would have been different." The jury had learned from cross-examination of Timmons that by making a plea deal, he was avoiding a 10-year mandatory minimum sentence "with no chance of parole." The jury also learned that Timmons would be eligible for parole immediately, regardless of the sentence he received, as a result of his guilty plea. "We cannot say that the marginal value of additional impeachment based on Timmons's potential maximum sentence...would have made a difference in the jury's assessment of his credibility, especially since his testimony was corroborated by other evidence, including the testimony of two police officers and Hines's own incriminating statement," today's opinion says.

"Given the foregoing, Hines's appellate lawyer reasonably could believe that raising a claim of trial counsel's ineffectiveness on the issue of Timmons's impeachment would not have succeeded on appeal, and so Hines has not shown that her appellate lawyer was deficient in failing to raise this claim," today's opinion concludes. "Accordingly, the habeas court erred when it granted the writ of habeas corpus to Hines."

**Attorneys for Appellant (State):** Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Vanessa Sassano, Asst. A.G.

**Attorney for Appellee (Hines):** Rodney Zell

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

\* Jason Bryant (DeKalb Co.)

**BRYANT V. THE STATE (S19A0747)**  
(The Supreme Court has upheld Bryant’s convictions for the malice murder of his wife, Angelina Bryant, and the aggravated assault of her friend, Trina Nwoke. But it has reversed his conviction for making a terroristic threat, finding that the evidence “was not sufficient to authorize the jury to find that a reasonable person could conclude that when the communication, expression, or declaration, ‘you will regret this’ was made to the victim, the appellant [i.e. Jason Bryant] was threatening to kill [Angelina] Bryant, as opposed to inflicting some other harm. Accordingly, the evidence was not sufficient to support the jury’s verdict of a terroristic threat.”)

\* Tavaris Hardy (Fulton Co.)

**HARDY V. THE STATE (S19A0654)**

\* Kevin Durand Jackson (Carroll Co.)

**JACKSON V. THE STATE (S19A0795)**

\* Anthony D. Lee (Columbia Co.)

**LEE V. THE STATE (S19A0661)**

\* Deandre Seabrooks (DeKalb Co.)

**SEABROOKS V. THE STATE (S19A0688)**

\* Tameron Varner (Chatham Co.)

**VARNER V. THE STATE (S19A0951)**

\* Orsley Walker (Fulton Co.)

**WALKER V. THE STATE (S19A0540)**

\* Delwoun Williams (Hall Co.)

**WILLIAMS V. THE STATE (S19A0860)**

\* Joseph Michael Williams (Bibb Co.)

**WILLIAMS V. THE STATE (S19A0707)**